

**APPENDIX**

*Statement of Rajiv D. Parikh, Esq.*  
*New Jersey Legislative Select Oversight Committee*  
*January 25, 2019*

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**I. INTRODUCTION/BACKGROUND<sup>1</sup>**

Good morning. As you know, my name is Rajiv Parikh. I want to thank the panel for allowing me to provide an opening statement. It is my hope that this statement will provide answers and context to many of your questions.

By way of background, I have been an attorney since 2005. After graduating from law school in that year, I spent two years as a law clerk for a federal judge here in Trenton. Following my clerkship, I joined Genova Burns LLC as an associate and was elected partner in 2015. My practice is primarily focused on complex business litigation, constitutional litigation, crisis management and election law/campaign finance. Since being admitted to the bar I have been, among other things, an active member of a variety of bar associations including serving as Vice-President of the South Asian Bar Association of North America, and in leadership roles in the Association of the Federal Bar of New Jersey, the Asian Pacific American Lawyers Association of New Jersey and the South Asian Bar Association of New Jersey.

In mid-September 2017, I had a meeting with Matt Platkin and Jose Lozano to discuss the possibility of me providing some legal assistance to then Ambassador-Murphy's transition team if he were fortunate enough to win the November 2017 general election. Following the election, Chief of Staff designee Pete Cammarano, Chief Counsel designee Matt Platkin and Transition Executive Director Jose Lozano asked if I would serve as senior counsel to Governor-elect Phil Murphy and Lt. Governor-elect Sheila Oliver's transition team. I accepted and my role was announced about a week or so following election day.

**II. TRANSITION OVERVIEW**

**a. "Transition Staff" versus "Transition Advisory Committees"**

The transition consisted of two groups: the Transition Advisory Committees and the Transition Staff. There were fourteen separate Transition Advisory Committees. Each Committee had multiple co-chairs, members and volunteer coordinating staff. I believe there were over 600 individuals involved in these purely volunteer roles who took time from their regular jobs to craft recommendations, via reports, to the incoming Murphy administration. Each Committee held two in-person meetings.

The second group is what has been referred to as the Transition Staff. The transition staff was a group of individuals who worked full time for the transition, five or more days per week from a few days after election day through inauguration day. Inside the transition staff there were – from my perspective – a number of informal teams focused on a variety of tasks including: the

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<sup>1</sup> The headings and sub-headings provided here are for organizational and informational purposes only and will not be read into the record.

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inauguration ceremony; management of the Transition Advisory Committees; policy; review and selection of Cabinet members; the Administration's 100 day agenda; personnel; seeking resignations of appointees from the Christie Administration; office operations; and others. Members of the transition staff included paid staff, volunteers and, to my knowledge, a few individuals who were on 'mobility' from their existing positions in other departments.

As you have already heard, Ms. Brennan was a part of the Transition Advisory Committee group, while Mr. Alvarez was a part of the Transition Staff.

**b. Transition Placement Processes**

In my view, the employment related processes for the transition can be characterized into four main categories; (1) review and selection of cabinet members; (2) formation of the front office; (3) review and distribution of individuals who identified themselves as interested in working in the Administration; and (4) review and sign-off on any requests for resignation, termination, or personal hardships of existing Christie administration Senior Executive Service employees.

I was involved in several discussions regarding the design of the processes for (3) the review of individuals interested in working in the administration, and (4) the resignation or termination of existing employees.

The general process for reviewing interested candidates was designed to cover all positions, from entry level positions to senior positions such as deputy commissioners. Prior to complete deployment, there were several meetings and discussions regarding this process, legal questions for which advice was requested and provided, and form documents which were drafted and circulated to the team. During our discussions of process, the transition was informed that an application for employment, verification of a right to work and standard criminal or employment background checks would be conducted through the regular State process following the transition of government. This process was set forth in the form offer letter that was generated.

In general, the transition's process was for resumes to be submitted via a web portal into an electronic resume bank. Members of staff would go through resumes and segregate them into roles, areas or agencies. Qualified candidates were asked to meet with transition staff for a screening interview. Following the interview, some individuals would receive a transition questionnaire for completion, which upon return, would be sent to me for a public records search to be conducted. The results of the public records search would be discussed with the leadership team and was color coded as identified on the legend page of the summaries provided -- green indicated there were no issues found with the searches conducted; yellow indicated that there were issues found or further searches were recommended, and red indicated that there were large, possibly disqualifying issues found. While these searches were colloquially referred to as background checks -- they were not criminal or standard employment background checks. Rather

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they were public records searches which included searches on legal databases, the internet, social media sites and some deep web searches.

If the public records search resulted in a yellow or red designation, those issues were discussed with Mr. Cammarano, Mr. Platkin and/or Mr. Lozano, and additional review was completed if possible and again discussed with members of that group.

