



**HOUSE OF REPRESENTATIVES**  
**Article II, Section 12 Ad Hoc Select Committee**  
**Nashville, Tennessee**

July 13, 2016

**M E M O R A N D U M**

**TO:** Honorable Beth Harwell, Speaker of the House of Representatives

**FROM:** Article II, Section 12 Ad Hoc Select Committee

**SUBJECT:** Final Report

On February 4, 2016, the Article II, Section 12 Ad Hoc Select Committee was appointed to determine whether allegations concerning Representative Jeremy Durham constitute disorderly behavior and whether such behavior or other circumstances justify expulsion from the House of Representatives. On February 8, 2016, the Committee designated the Attorney General and Reporter to serve as legal counsel to the Committee for the purpose of investigating the allegations of disorderly and inappropriate behavior and misconduct by Representative Durham. The Committee requested the Attorney General to conduct a full, fair, and thorough investigation and, upon conclusion, prepare a report for the Committee.

On April 6, 2016, the Article II, Section 12 Ad Hoc Select Committee issued a Status Report and Interim Recommendations. This report was issued upon receipt of a letter from the Attorney General dated April 5, 2016, which stated that "[b]ased upon the information gathered [in the investigation] thus far, Representative Durham's alleged behavior may pose a continuing risk to unsuspecting women who are employed by or interact with the Legislature." The Committee recommended certain measures to ensure the alleged conduct would not continue while allowing Representative Durham to maintain representation of his constituents.

On April 22, 2016, the 109<sup>th</sup> General Assembly adjourned sine die. The investigation of the Ad Hoc Select Committee continued in accordance with Tenn. Code Ann. § 3-4-102 and Senate Joint Resolution 844.

Representative Durham declined the opportunity to discuss the allegations with the Attorney General. We regret that he did not take this opportunity.

On July 8, 2016, the Attorney General issued a final report to the committee. The report is a confidential attorney client communication. The Committee does not take lightly the seriousness of its task. When contemplating releasing this report, the Committee struggled with keeping the privacy of the witnesses preserved. It is the Committee's sincere desire that the individuals are not re-victimized by the release of this report. With the exception of the attachments to the report and certain identifying information that has been redacted, the Committee waives confidentiality of this report and only this report.<sup>1</sup> The Committee does not waive any other privilege or confidentiality as to any information, communications, or materials that are privileged, protected, and/or confidential.

The conduct of Representative Durham as described in the report of the Attorney General is inappropriate and far from what is expected of a member of the Tennessee House of Representatives. In our opinion, Representative Durham's conduct constitutes disorderly behavior. Based upon the conduct described in the report, the interim recommendations should be continued at least through November 8, 2016.

Article II, Section 12 of the Tennessee Constitution provides:

*Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the Legislature of a free State.*

The 109<sup>th</sup> General Assembly has adjourned sine die and the terms of its members end on November 8, 2016. While a special session of the 109<sup>th</sup> General Assembly is possible, even if a special session was called, an expulsion based upon Representative Durham's conduct as described in this report would continue only until the conclusion of the 109<sup>th</sup> General Assembly in November 2016. If re-elected, he could not be expelled again for the same offense. As with each representative, we face our constituents every two years for the right and privilege to represent them in the Tennessee House of Representatives. While the conduct described in this report justifies expulsion, it is ultimately the voters of the 65<sup>th</sup> Representative District who will decide who best represents their principles and values in Nashville. We leave it for them to decide their representation.

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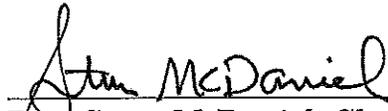
<sup>1</sup> The report attachments consist of copies of electronic communications provided by the interviewed witnesses which may contain identifying information. The relevant portions of those communications appear in the body of the report.

The Article II, Section 12 Ad Hoc Select Committee would like to thank the Office of the Tennessee Attorney General & Reporter for its integrity and professionalism throughout the course of this investigation.

Upon issuance of this report, the Article II, Section 12 Ad Hoc Select Committee is dissolved.

  
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Rep. Raumes Akbari

  
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Rep. Andrew Farmer

  
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Rep. Steve McDaniel, Chair

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Rep. Billy Spivey

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**FINAL REPORT OF THE  
ARTICLE II, § 12 AD HOC SELECT COMMITTEE  
FOR THE TENNESSEE HOUSE OF REPRESENTATIVES  
JULY 13, 2016**

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**REPORT OF THE TENNESSEE ATTORNEY GENERAL'S OFFICE  
TO THE ARTICLE II, § 12 AD HOC SELECT COMMITTEE  
FOR THE TENNESSEE HOUSE OF REPRESENTATIVES  
JULY 8, 2016**

**HERBERT H. SLATERY III  
ATTORNEY GENERAL & REPORTER**

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**REPORT OF THE TENNESSEE ATTORNEY GENERAL'S OFFICE  
TO THE ARTICLE II, § 12 AD HOC SELECT COMMITTEE  
FOR THE TENNESSEE HOUSE OF REPRESENTATIVES  
JULY 8, 2016**

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**I.**

**OVERVIEW OF INVESTIGATION AND SUMMARY OF FINDINGS**

This report is provided in accordance with the February 8, 2016 resolution adopted by the Article II, § 12 Ad Hoc Select Committee ("Committee") designating the Office of the Tennessee Attorney General ("the Office") as counsel and investigator for the purpose of "a full, fair, and thorough investigation of the allegations of disorderly and inappropriate behavior and misconduct by Representative Jeremy Durham." To comply with the Committee's request, the Office dedicated three attorneys, an investigator, and other staff, who spent over four months and hundreds of hours gathering the information referenced in the Detailed Findings in Section V and set out in the individual accounts of Rep. Durham's conduct in Sections VI and VII. Over the course of the investigation, the Office made or received in excess of 180 phone calls to locate witnesses and conducted 78 interviews. This process was made more difficult by the fact that most of those interviewed were hesitant to speak to our Office, due to concerns about retaliation and the loss of personal and professional reputations from public exposure, and did so only after being told their identities would be kept confidential to the extent possible. Some witnesses requested the interviews be conducted away from downtown Nashville or after hours to mitigate risk of public exposure. Additionally, the Office obtained electronic data; requested, obtained, and served subpoenas *duces tecum* for phone records; compiled witness interview summaries; analyzed information; attended numerous meetings related to the investigation; and performed numerous other activities necessary for a thorough investigation.

Information gathered during the investigation reveals a pattern of conduct by Rep. Durham toward current and former female legislative staff, interns, lobbyists, and others with whom he had contact as a legislator that was sexual in nature and was not related to the business of the House. Rep. Durham's pattern of behavior with women started in his first year as a representative and continued through the 2015-16 Session of the 109th General Assembly. His access to, interaction with, and behavior toward these women occurred because he was an elected representative and legislative leader.

