

STATE OF NEW YORK  
JOINT COMMISSION ON PUBLIC ETHICS

540 Broadway  
Albany, New York 12207

In the Matter of Robert Freeman,

Former Executive Director, New York State  
Committee on Open Government

SUBSTANTIAL BASIS INVESTIGATION REPORT  
AND SETTLEMENT AGREEMENT

Case No. 19-144

WHEREAS, the Joint Commission on Public Ethics (“Commission”) is authorized by Executive Law § 94 to conduct an investigation to determine whether a substantial basis exists to conclude that any violations of the Public Officers Law have occurred, to issue a report of its findings of fact and conclusions of law, and to impose penalties for any violation;

WHEREAS, Robert Freeman (“Respondent”), was employed as the Executive Director for the New York State Committee on Open Government, part of the New York State Department of State, from 1976 until his termination in 2019;

WHEREAS, on November 14, 2019, the New York State Inspector General issued a report stating that Respondent abused his office by habitually leveraging his position in the workplace, specifically, by engaging in sexually inappropriate conduct toward females, including physical contact, comments and gestures, and by using his official position to engage in meetings and interactions with female reporters;

WHEREAS, the New York State Inspector General’s report also detailed Respondent’s misuse of state computers for sexual content;

WHEREAS, the New York State Inspector General referred the matter to the Commission for its review of possible violations of New York State Public Officers Law’s Code of Conduct and provisions governing the use of State resources;

WHEREAS, on November 26, 2019, the Commission sent Respondent a letter alleging violations of Public Officers Law §§ 74(3)(d), (f), and (h) and providing him with a period of 15 days to respond to said allegations;

WHEREAS, Respondent and the Commission, the parties to this Settlement Agreement (“Agreement”), have agreed to resolve this matter in a manner that avoids additional administrative and/or adjudicatory proceedings;

NOW THEREFORE, in consideration of the mutual covenants made herein, as the final settlement of this matter, the parties stipulate and agree that:

1. Respondent admits that while serving as the Executive Director of the New York State Committee on Open Government, by his conduct towards women during official meetings

and interactions and by his use of a State computer for viewing sexual images, he engaged in acts constituting an abuse of his official position, in violation of Public Officers Law § 74(3)(d) & (h).

2. Respondent agrees to pay the Commission fifteen thousand (\$15,000) in settlement of the said violation within thirty (30) days of execution of this Agreement.

3. The Commission has agreed to the terms of this Agreement based on, among other things, the representations made by Respondent. To the extent that such representations made by Respondent are later found by the Commission to be materially incomplete or inaccurate, Respondent shall be in breach of this Agreement.

4. If Respondent fails to timely perform any conditions set forth in the Agreement, Respondent shall be in breach of this Agreement.

5. Respondent agrees not to take any action or to make, permit to be made, authorize, or agree to any public statement denying, directly or indirectly, any finding in this Agreement or creating the impression that this Agreement is without factual basis. Nothing in this paragraph affects Respondent's: (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Commission is not a party. A violation of this Paragraph constitutes a breach of this Agreement by Respondent.

6. Upon a breach of this Agreement, the Commission shall have sole discretion to deem the Agreement null and void in its entirety, issue a Notice of Substantial Basis Investigation and Hearing, which may include additional charges against Respondent and proceed with an enforcement action, and then issue a new Substantial Basis Investigation Report; or to deem the Respondent in breach of this Agreement and pursue, in court, any other remedy to which the Commission is entitled at law or in equity, including but not limited to, specific performance or injunction. As to any Notice of Substantial Basis Investigation and Hearing or enforcement action by the Commission pursuant to this paragraph: (1) Respondent waives any claim that such action is time-barred by a statute of limitations or any other time-related defenses; and (2) Respondent expressly acknowledges and agrees that the Commission may use any statements herein, or any other statements, documents or materials produced or provided by Respondent prior to or after the date of this Agreement.

7. Respondent shall upon request by the Commission provide all documentation and information reasonably necessary for the Commission to verify compliance with this Agreement.

8. Respondent understands and acknowledges that the Commission may investigate any other conduct not covered by this Agreement by Respondent and take any appropriate action.

9. Respondent waives the right to assert any defenses or any challenges to this Agreement, as well as any right to appeal or challenge the determination or conduct of the Commission relating to this matter in any forum.

10. This Agreement and any dispute related thereto shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

11. Respondent consents to the jurisdiction of the Commission in any proceeding to enforce this Agreement.

12. It is understood that this Agreement is not confidential and will be made public within 45 days of its execution in accordance with Executive Law §§ 94(14) & (19).

13. This Agreement constitutes the entire agreement between the parties and supersedes any prior communication, understanding, or agreement, whether oral or written, concerning the subject matter of this Agreement. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Agreement has been relied upon by any party to this Agreement.


14. Any amendment or modification to this Agreement shall be in writing and signed by both parties.

15. This Agreement shall become effective upon execution by the Commission or its designee.

16. In the event that one or more provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

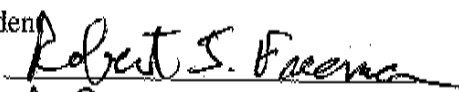
17. By signing below, Respondent acknowledges reading this Agreement in its entirety, understanding all terms and conditions of this Agreement, and having done so, knowingly, voluntarily, and freely enters into this Agreement. Electronic and facsimile signatures shall be deemed originals for the purpose of this Agreement. This Agreement may be executed in two or more counterparts, each of which shall be deemed original, but all of which together shall constitute one and the same instrument. Respondent was represented by Michael Koenig of Hinckley Allen.

September 9, 2020  
Dated: ~~August~~ September 9, 2020

  
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Monica Stamm, General Counsel

New York State Joint Commission on Public Ethics

ACCEPTED AND AGREED TO  
THIS ~~1st~~ DAY OF ~~SEPTEMBER~~ SEPTEMBER, 2020

Respondent  
By:   
Name: ROBERT S. FREEMAN

Approved:

Michael K. Rozen, Chair

Robert Cohen  
James E. Dering  
Colleen C. DiPirro  
William P. Fisher  
Marvin E. Jacob  
Gary J. Lavine  
James W. McCarthy  
David J. McNamara  
George H. Weissman  
James A. Yates

Members

Daniel J. Horwitz

Absent