



FISHER & PHILLIPS LLP

ATTORNEYS AT LAW
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MEMORANDUM

To: [Redacted]
From: Fisher & Phillips LLP
Date: [Redacted]
Subject: Confidential Investigation

I. SUMMARY

On Tuesday, [Redacted], Fisher & Phillips LLP was asked to investigate a verbal complaint made by [Redacted] who works [Redacted]. On Thursday, [Redacted], [Redacted] reported to her [Complainant's Supervisor's] [Redacted], that Representative Jerry N. Govan, Jr. has attempted to hug her on more than one occasion. [Redacted] reported she asked Representative Govan to stop. Pursuant to the South Carolina House of Representatives Guidelines on Identifying, Reporting, and Addressing Harassment in the Workplace ("No Harassment Policy"), [Redacted] was charged with investigating the [Redacted] report and making a finding whether the complaint is valid.

II. FINDINGS

The findings of the investigation are that the report by [Redacted] against Representative Govan is accurate, only so far as Representative Govan has hugged [Redacted]. However, the nature and circumstances of the hugs do not support a finding that the House No Harassment Policy has been violated. Importantly, [Redacted] denied that the hugs were given by Representative Govan out of an express or perceived sexual motive. [Redacted] denied any other physical contact had occurred and she denied there were any inappropriate comments, gestures or acts. [Redacted] denied she felt threatened. Further, she did not attribute the hugs to her gender. Rather, [Redacted] opined that she believed Representative Govan hugged her as a means to publically convey "control." Regardless, any suggestion that Representative Govan has engaged in impermissible conduct is unfounded and unsubstantiated by the known facts.

III. THE INVESTIGATION

On Thursday, [Redacted], the Speaker was made aware that [Redacted] had spoken with [Redacted] [Complainant's Supervisor] regarding her allegation that Representative Jerry N. Govan, Jr. had attempted to hug her. The Speaker directed [Redacted] [Complainant's Supervisor] to submit a written account of [Redacted] report. The written account was submitted [Redacted]. [Redacted] contacted [Redacted] on Friday, [Redacted], and on Tuesday, [Redacted], [Redacted] undertook an investigation to determine whether the House No Harassment Policy had been violated by Representative Govan's alleged actions.

[REDACTED]

[REDACTED]

On Friday, [REDACTED], [REDACTED], met with [REDACTED]. Also present was [REDACTED]. Following the interview of [REDACTED], [REDACTED] [Complainant's Supervisor] was interviewed. On Tuesday, [REDACTED], [REDACTED] interviewed Representative Govan. Also present was [REDACTED].

IV. THE ALLEGED CONDUCT

[REDACTED] is a [REDACTED]. She has served as a [REDACTED] for several years. She has worked for Representative Govan for approximately [REDACTED]. [REDACTED] is [REDACTED] assigned to Representative Govan, [REDACTED]. [REDACTED] did not identify the other Representatives as witnesses. During the interview of [REDACTED], she made frequent references to other Representatives that she has worked with over the years, indicating a preference for [REDACTED], who recently shared [REDACTED] with Representative Govan, but who was not returned to the House following the [REDACTED] election. She was unclear whether any unwelcome or inappropriate behavior had taken place prior to [REDACTED] departure.

During her interview, [REDACTED] was vague and uncertain as to the timing of the events she described. Her answers to questions frequently were unresponsive and interjected irrelevant information. For example, at one point in the interview [REDACTED] began to focus on her belief that Representative Govan was taking bottles of water from a shared refrigerator or over using ink cartridges. She did not appear evasive, rather it was a disconnected narrative that was occasionally internally inconsistent.

It was difficult to get [REDACTED] to commit to the number of times Representative Govan allegedly hugged her. At most, she asserts it could have been three (3) times during the [REDACTED] Session. There was no definitive number from [REDACTED] or earlier. The clearest description she provided was the last one preceding her report to [REDACTED] [Complainant's Supervisor]. On Tuesday, [REDACTED], she alleges she was in the House ante-chamber when Representative Govan hugged her. She alleges she told Representative Govan, "I told you don't touch me." She said there were a number of people present, but no one seemed to make much of it. She stated Representative Govan responded by ordering her to, "Go get a Clemson pen."

[REDACTED] did not describe the hug as intimate or prolonged. She said that anytime Representative Govan has hugged her it has been in the presence of others. This led her to speculate that Representative Govan hugs her as a way of demonstrating his control. She could not elaborate on what that meant, but she mentioned that when [REDACTED] had been around he ([REDACTED]) must have been a "buffer" because Representative Govan did not act the way he did now. She was clear that she believed there was no sexual attraction involved. She said no other touching other than hugs has taken place, and she said Representative Govan has never said anything inappropriate to her. Finally, she remarked that she does not see Representative Govan much during the day.