Information from the women who related incidents involving Rep. Durham indicates: (1) he occupied a superior position of power to the women he approached; (2) he obtained personal contact information from the women in his capacity as a legislator or under the guise of legislative business or another legitimate reason; (3) he initiated contact about non-legislative matters and attempted to meet the women alone; (4) he often used alcohol in his interaction with the women; and (5) he made inappropriate comments of a sexual nature or engaged in inappropriate physical contact with some women.

This pattern is derived from Rep. Durham's interactions with 22 women: Thirteen incidents occurred between November 2012 and the end of 2014, eight occurred in 2015, and one incident occurred in 2016. The women in this group stated that Rep. Durham's behavior was out of the ordinary for a legislator and went beyond their usual interactions with other legislators. Rep. Durham's conduct ranged from what some of the women viewed as "fishing," such as invitations for drinks with him alone, flirting, and similar conduct," to sexually suggestive comments, such as those to lobbyists Jane Doe #30 that he expected something in return for supporting her bill, Jane Doe #17 ("there's a thousand places I'd rather meet you than my office"), and Jane Doe #63 ("What about thurs-sun. . . My roommate's gone and I'll be super bored"), to attempted or actual touching of a sexual nature, such as that reported by intern Jane Doe #44 (attempted kiss, 2015), legislative staff member Jane Doe #24 (pulled her close while talking; kissed her, 2013), lobbyist Jane Doe #17 (pressed her breasts in a full frontal hug with an "mmmmm" sound, 2015), and lobbyist Jane Doe #2 (rubbed her thigh, 2014). Further, in 2014, Rep. Durham served alcohol to a female college student who was under 21 years old in his State legislative office, followed by sexual intercourse. The reported behavior has continued throughout Rep. Durham's tenure in the House, despite warnings from legislative staff member John Doe #15 in 2013 and a discussion with the Director of Legislative Administration on November 2, 2015, regarding rumors of his inappropriate behavior toward women. The investigation shows little if any effect of such discussions on Rep. Durham's behavior. Most recently, Rep. Durham made comments to lobbyist Jane Doe #52 about her body in January 2016 that made her uncomfortable, despite Rep. Durham having met with the Director of Legislative Administration just two months prior. However, no incidents involving Rep. Durham were reported to have occurred after the Committee was appointed and this investigation began in early February 2016.

Representative Durham's behavior created an environment that made a number of the women uncomfortable interacting with him in the workplace. Many of those who continue to work for or with the Legislature avoid or refuse to be alone with Rep. Durham, a situation which adversely affects their ability to perform their jobs in the same manner as their male counterparts. With few exceptions, the women who related incidents felt they could not report Rep. Durham's behavior because nothing would be done and they did not want to lose their jobs or be considered "untrustworthy" by employers, clients, or other legislators. Most were fearful and extremely anxious about having their identities revealed publicly.

Other information obtained during the investigation constituted sufficient credible evidence to warrant an investigation by the appropriate State authority into whether Rep. Durham violated campaign finance laws while in office. The Office referred the matter to the Tennessee Registry of Election Finance for review and any appropriate action.

Additionally, the Office requested an interview with Rep. Durham, through his counsel, to give him an opportunity to answer questions concerning the allegations of inappropriate conduct outlined in the Office's April 6, 2016 interim report to the Committee and information gathered throughout the investigation. Rep. Durham declined the request to be interviewed. He was asked to provide names of any witnesses the Office should interview but did not submit any names.

## II.

### BACKGROUND

On January 24, 2016, *The Tennessean* published an article claiming that two women who worked at Legislative Plaza provided the newspaper with copies of what they considered inappropriate text messages they received from Rep. Durham, including requests for pictures.<sup>1</sup> Some of the texts were received late at night, and the paper verified that the text messages were sent from Rep. Durham's cell phone number. A third woman cited in the article described text messages Rep. Durham sent to her, but it was unclear when she received the texts. All of the women who spoke to *The Tennessean* did so only on the condition of anonymity for fear that Rep. Durham would retaliate against them.

*The Tennessean* article came on the heels of other adverse articles about Rep. Durham in previous months. In early January 2016, *The Tennessean's* investigation revealed the Director of Legislative Administration, upon Speaker Beth Harwell's request, previously spoke to Rep. Durham regarding "feedback" about his behavior "from various sources" as early as fall 2015.<sup>2</sup> House leadership reportedly was aware that two women during 2015 and another woman in early January 2016 contacted lawmakers regarding Rep. Durham's behavior.<sup>3</sup> Speaker Harwell and State Republican Party Chairman Ryan Haynes subsequently called on Rep. Durham to resign from the Legislature, as did Governor Haslam.<sup>4</sup> Amid pressure from Republican leadership and the press, Rep. Durham resigned as Majority Party Whip and as a member of the Republican Caucus but refused to resign his legislative position.<sup>5</sup> He told the Caucus that he wanted to do things right and talk to his wife and his doctor.<sup>6</sup>

On February 4, 2016, Speaker Harwell announced the appointment of an Article II, § 12 Ad Hoc Select Committee ("the Committee") to investigate allegations of Rep. Durham's

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<sup>1</sup> Dave Boucher and Jill Cowan, *Tennessean investigation finds inappropriate text messages*, *The Tennessean*, Jan. 24, 2016.

<sup>2</sup> Dave Boucher, Jill Cowan, and Stacey Barchenger, *With Jeremy Durham, ambition, anger collide*, *The Tennessean*, Jan. 9, 2016; Frank Daniels III, *Decisive action needed on Jeremy Durham*, *The Tennessean*, Jan. 9, 2016; Dave Boucher, *GOP lawmaker returns Cuban cigars from Jeremy Durham*, *The Tennessean*, Jan. 8, 2016.

<sup>3</sup> Dave Boucher, *Woman approached McCormick about Durham texts in summer*, *The Tennessean*, Jan. 29, 2016; Dave Boucher, Jill Cowan, and Joel Ebert, *GOP leaders knew Durham allegations for months*, *The Tennessean*, Jan. 28, 2016; Dave Boucher and Jill Cowan, *Tennessean investigation finds inappropriate text messages*, *The Tennessean*, Jan. 24, 2016.

<sup>4</sup> Joel Ebert and Dave Boucher, *Top Tennessee Republicans: Durham should resign from statehouse*, *The Tennessean*, Jan. 25, 2016; Dave Boucher, *Haslam: Durham situation 'hard and sad event' for Tennessee*, *The Tennessean*, Feb. 2, 2016.

<sup>5</sup> Joel Ebert, Dave Boucher, and Jill Cowan, *Jeremy Durham resigns from GOP caucus*, *The Tennessean*, Jan. 27, 2016; Dave Boucher and Jill Cowan, *Jeremy Durham confirms resignation as whip*, *The Tennessean*, Jan. 24, 2016.