I know that this panel has been seeking an answer to its question of who hired Mr. Alvarez. Unfortunately, I do not know the answer to that question, nor would I have ever known the answer to that question. I had no authority in placement recommendations made during the Transition. While I may have made suggestions in meetings when personnel matters were discussed, I did not have any discussions regarding the Schools Development Authority or Mr. Alvarez's placement there. In fact, I do not believe that I knew that Mr. Alvarez was hired by the Schools Development Authority as its Chief of Staff until the Fall of 2018.

**c. Transition Trainings**

As part of my role as Senior Counsel, the transition's senior leadership team requested that I coordinate training on ethics and training on workplace harassment and discrimination for the Transition Staff – the 50-60 individuals who came to the transition office full time on a daily basis. This resulted in ethics training provided by the State Ethics Commission and a separate training session on workplace harassment and discrimination provided by the State EEO Director, even though the State EEO policy did not apply to most of the transition staff. During each weekly staff meeting, as well as these training sessions, the transition staff was reminded that any issues – including ethics, conflicts or workplace matters – could always be brought to the attention of me, Lynn Haynes, who was the Director of Personnel, Mr. Lozano, Mr. Platkin or Mr. Cammarano.

**III. ALLEGATION AGAINST AL ALVAREZ**

**a. Discussions with Mr. Braz and Mr. Cammarano**

On the morning of December 1, 2017, Justin Braz reached out to me on my cell phone. Mr. Braz said that he was calling because he needed some advice. He stated that he had received some information in confidence, from a friend about something that could be bad for the Governor-elect. He went on that he was not sure whether to share the information or not. I told Mr. Braz that I could not tell him what to do. I told him that he needed to decide whether to keep his friend's confidence or not, but that he should balance that against his role as a member of the coordinated campaign and as a part of the transition. I also noted that as a lawyer for the transition, I would like to know of any issues that could impact the team. I also reminded Mr. Braz that he had spent significant time working on the coordinated campaign to elect Governor Murphy and others

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throughout the state, and that if he believed that it was impactful information then he may want to share it.

Mr. Braz then told me that he had been told by one of his female friends that Al Alvarez was going to be arrested for sexual assault. He went on to tell me that this friend had told him about the alleged sexual assault quite some time ago, before Mr. Braz was even involved on the campaign. He added that his friend had gone to law enforcement and sought to press charges against Mr. Alvarez. Mr. Braz indicated that, in between his friend telling him of the assault and the call where she told him that an arrest was about to happen, he had heard nothing further about the incident and assumed that nothing else had happened. I asked whether Mr. Braz could identify his friend. He declined to do so. Mr. Braz again asked me what he should do and if we needed to discuss the matter with anyone else to prepare for the fallout of Mr. Alvarez being arrested. Because Mr. Braz told me that an arrest was imminent, I told him that he should discuss this matter with Mr. Cammarano, and that I would connect with them again shortly.

That morning, I had subsequent discussions with Mr. Braz and Mr. Cammarano and this information was relayed to Mr. Cammarano. I believe that Mr. Cammarano also asked whether Mr. Braz could identify the accuser and Mr. Braz declined, noting that she did not want anyone to know. I advised both Mr. Cammarano and Mr. Braz that they should not discuss the matter with anyone and recommended the transition should not take any action whatsoever at that time. I noted that once Mr. Alvarez was arrested or we were informed of the charges or arrest or surrender by him, we would discuss next steps regarding what the transition would need to do.

This advice was not to keep key people in the dark or to insulate or protect anyone. Instead, I believed there should be absolutely no interference with an imminent law enforcement arrest. We did not know what Mr. Alvarez knew about the allegations, his pending arrest or related matters, and I did not want my client in a position where it could be seen as potentially obstructing justice. Once Mr. Alvarez was arrested, I intended to suggest a broader discussion with the transition team regarding all aspects of the situation, including protections for the victim, Mr. Alvarez's employment status and related legal and non-legal matters.

Later that day, Mr. Cammarano and I had additional discussions with Mr. Braz who told us that his friend called him and said that the prosecutor was not going to press charges against Mr. Alvarez. We again asked Mr. Braz if he would identify his friend and he again declined noting that he was not supposed to discuss the matter with anyone. We thanked him for the update. Mr. Cammarano and I agreed that we would chat further over the weekend.

During the course of my discussions with Mr. Braz on December 1, he also told me that his friend was not a part of the transition staff, but was a volunteer with a transition advisory committee, that she was planning on seeking a role in the administration – albeit in a different area than Mr. Alvarez.

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On Sunday December 3, 2017, I followed up with Mr. Cammarano via phone to discuss the matter further. We initially did not connect so, I sent him a text message. Later that day we had a brief telephone discussion and Mr. Cammarano asked me to advise what legal obligations the transition had, noting that the transition was going to do whatever was legally required. I told Mr. Cammarano that I wanted to confer with my colleagues who regularly deal with employment matters and that we would discuss next steps within a few days.