[REDACTED]

[REDACTED]

[REDACTED] shared that she recently has had major health issues. She has had surgery and treatment for [REDACTED]. She said this has made her sensitive to being touched in the chest and upper arm area. She also offered information regarding several personal issues related to her husband's health and the death of a pet (the latter she referred to as "like a child").

[REDACTED] identified two possible witnesses, [REDACTED], and [REDACTED]. When asked what they might offer as witnesses, [REDACTED] was unsure and wandered in recounting her interactions with them. Ultimately, she said she told [REDACTED] "jokingly" that Representative Govan had hugged her and he better not. She said [REDACTED] may have seen Representative Govan hug her in the ante-chamber.

[REDACTED] supervisor, [REDACTED], was interviewed on [REDACTED]. [Complainant's Supervisor] recounted [REDACTED] report to him on [REDACTED], and his subsequent actions. He confirmed [REDACTED] had complained to him earlier in the [REDACTED] Session about Representative Govan taking bottles of water and had mentioned that he had tried to hug her. [Complainant's Supervisor] said he asked her then if he should go to the Speaker and [REDACTED] replied he should not. [Complainant's Supervisor] said prior to the present Session, [REDACTED] had not come to him with complaints about Representative Govan.

[Complainant's Supervisor] remarked that at the beginning of the [REDACTED] Session, [REDACTED] had tried to be assigned to another suite. He did not have any reason to think this was due to any actions by Representative Govan. He did say that Representative [REDACTED] has made complaints about [REDACTED] performance, as has Representative [REDACTED]. [Complainant's Supervisor] observed that [REDACTED] has been stopping by to talk with him much more frequently this Session and that she has openly shared personal information regarding her health, her husband's health and the death of their pet. It is [REDACTED] [Complainant's Supervisor's] opinion that [REDACTED] has seemed more distracted. She repeats stories and has appeared confused. On [REDACTED], when [REDACTED] made her report that Representative Govan had tried to hug her, [REDACTED] [Complainant's Supervisor] stated the conversation began with an incoherent story about a laminated picture of a dog and cat [REDACTED] found in her chair. [Complainant's Supervisor] opined that the report about being hugged is related to recent criticism of [REDACTED] work and her attempts to be reassigned from [REDACTED] following the departure of [REDACTED].

On Tuesday, [REDACTED], [REDACTED] interviewed Representative Jerry N. Govan, Jr. Also present was [REDACTED]. Representative Govan readily admitted to having hugged [REDACTED]. Representative Govan explained the lengthy work history he has had with [REDACTED]. He recounted how she attended the funerals of his mother and his sister. How she had attended family Christenings and attended his inaugural sermon after he was ordained. He stated that on some few occasions such as these it would have been natural for him to hug [REDACTED]. Representative Govan demonstrated the type of hug he would give (a sideways grasp of the shoulders/non-frontal). He was clear that any hug always was in public and often in the presence of his children or grandchildren. He described the hugs as friendly, familial – not romantic or prurient.

[REDACTED]

[REDACTED]

Representative Govan recalls only one instance where [REDACTED] said not to hug her and that occurred this year. He said he was in the House ante-chamber and gave [REDACTED] a hug when she backed away and asked that he not touch her. He believes this was due to her recent surgery. He recognized that it appeared painful to her. He confirms that he has not hugged her since.

Representative Govan is aware of recent criticism of [REDACTED] performance; however, he has not complained about it, although he has noticed changes in [REDACTED] behavior. He stated Representative [REDACTED] has attempted to leave the [REDACTED] because of his dissatisfaction with [REDACTED].

Because Representative Govan admitted to having hugged [REDACTED], and because she has not alleged it was sexual in nature, it was unnecessary to interview either [REDACTED] or [REDACTED].

V. CONCLUSION

Although Representative Govan has hugged [REDACTED], the investigation's conclusion is that the House's No Harassment Policy has not been violated. [REDACTED] is a mature, experienced [REDACTED]. She has worked at the House for a number of [REDACTED]. Importantly, she has worked for Representative Govan a [REDACTED]. By her own admission, she has had no prior complaints or reason to complain about his behavior. The investigation credits Representative Govan's description of their relationship as a working one that over the years has broadened to include [REDACTED] voluntary participation in the personal life of Representative Govan. In limited regards, Representative Govan has perceived [REDACTED] has extended family, remarking that his wife, children and grandchildren know her and have spent time in her presence in the office.

[REDACTED] denied there being anything sexual about the hugs. She stated she does not believe Representative Govan is behaving in a sexual manner toward her. He has not yelled at her or threatened her in any fashion. There is no evidence that any hugs that occurred prior to [REDACTED], were a source of complaint for [REDACTED]. There is no reliable evidence even indicating the number of hugs that passed between them.

The similarity in the version of the last encounter between Representative Govan and [REDACTED] where she told him not to hug her again belies any finding that the hug was improper or that Representative Govan was persisting in an action that was previously communicated as "unwelcome." However, it is clear now that [REDACTED] wishes the hugs to stop. Representative Govan understands that and both confirm the conduct has stopped.