<sup>6</sup> Joel Ebert, Dave Boucher, and Jill Cowan, *Jeremy Durham resigns from GOP caucus*, *The Tennessean*, Jan. 27, 2016.

behavior.<sup>7</sup> The Speaker appointed Representatives Raumesh Akbari (D—District 91), Andrew Farmer (R—District 17), and Billy Spivey (R—District 92) as members of the Committee and Representative Steve McDaniel (R—District 72) as the chairman.<sup>8</sup> (Letter from Harwell to McCord 2/4/16.)

### III.

#### ATTORNEY GENERAL'S AUTHORITY AND SCOPE OF THE INVESTIGATION

On February 8, 2016, the Committee adopted a Resolution designating the Office to “conduct a full, fair, and thorough investigation of the allegations of disorderly and inappropriate behavior and misconduct by Representative Jeremy Durham” pursuant to its statutory authority in Tenn. Code Ann. § 3-4-101 *et seq.* (Resolution, Art. II, § 12 Ad Hoc Select Committee, House of Reps., 109th General Assembly at 2.) The Resolution included, as necessary to the investigation, the power to issue subpoenas *duces tecum* and for the attendance of witnesses pursuant to Tenn. Code Ann. §§ 3-3-108 through -121. *Id.* at 2-3. The Committee directed the Office to prepare a written report of its findings at the conclusion of the investigation. *Id.* at 3.

### IV.

#### THE INVESTIGATION

##### Persons Interviewed

Because the identities of the women mentioned in *The Tennessean* articles were unknown, the Office began the investigation by interviewing legislators who were mentioned in the articles as having received information about inappropriate conduct by Rep. Durham. Senior Deputy Attorney General Leslie Bridges and/or an investigator conducted two initial interviews, and Assistant Attorneys General Linda D. Kirklen and Scott C. Sutherland jointly interviewed the remaining witnesses.<sup>9</sup> As other individuals with information were identified during the interviews, those individuals were contacted by the Office to set up confidential and discrete interviews, away from downtown Nashville in some instances. *The Tennessean* invoked Tennessee’s Shield Law, Tenn. Code Ann. § 24-1-208, and declined the Office’s request to contact on the Office’s behalf, or disclose the identity of, the women who first publicly reported Rep. Durham’s behavior or to provide the text messages in its possession.

- **Witness interview process.** The Office made or received in excess of 180 phone calls and conducted 78 interviews. Witnesses included legislators, legislative staff, lobbyists, interns, and a few individuals formerly associated with the Legislature in some capacity.

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<sup>7</sup> Joel Ebert and Dave Boucher, *Harwell committee to lead Jeremy Durham investigation*, *The Tennessean*, Feb. 4, 2016.

<sup>8</sup> *Id.*

<sup>9</sup> One interview and several follow-up interviews were conducted by just one attorney, due to scheduling conflicts or the purpose of the interview.

Many of the women interviewed were fearful of losing their jobs, retaliation, or of being perceived as “untrustworthy” by other legislators for cooperating with the investigation. To minimize the risk of a breach of confidentiality, the decision was made not to electronically record the interviews, which is an accepted interview protocol. General Kirklen or General Sutherland prepared the draft summary of each interview, which was then reviewed by the other for accuracy.

At the start of each interview, the attorney conducting the interview explained to the witness that the Office had been appointed by the Committee to do a full, fair, and thorough investigation of allegations against Rep. Durham and that the scope of the investigation was disorderly conduct, misconduct, and inappropriate conduct by Rep. Durham. The witnesses received information regarding the confidentiality of the interview and the Office’s plans to use pseudonyms in its report to the Committee, as well as instructions to call the Office if retaliation by anyone was implied or threatened or occurred. Witnesses were also asked not to discuss with anyone that they met with the Office, what questions we asked, or what their answers were, in order to maintain the integrity of the investigation and witness confidentiality. Witnesses were not told the source of any specific information they were asked about that came from another witness.<sup>10</sup>

### **Records Reviewed**

Electronic records obtained in this investigation consist of screen shots of text messages or Facebook pages voluntarily provided by nine female witnesses, Rep. Durham’s cell phone records for the periods they were available from the providers, data from Rep. Durham’s state-owned and state-issued Lenovo desktop computer and iPad, and cell phone records of some female witnesses. Representative Durham declined the Office’s request for access to the data contained on his personal cell phone and information about his personal email and social media accounts.

- **The state-owned Lenovo desktop computer and iPad.** A member of the Attorney General’s information systems division made a copy of the hard drive from the state-owned Lenovo desktop computer located in Rep. Durham’s legislative office on February 11, 2016, and an investigator obtained Rep. Durham’s state-issued iPad from him at his home on February 13, 2016. The Office notified Rep. Durham via a hand-delivered letter on February 12, 2016, that it had obtained a copy of the desktop computer in his office. (Letter from Att’y Gen. Slatery to Rep. Durham 2/12/16.) On February 22, 2016, the Office hand-delivered a second letter to Rep. Durham, notifying him that we intended to begin reviewing data from his state-owned devices on February 29, 2016, and requesting that he identify “any data contained on these devices which you assert constitutes attorney-client privileged communications, private spousal and other family communications, and/or

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<sup>10</sup> Sections VI and VII contain information from witnesses relevant to Rep. Durham’s conduct under investigation. To the extent there are inconsistencies in some details between witness accounts, we have included such information. We recognize some witnesses’ accounts may differ in certain details based on the questions asked, subjects covered in an interview, and individual memories.

private financial and medical information.” (Letter from Att’y Gen. Slatery to Rep. Durham 2/22/16.) Representative Durham did not respond.

After Rep. Durham retained William L. Harbison as counsel, the Office again sought Rep. Durham’s cooperation to screen out any information that may be confidential. (Letters from Bridges to Harbison 3/8/16, 3/17/16, and 4/20/16.) Rep. Durham’s counsel asserted a non-specific objection on April 26, 2016, stating, “[T]hese devices contain privileged information protected by attorney-client privilege and spousal privilege. . . . Thus, my client continues to object to your search of these devices.” (Letter from Harbison to Bridges 4/26/16.) Despite our request to do so, Rep. Durham never identified any specific information that was privileged.

To thoroughly analyze Rep. Durham’s state-issued devices, the Office contracted with a third-party, who obtained a forensic image of his state-owned Lenovo computer’s hard drive and iPad data on May 19, 2016. A subsequent analysis of these devices found no information relevant to the findings in this investigation.