**b. December 3, 2017 Internal Email Requesting Advice**

Later that evening, I sent an email to employment lawyers at my law firm reciting the factual information I had at that time, outlining some of the legal issues I had identified, and requesting their thoughts and input on what guidance we should provide to the client. This email has at times has been referred to as a "memo" by this panel and has received scrutiny in press reports. However, most of what I have seen reported about this email is a mischaracterization of its content and intent. This email was an internal document of my law firm. It was me seeking advice from other lawyers in my office who focus 100% of their time on employment law. This email was never shared beyond my office with anyone from the transition. To be explicitly clear, other than its production in these proceedings, this email was never seen by anyone other than my colleagues at Genova Burns.

More importantly, the content of my email did not include the ultimate advice I provided to the Transition. Instead, it contained the information necessary for full consideration of every legal route available to the client so that I could provide them with the best advice under the circumstances. Yes, it considered a wide breadth of options from terminating Mr. Alvarez to doing nothing until the situation played out further. While some of the options on that spectrum may not be personally or politically palatable, they are all options within legal bounds, and as an attorney, I would be doing a disservice for my clients if I did not consider the options and the potential outcomes of those options before rendering advice and guidance. I should also note that none of the three "possible" options noted in my email were ever relayed to the transition as a recommended course of action.

**c. My Advice on Protecting the Unknown Accuser**

Ultimately, I believe that this panel is interested in understanding what advice I provided to the Transition regarding the protection of Mr. Braz's unidentified friend. First, as I mentioned earlier, I had discussions regarding these issues with Mr. Cammarano. I also had discussions with Mr. Lozano regarding this matter. While I do not recall the timing of when Mr. Cammarano and I informed Mr. Lozano about what Mr. Braz relayed to us, I do recall Mr. Cammarano and I sitting in Mr. Lozano's office and recounting all of the information we had from Mr. Braz. There were several incremental discussions over a few weeks, as well as attempts to get additional information, such as through a public records search. Ultimately, the advice I provided to the transition team

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unknown accuser could have been identified against her will, or because it could have created a greater risk of retaliation in an environment that would have been difficult to control.

Our ultimate recommendation to the Transition to ensure that there was no retaliation against the unknown accuser, was that the Transition limit Mr. Alvarez's authority to make placement decisions, and that as personnel department related work slowed down, he be shifted to assist on inauguration related matters. I also suggested that we should not inform Mr. Alvarez of this shift in his responsibilities, which, in my opinion, would have created additional risk of retaliation against who we now know is Ms. Brennan. Instead, this prophylactic remedy was to be implemented by Mr. Alvarez's direct supervisor, Lynn Haynes, and would be messaged simply as a change in process given the tremendous amount of work left for the transition team in the remaining few weeks.

I discussed this recommendation with the client who agreed that this was the best course of action. I was asked to discuss the prophylactic measure with Ms. Haynes so that it could be implemented.

**d. Implementation of My Recommendation**

One evening after most of the transition staff had left, I went to Ms. Haynes's office and sat down to discuss this matter with her. I advised Ms. Haynes that there was an issue raised about Mr. Alvarez, and that while she did not need to know the details of the allegation, we needed to implement some restrictions on Mr. Alvarez's role. I noted that she should prohibit him from taking placement action with respect to any individuals who were seeking positions in the administration. Ms. Haynes noted that Mr. Alvarez was already not making any final placement decisions on his own, and that she had essentially curtailed what her team was doing because there was limited time left on the transition, key staffing decisions for priority agencies were not yet made, and there were too many individuals interested in being placed. She also noted that she had received recommendations from Mr. Alvarez that made her pause, because the individuals did not appear to be qualified or suited for the suggested role. She advised that at this point, her staff was not making independent judgments on any candidates but were essentially just creating packets of resumes on an agency by agency basis to provide to cabinet nominees for their review and consideration. From my perspective, Ms. Haynes nonetheless understood that Mr. Alvarez should not be making any determinations on placement or hiring on his own.

I advised the transition leadership team following my discussion with Ms. Haynes that the recommended measures were put in place.

#### IV. POLICY RECOMMENDATIONS

I also understand that one of the focuses of this Committee is to determine whether there are recommendations to changes in policy or law that would clarify how situations such as the one presented here should be handled. I would be happy to discuss such recommendations with you but have a few relatively simple suggestions related to Gubernatorial transitions. First, the Gubernatorial Transition Act should be amended so that the State EEO laws and policy are applicable to all individuals working on a transition, and not just those who serve on mobility from other State agencies. Next, each Gubernatorial Transition should be provided with a full time civil-service based human resources professional who can serve as the Transition's EEO officer. In addition, I would suggest that there is funding provided for a set number of transition staff to be hired as temporary government employees outside of the general appropriations allocation for transitions which has not changed in almost thirty years. Finally, the committee could consider whether both major party candidates should be provided with funding for some transition activity to commence at a designated point in advance of election day, so processes, structure and operations can be established ahead of time.

Thank you again for the opportunity to provide you with this opening statement which I hope was informative and answered many of your open questions. I would be happy to answer any follow-up questions that you may have.