- **Text messages and private Facebook messages.** Information systems staff and an investigator collected screen shots of text messages and private Facebook messages from the witnesses’ electronic devices by consent. These were noted in an evidence log and preserved by the investigator.
- **Rep. Durham’s personal cell phone.** The letter hand-delivered to Rep. Durham on February 12, 2016, also requested that he provide all data, including emails and texts, from any personal cell phone he used from January 2013 to the present. (Letter from Att’y Gen. Slatery to Rep. Durham 2/12/16.) This time period was chosen to correspond with the sessions of the General Assembly in which Rep. Durham participated. A preservation letter was sent to AT&T Mobility on February 16, 2016, covering data related to Rep. Durham’s cell phone number [REDACTED] for the same time period. (Letter from Att’y Gen. Slatery to AT&T Wireless 2/16/16.)

On March 4, 2016, the Office met with Rep. Durham’s counsel, who informed the Office that his firm had enlisted forensic analysts at LogicForce Consulting, LLC, to preserve Rep. Durham’s personal cell phone data. Rep. Durham’s counsel advised the Office that his current cell phone was obtained within the past year. Rep. Durham, through counsel, requested that the Office provide him with search terms for the information sought on the cell phone, which the Office declined to do, because this information could compromise the integrity of the investigation and confidentiality of the witnesses. (Letter from Bridges to Harbison 3/8/16; Letter from Harbison to Bridges 3/14/16; Letter from Bridges to Harbison 3/17/16.) While Rep. Durham initially agreed to discuss a method for the Office to obtain the data relevant to this investigation (Letter from Bridges to Harbison 3/8/16), he did not propose or entertain any alternative means of reviewing the contents of his cell phone, and the parties were unable to agree on a method to screen out irrelevant and privileged material. Representative Durham rejected the Office’s offer to provide confidential search terms to LogicForce Consulting rather than directly to Rep. Durham and his counsel.

In view of Rep. Durham's refusal to permit access to his cell phone data, the Office requested that the Committee issue subpoenas *duces tecum* to the service providers for the call log detail and text message log detail and other non-content-based information from his personal/business cell phone. The Committee issued the subpoenas on April 7 (AT&T) and May 4, 2016 (Verizon). The second subpoena was necessary once the Office received the records from AT&T and discovered that Rep. Durham's phone number was transferred to Verizon on or about September 27, 2013.<sup>11</sup> However, Verizon does not retain records of text messages older than one year. Thus, the records received pursuant to the subpoenas provide text message log details only for the period January 1 to September 27, 2013 (AT&T) and from May 13, 2015, to May 4, 2016 (Verizon). Phone call logs for both providers cover the entire period from January 1, 2013, to May 7, 2016. This left a gap of almost 19 months in the text message logs for Rep. Durham's cell phone.

- **Representative Durham's email and social media accounts.** The Office requested from Rep. Durham and his counsel "information identifying any and all personal email accounts and addresses utilized by [Rep. Durham]" from the beginning of his first term in January 2013 to present and "information identifying any and all social media application accounts including, but not limited to, Facebook, Twitter, Instagram and Snapchat" for the same time period. (Letter from Att'y Gen. Slatery to Rep. Durham 2/12/16; Letter from Deputy Att'y Gen. Bridges to Harbison 3/8/16.) Rep. Durham's counsel agreed to discuss our request with him; however, Rep. Durham refused to provide the requested information to the Office without being "sufficiently informed of the conduct under investigation." (Letter from Harbison to Deputy Att'y Gen. Bridges 3/14/16.)
- **Other cell phone records.** To fill the gaps in Rep. Durham's cell phone records, the Office requested, and the Committee issued, 15 subpoenas *duces tecum* on June 1, 2016, for the cell phone records of women who reported receiving text messages or phone calls related to the allegations against Rep. Durham. Because of special confidentiality concerns, one witness requested, and the Office agreed to allow her, to voluntarily provide her records.<sup>12</sup>

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<sup>11</sup> [REDACTED]

<sup>12</sup> The records received from the women's providers pursuant to the subpoenas were not helpful in establishing dates and times or providing support for the text messages between Rep. Durham and the women. The text messages referred to in this investigation generally fell into two categories: first, there were texts for which we had screen shots from the witnesses' phones showing dates and times; and second, there were texts that no longer existed on the witnesses' cell phone because they had been deleted or lost when the phone containing the text was replaced with a new one. The witnesses, however, could usually provide an approximate time period for those texts.

When we compared the text logs obtained from the providers to the dates and times of the text screen shots or estimated time periods for missing texts, we found that an accurate comparison between the two could not be made for the following reasons:

1. A large number of the screen shot texts did not have corresponding log entries in the AT&T or Verizon records. We spoke with technical representatives from these providers, who told us that only SMS text messages sent over their networks will show up in their records. Text messages sent over another network via an application on the particular device, such as an iMessage sent from an iPhone or a message sent via a

V.

**DETAILED FINDINGS**

**A. Representative Durham occupied a superior position of power to the women he approached.**

Representative Durham's greater position of power in his interactions with the women interviewed was based on two dynamics: (1) Rep. Durham's position as a legislator and rising leader in the House; and (2) the women's perception that females working in and around the General Assembly would be penalized professionally for complaining about conduct they considered inappropriate.

Representative Durham's position as the freshman class leader,<sup>13</sup> Majority Party Whip, and member of a number of committees, gave him access to legislative staff members, interns, and lobbyists, albeit for different reasons. The investigation revealed that legislative staff members and interns rely on their relationships with legislators for employment and references for future employment opportunities at the Capitol. There was a perception among some staff members we interviewed that those who displease a legislator may risk loss of these opportunities, if bad references are shared among the legislative members.

The power differential between a legislator and a staff member or an intern is more apparent than that between a lobbyist, who is independently employed, and a legislator. The investigation revealed that lobbyists, much like staff members and interns, depend on maintaining a good working relationship with legislators for their livelihood and future success. A lobbyist depends on favorable support from legislators to satisfy and build a client base, and many female lobbyists interviewed described the substantial financial and professional stake they have in avoiding anything that would jeopardize a good relationship with legislators. As Jane Doe #4 put it, lobbyists do not have clients without legislators.<sup>14</sup>

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wifi network, will not show up on the provider records because those messages travel over a different provider's network. Private Facebook messages are also carried by a different provider. Cell phone logs indicated that Rep. Durham had an iPhone during the relevant time periods, as did many of the women;

2. Verizon keeps text message logs for only one year, and there were no records for the women using this provider or for Rep. Durham from September 28, 2013, to May 12, 2015, almost 19 months; and
3. Sprint/Cingular retained phone records only from November 2014 onward, and the last text messages involving women using this provider occurred before November 2014; thus, we were unable to obtain records for those women for the time period that they reported receiving texts.

<sup>13</sup> In December 2012, Rep. Durham was elected as the Assistant Floor Leader of the House, who also serves as the freshman class leader.

<sup>14</sup> On the other hand, a more experienced female lobbyist, Jane Doe #26, explained that legislators depend on lobbyists for money from donors, for a good word to leadership for the legislator to be selected to committee positions, and for support from his or her clients.

Consequently, Rep. Durham was able to use his position as an elected official to approach female staff members, interns, and lobbyists in a manner that they would normally reject as inappropriate or sexual in nature.

A number of lobbyists expressed the view that they had to be careful in deflecting Rep. Durham's flirtatious or sexually suggestive comments or advances so as not to do anything that would make him mad at them, cause him to vote against their bills, get others to vote against them, or denigrate them to other legislators. For example, during her interview, Jane Doe #17 stated that she did not tell anyone about Rep. Durham's persistent texts and unsolicited sexually suggestive conduct in 2015, because she felt doing so would harm her relationship with the Republican Caucus members, who might then feel the need to be "standoffish" with her. Instead, she tried to deflect Rep. Durham's sexually suggestive conduct in a way that would not "tick" him off or make him feel uncomfortable. Jane Doe #1, a former lobbyist, gave a similar reason for not reporting unsolicited inappropriate texts from Rep. Durham in 2013. During her interview, she broke into tears and explained that people are afraid of Rep. Durham and that lobbyists do not want to complain for fear of being viewed as untrustworthy. She also did not think she could complain to the Legislature's Human Resources Division because she was not an employee. When lobbyist Jane Doe #63 received unsolicited sexually suggestive texts from Rep. Durham in 2015 that made her uncomfortable, she did not feel she could tell him to "buzz off" for fear he would retaliate against the bills she was supporting on behalf of her clients. She stated that if another male outside the Legislature had acted as Rep. Durham had, she would have told him that he needed to "lose my number." She did not feel she could do this with Rep. Durham given his position and influence. Jane Doe #17 felt that Rep. Durham had a sense of entitlement, as if he was under the impression that being a legislator gave him certain liberties with women. As Jane Doe #46 explained, the inappropriate text messages Rep. Durham sent a fellow lobbyist "put her between a rock and a hard place" because lobbyists have to be careful how they answer a legislator. She said, "If you piss them off, they are the ones with the vote; they have the trump card. They can make or break you."

The lobbyists' perception that they could not complain about Rep. Durham's inappropriate behavior is not without support. For example, a senior male lobbyist expressed his view during an interview that enduring a legislator's sexual advances is merely part of a female lobbyist's job. He told the Office in front of lobbyist Jane Doe #28, who had just reported that Rep. Durham was "hitting on" her in 2014, "She is a female lobbyist over there. She has to take this." Similarly, John Doe #15, who witnessed Rep. Durham being "cozy with" and making advances toward lobbyist Jane Doe #28, described her as being in a weird position because she needed Rep. Durham's support on some bills and could not really say no.<sup>15</sup> In another instance related by former lobbyist Jane Doe #1, a male legislator recently agreed with her decision not to formally complain about Rep. Durham's conduct from 2013 and advised her to the effect that she should keep quiet so people would not talk about her after she worked so hard to get her job.

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<sup>15</sup> John Doe #15 stated that he had witnessed Rep. Durham on numerous occasions "hit on" any attractive female and that the list of lobbyists he has seen Durham approach in this manner would include the whole lobbyist book. This includes standing up close against the women, touching them, putting his arm around them, "cuddling up," and making other such advances. He stated that this usually happened when Durham had been drinking.

No direct evidence was presented to the Office that Rep. Durham's vote was actually affected by a lobbyist's response. However, a lobbyist's livelihood depends on her/his ability to maintain a professional working relationship with legislators in order to advocate on behalf of clients' interests in bills pending before the Legislature. The failure to maintain these professional boundaries may call into question the independent judgment of a legislator and is illustrated in Rep. Durham's case with two lobbyists in particular. First, on May 14, 2013, Jane Doe #47 sent a text message to Rep. Durham after she noticed he was "present not voting" on one of her bills. He replied, "*Oh yeah that's unconstitutional. I honestly didn't vote no because it was you.*" And after the 2013 Session was over, Rep. Durham sent Jane Doe #47 an unsolicited, private Facebook message at 12:06 a.m. on August 26 asking, "what's up with ya?" She tried to deflect the text with her response and offered to get drinks next week. He responded, "*like I would ever not pick a date you chose! i mean, i am the right wing wacko who sees you bringing union bills into my office yet i still eat out of your hand for some reason!*" Second, when Jane Doe #17 sent Rep. Durham a text message on September 8, 2015, asking, "How are you?" His response was "Totally miss you." Jane Doe #17 replied, "Session will be back before you know it!" to which he then responded in several texts, "*I want to see you before that. Of course, you realize I could never tell you no. You know I'll do whatever you want. Just want a big hug.*"

Young female staff members and interns likewise expressed the awkward position in which they found themselves when Rep. Durham made what they felt were overtures toward them. Legislative staff member Jane Doe #49 described the pressure she was under when deflecting Rep. Durham's invitation for drinks in 2014 at a time she was hoping for a full-time job at the Legislature. She stated getting such an invitation from a married man made her uncomfortable and if it had been a male staff member on her level who had approached her in this manner, she would have been more aggressive in telling him "no." Representative Durham's sexually suggestive comments and advances toward staff member Jane Doe #24 in 2013 made her "super uncomfortable," but she wanted a career in the Legislature and did not want to be "that girl" who stood up to a legislator and was ridiculed for it. A close friend to whom Jane Doe #24 disclosed Rep. Durham's flirting and sexual advances told us that Jane Doe #24 felt "trapped," "awkward," and "stuck in the middle." Intern Jane Doe #44, after being the object of Rep. Durham's advances in 2015, stated that she informed legislative staff but did not want to file a formal complaint because she wanted to keep herself out of it. She too had hoped for a legislative career.

**B. Representative Durham obtained personal contact information from the women in his capacity as a legislator or under the guise of legislative business or another legitimate reason.**

Representative Durham likely obtained cell phone numbers for these women from their business cards either at events or at Legislative Plaza, or from those who did not have a card, by requesting that they text him their information for what appeared to be future business related to the Legislature. A few of the women either did not know how he obtained their numbers or did not say, but their numbers are listed in business directories.

- C. **Representative Durham initiated contact about non-legislative matters and attempted to meet the women alone. He often used alcohol in his interaction with the women. He made inappropriate comments of a sexual nature or engaged in inappropriate physical contact with some women.**

The individual accounts in Sections VI and VII show that Rep. Durham engaged in a pattern of behavior that some women dubbed as “fishing” in an attempt to meet the woman alone. The “fishing” took the form of flirting, unsolicited personal texts, persistent invitations for drinks, complementing the woman’s appearance or physical attributes, or telling her that his marriage had problems. Most of the women tried to deflect his comments or made excuses for not meeting for drinks, but in more than half of the instances, Rep. Durham’s behavior escalated into comments of a sexual nature or actual touching. Lobbyists who received what they felt were inappropriate communications or had reported encounters with Rep. Durham said they felt uncomfortable meeting with him alone in his office on legislative business and many even refused to do so after such encounters. Additionally, an intern, a staff member, and another young woman who had dealings with the Legislature indicated that they no longer wanted careers in the Legislature after encountering Rep. Durham’s advances. These individual accounts also illustrate the women’s hesitancy to anger Rep. Durham by standing up to him because of his power, whether real or perceived, to affect their jobs and their reputations within the Legislature. As legislative clerk Jane Doe #12 explained, when she told Rep. Durham that his requests for drinks with her in 2013 were inappropriate because he was married and she was engaged, she said his response was, “Welcome to Capitol Hill.”

## VI.

### REPRESENTATIVE DURHAM’S CONDUCT DURING 2015-2016

#### Jane Doe #44 – Intern

Jane Doe #44 was an intern during the 2015 Session. At that time she was a 23-year-old college student. She first became acquainted with Rep. Durham in 2015 when she worked as an intern for Rep. John Doe #69. Her first interaction with Durham was when he came to Rep. John Doe #69’s office and asked to see him. Despite the fact that she told Rep. Durham that Rep. John Doe #69 was in a meeting, he walked in and interrupted.

The next interaction she had with Rep. Durham occurred at the end of the 2015 Session at an evening event Rep. John Doe #69 and Rep. John Doe #37 gave for lobbyists in the club room at the [REDACTED], a multi-story apartment building in Nashville. Interns are not normally allowed to attend such events, but Jane Doe #44 stated she had special permission from Rep. John Doe #69 to help set up and serve the guests. Representative John Doe #37’s intern (Jane Doe #57) and his legislative assistant (Jane Doe #10), along with the legislative assistant from Rep. John Doe #69’s office (Jane Doe # 40) also assisted.

Early in the evening, Rep. Durham approached Jane Doe #44 near the bar area where she had been serving drinks and engaged her in conversation. She informed him that she was not a “fan” of his after he interrupted the meeting in Rep. John Doe #69’s office. Representative Durham “laughed it off,” and the two continued to talk. He was drinking but did not appear intoxicated at

that time. During the course of the conversation, Jane Doe #44 told Rep. Durham that she was interested in going to law school, and he offered his help. He asked for her cell phone number, which Jane Doe #44 provided. Her cell phone was in another part of the room providing the music for the event.

Later that evening, Rep. Durham approached Jane Doe #44 and appeared to be intoxicated. He told her that he and a couple of people were going back to Legislative Plaza to have a party "if you and a friend would like to come." She declined his request. Sometime around 9:00 p.m. to 10:00 p.m., he approached her a third time and began another conversation. At this point he appeared "pretty intoxicated." He was much friendlier, and his speech was starting to slur. While they talked, Rep. Durham seemed to be looking past her. When she turned to look, she saw interns Jane Doe #70 and #71 listening to their conversation and whispering among themselves. At some point, Rep. Durham asked Jane Doe #44 if she wanted to step out on the patio area outside the club room.<sup>16</sup> She and Rep. Durham exited the club room and went to the patio area. One or two other people were on the patio, but they soon went inside. Once she and Rep. Durham were alone, he began moving closer to her as they talked; at one point, he moved toward her in an "aggressive, very flirtatious" manner, and it became apparent to her that he was trying to kiss her. Jane Doe #44 backed away and reminded Rep. Durham that he was married and she had a serious boyfriend. He responded that his marriage was "not going well." When she again reminded him that he was married and did not even know her, he told her he had never met anyone as intriguing as she and he felt the two had a "connection." About this time, Jane Doe #40 came out onto the patio. Jane Doe #44 recalled that Rep. Durham quickly walked away from her and back to the party. The incident lasted about 5-10 minutes.

The incident upset Jane Doe #44 to such an extent that she did not stay to help clean up but called her boyfriend to come and pick her up. When she retrieved her cell phone prior to leaving the party, she noticed Rep. Durham had already texted his cell phone number [REDACTED] to her. Jane Doe #44 went down the elevator alone and left in her boyfriend's car. When she got in her boyfriend's car, she began crying and told him that "this representative was trying to make a move on me."

The following day, Rep. John Doe #69 told her that there was a lot of discussion on the floor of the House that she had gone home with Rep. Durham the night before and that people heard inappropriate exchanges between the two of them. She told Rep. John Doe #69 what happened. The rumors made her angry, so she texted Rep. Durham something to the effect of "I hope you will quash the rumors because nothing happened." Representative Durham responded, "What rumors?" and that there was a lot of talk at the Plaza and it would go away. She recalled responding that it may be easy for him as a representative but not for an intern falsely accused of something, and it was not fair because she did what she should have done in that situation. Rep. Durham continued to be dismissive of her concerns. She no longer has the phone with those text messages, but they came from his phone number.

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<sup>16</sup> The main entrance to the [REDACTED] club room is through glass doors from a hallway where the elevators are located. On the opposite end of the hallway, approximately 75-100 feet from the club room entrance, there is another glass door leading to a pool area. The pool is surrounded by concrete decking with plants and patio furniture. The club room itself is a backward "L" shape. Near the top of the "L," there is a solid wooden door that allows access to the hallway from the club room. This is the same hallway that leads to the elevators and pool area.

Jane Doe #44 reported the incident to intern supervisor Jane Doe #6 within a day or two but decided not to file a formal complaint. She felt she had handled the situation and wanted to keep herself out of it. The intern supervisor told Jane Doe #44 to let her know if Rep. Durham texted her again. Jane Doe #44 also texted her friend Jane Doe #7 about the incident. Jane Doe #44 feels differently about reporting Rep. Durham's conduct in hindsight, now that others have complained and there is an investigation.

Following the [REDACTED] incident, Jane Doe #44 said she was the object of disparaging comments from interns Jane Does #70 and #71, who also attended. At an end of the year party for interns, one of the other interns commented to Jane Doe #44's friend something to the effect of, "See if she [Jane Doe #44] ever gets a job at the Plaza after she slept with a legislator." Despite being voted [REDACTED] by her peers, Jane Doe #44 said she left the party "balling her eyes out."

Jane Doe #44 recalled seeing Rep. Durham only one other time in the hallway. He made eye contact with her but did not speak. The only other contact she had with him was in July 2015 when she received a text message from him asking "How are you?" while she was at her boyfriend's house. She did not respond. In December 2015, she texted with her friend Jane Doe #7 regarding the news stories about Rep. Durham. (See Attachment "A.") The same day, she received a call from *The Tennessean* but refused to comment because she did not want to be in the media and wanted to put the incident behind her.

Jane Doe #44 told us that she wanted to gain the respect of legislators as an intern and realizes now how hard it is to be a woman in the political arena. She used to be passionate about politics and had been very active in college politics, serving as the elected Vice President of Student Government while in junior college. She had hoped for a political career. She was very emotional in the interview and stated that the incident with Rep. Durham and the aftermath "completely turned me away from wanting to be a part of the political process, one that I have been very passionate about my whole life." Jane Doe #44's current position is in a field unrelated to politics.

Twelve witnesses provided information relevant to Jane Doe #44's account:

Legislative assistant Jane Doe #40 described intern Jane Doe #44 as smart, a good kid, dependable, and very personable who did a good job and was very interested in networking while working as an intern. Jane Doe #40 also attended the reception at the [REDACTED] where Jane Doe #44 helped set up and serve and was aware that Jane Doe #44 used her cell phone to provide the music for the event. The reception was on the top floor where the swimming pool was also located. She said Rep. Durham appeared intoxicated when she spoke with him during the evening but Jane Doe #44 did not. Around dusk, she stepped out on the patio in the pool area to smoke a cigarette and saw Rep. Durham and Jane Doe #44 standing together talking. When they went back inside, Jane Doe #44 had a "horrified" look on her face and reported that Rep. Durham tried to kiss her. Jane Doe #44 appeared upset. Before she could help with clean up, Jane Doe #44 told Jane Doe #40 that her boyfriend was picking her up, got on an elevator, and left. The next day, Jane Doe #40 was called into Rep. John Doe #69's office with Jane Doe #44 after he heard rumors about Jane Doe #44 and Rep. Durham. She was also present when Jane Doe #44 told Rep. John Doe #69 that Rep. Durham tried to kiss her at the [REDACTED]. She recalled that both she and Rep. John

Doe #69 told Jane Doe #44 to report the incident to the Legislative Internship Administrator (Jane Doe #6), and Jane Doe #44 left the office to do so. Jane Doe #40 later received a phone call from the Legislative Internship Administrator asking if other interns were at the [REDACTED].

Fellow intern Jane Doe #7 described Jane Doe #44 as a friendly, nice person whom she came to know "pretty well" during the 2015 Session and socialized with outside of work. She did not attend the reception at the [REDACTED] but knew Jane Doe #44 was there. At 8:46 p.m. on April 15, 2015, the night of the reception, she received a text message from Jane Doe #44 stating, "Dude. . . Keep a secret." Jane Doe #7 responded with "Uh oh. What's up???? This is torture I am so nosy???" (Attachment "A" at 1.) Jane Doe #44 never responded but later explained in a text message that this was because her phone was being used to play the music. (*See id.*) The next day, April 16, 2015, Jane Doe #7 and #44 had breakfast together in Legislative Plaza cafeteria when Jane Doe #44 revealed that Rep. Durham got her off to himself at the [REDACTED] and tried to kiss her. She told Jane Doe #7 that she told him no, that she had a boyfriend. Jane Doe #44 told Jane Doe #7 that she was upset and uncomfortable about the incident because she had a serious boyfriend. Jane Doe #7 was not sure but thought Jane Doe #44's boyfriend picked her up from the reception. She recalled Jane Doe #44 telling her that she had a couple of drinks at the reception. She encouraged Jane Doe #44 to file a complaint with the Director of Legislative Administration or the Legislative Internship Administrator because Jane Doe #44 wanted a job at the Legislature after the session. She said she felt Rep. Durham was using his position to "hit on" an intern and Jane Doe #44 needed to report it. A text message exchange later that day conveyed this to Jane Doe #44. (*See id.* at 6-7.) Jane Doe #44 also told her that Rep. John Doe #69 talked to her about the rumors that she had "hooked up" with Rep. Durham. At 4:12 p.m. the same day, Jane Doe #44 texted, "I'm so upset [Jane Doe #7]. [Rep. John Doe #69] just talked with me bc a rumor went around that I went home with Jeremy Durham! Wtf." (*Id.* at 2.) Jane Doe #7 replied, "I honestly think you need to bring it to [Jane Doe #53] and cover your own ass. This isn't something you want a sleazy politician ruining your future here over." (*Id.*) Jane Doe #7 thought that Jane Doe #44 told Rep. Durham to make the rumors go away. Jane Doe #7 also recalled the year-end party for the interns on April 28, 2015, at which Jane Doe #44 was voted [REDACTED] by the other interns. When Jane Doe #44 overheard other interns talking about the rumor that she "hooked up" with Rep. Durham, Jane Doe #44 became upset and cried the entire way home. Jane Doe #7 drove her home. The two discussed this in a text exchange the next day. (*See id.* at 9-10.) Jane Doe #7 was also aware that Rep. Durham texted Jane Doe #44 in July 2015, and they alluded to this in a text exchange on December 17, 2015, at 11:44 a.m. (*See id.* at 12-14.) Jane Doe #7 stated that Jane Doe #44 wanted to work at the Legislature and possibly run for office, but after the incident with Rep. Durham, she decided not to interview for a job or have anything to do with politics. When she and Jane Doe #44 last communicated on December 17, 2015, they discussed Jane Doe #44 coming forward, but Jane Doe #44 just wanted to put it behind her and was worried about confidentiality. Jane Doe #44 texted, "I wonder if I should've filed a complaint . . . He's [Rep. Durham] one of the main reasons I didn't want to stay at the legislature not to mention I landed a pretty sweet job. I would prefer not to have any part in it but I'm open to considering it bc there's nothing worse than being accused of something you didn't do. I also want to avoid having that happen to anyone else in the future bc that's what gives politics a bad rep. . . I'd rather stay out of it. . . . It's a chapter of my life id [sic] like to remain closed." (*Id.* at 12, 14-16.) Jane Doe #7 provided the Office with screen shots of her text messages with Jane Doe #44 between April 15, 2015, and December 17, 2015.

Legislative staff member John Doe #41 attended the reception at the [REDACTED]. He heard someone comment that Rep. Durham was "hitting on" Jane Doe #44, and he thought it appeared they were going to kiss. At one point, Rep. Durham and Jane Doe #44 disappeared, and he began looking for them. Shortly thereafter, Rep. Durham and Jane Doe #44 reappeared at the reception. He saw Jane Doe #44 get on one elevator, Rep. Durham on another, and he followed them down to the lobby. John Doe #41 observed Jane Doe #44 get into a car and watched as Rep. Durham, who was following some distance behind her, walked toward Legislative Plaza.

Legislative assistant Jane Doe #10 helped with the [REDACTED] reception along with Jane Doe #44 and others. She recalled seeing Rep. Durham talking to Jane Doe #44 at some point but did not see anything unusual about the conversation. Nor did she see them leave the reception before she walked back to Legislative Plaza with intern Jane Doe #57. It was dark when she left and there were still a lot of people at the reception. Jane Doe #44 did not appear intoxicated while Jane Doe #10 was present. Based on her interactions with Jane Doe #44 at work, Jane Doe #10 described her as very ambitious, driven, very professional, dressed nicely, and very outgoing. She stated that Jane Doe #44 appeared very smart, and she could tell Jane Doe #44 was a good intern that could be relied upon to get work done. She never saw Jane Doe #44 engage in any inappropriate behavior.

Intern Jane Doe #57 stated that she and Jane Doe #44 were acquaintances, Facebook friends, and would occasionally socialize during the 2015 Session. She described her as "bubbly," and a very nice, kind person who was friendly and outgoing to everyone and who volunteered at her church on Wednesday evenings. She helped set up and serve at the reception at the [REDACTED] with Jane Doe #44. She estimated that 25-30 legislative assistants, representatives, and lobbyists attended. After dark, she saw Rep. Durham and Jane Doe #44 talking in a corner of the main room and it appeared to her that they were flirting and were interested in each other. She knew Jane Doe #44 had a boyfriend and stated that it was not the way a representative and an intern should have been interacting. She thought Jane Doe #44 appeared to her to be "a little bit buzzed" later in the evening. Jane Doe #57 did not interact with Rep. Durham and did not see him leave with Jane Doe #44. She left around 8:00 p.m. with Rep. John Doe #37's legislative assistant (Jane Doe #10). The next day, she heard rumors that Jane Doe #44 was drunk and slept with Rep. Durham. She also recalled the latter rumor being discussed by some interns at the interns' year-end party. She went in the bathroom during the event and saw Jane Doe #44 crying and heard her say that the rumors were not true. She stated it was her opinion Jane Doe #44 is a truthful person.

Intern Jane Doe #62 attended the reception with interns Jane Does #70 and #71. She saw Jane Doe #44 helping with the food and drinks. Jane Does #62 and #71 recalled seeing Rep. Durham and Jane Doe #44 talking in the main reception room, and Jane Doe #62 thought they looked a bit friendly because Rep. Durham was standing close to Jane Doe #44 and the two were laughing. Jane Doe #62 heard Jane Does #70 and #71 comment that Jane Doe #44 was acting inappropriately by standing "a little closer than they should have been." But in her interview, Jane Doe #71 said she did not see any inappropriate behavior by Jane Doe #44 or anything unusual about her conversation with Rep. Durham. Nor could she tell if either he or Jane Doe #44 were intoxicated based on her observations. She did see Rep. Durham leave the club room with Jane Doe #44. Jane Doe #62 stated that she did not see any physical contact between Rep. Durham and Jane Doe #44 and did not see either of them leave the event. Both Jane Doe #62 and #71 recalled

Jane Doe #44 telling them and Jane Doe #70 that her boyfriend was downstairs and she was leaving. Jane Doe #71 said she saw nothing out of the ordinary about Jane Doe #44's physical appearance when she came to say goodbye. Jane Doe #62 recalled that after the reception, Jane Doe #44 talked to her about the rumors circulating at Legislative Plaza that she had slept with Rep. Durham and was upset about them. Jane Doe #71 recalled discussing the rumors with Jane Does #44 and #62 after an interns' meeting. Jane Doe #44 told them that the rumors were untrue and that she had talked to Legislative Internship Administrator Jane Doe #6 about the incident with Rep. Durham. Jane Doe #71 also recalled that Jane Doe #44 left the interns' year-end party upset.

Intern Jane Doe #70 had a different version of the events. She stated that at some point, Rep. Durham approached her and Jane Does #62 and #71 and appeared to have been drinking heavily. She said his conversation with them was "flirty," touching their arms and "coming in my personal space," which was not reported by the other interns. She said that she thought Jane Doe #44 acted "forward" and inappropriately with Rep. Durham that evening. She was the only witness who said she saw Jane Doe #44 repeatedly touch Rep. Durham's arm when the two were talking and whispering and that they were holding hands when they exited the reception through a door. She also stated that Rep. Durham and Jane Doe #44 were absent from the reception about 20 minutes and when they returned, their clothes were "ruffled" and their hair "a mess." No other witnesses who were present at the [REDACTED] reported this. She was also the only witness who said that Jane Doe #44 appeared intoxicated and was stumbling and had slurred speech. Jane Doe #70 stated that at some point, Jane Doe #44 came over to talk to her and Jane Does # 62 and #71, but they did not talk to her because they did not want to be associated with her. She stated she later saw Rep. Durham and Jane Doe #44 leave together in the same elevator and that Jane Doe #44 said, "Jeremy, are you coming?" Additionally, she was the only witness interviewed who said Jane Doe #44 generally dressed inappropriately, wearing low-cut shirts, high skirts, tight clothes, and extremely high heels. However, Jane Doe #70 stated that she never observed Jane Doe #44 engage in any other inappropriate behavior during the 2015 Session.

Representative John Doe #69 described Jane Doe #44 as a smart, young, good-looking female with good morals, and a "good sound girl" who knew her goals and ambitions. Representative John Doe #37 described her as young, very attractive, very friendly but not flirtatious, outgoing, happy, and fun-loving. Both Rep. John Doe #69 and Rep. John Doe #37 recalled Rep. Durham being present at the reception they gave at the [REDACTED] in April 2015 and that Jane Doe #44 helped serve food and drinks. Representative John Doe #69 saw Rep. Durham talking to Jane Doe #44 around 8 p.m. but did not think anything of it. He recalled that Jane Doe #44 did not stay to clean up as planned and left without telling him. He learned from Jane Doe #40 that Jane Doe #44 was upset about something and left with her boyfriend. The next day, he heard rumors on the House floor that Rep. Durham and Jane Doe #44 had been locked in a room together and was very angry about how this reflected on the integrity of his office. He remembered calling Jane Does #44 and #40 into his office for an explanation. He said he did not ask Jane Doe #44 for her version of the events, and all she told him was "Rep. Durham made me feel uncomfortable." She did not want to pursue it further. He stated someone may have told him later they saw Rep. Durham and Jane Doe #44 on the patio outside the reception room. Representative John Doe #37 did not observe any interaction between Jane Doe #44 and Rep. Durham at the [REDACTED]

Legislative Internship Administrator Jane Doe #6 stated that intern Jane Doe #44 came to her during the 2015 Session and reported that she was assisting Rep. John Doe #69 with an after-hours reception when Rep. Durham approached her and said something that made her very uncomfortable. Jane Doe #6's impression was that Rep. Durham suggested that they leave together. Jane Doe #44 told her that the conversation with Rep. Durham upset her and made her so uncomfortable that she called her boyfriend and left. According to Jane Doe #6, Jane Doe #44 was upset when discussing the incident because Rep. Durham was married and she was afraid Rep. John Doe #69 was upset with her for leaving the event early. Jane Doe #6 informed the Director of Legislative Administration (Jane Doe #53) about the incident but did not give her the intern's name. In her interview, Jane Doe #53 verified that she received a report that Rep. Durham approached an intern at a reception and was "too forward," making her so uncomfortable that the intern called her boyfriend to pick her up. The intern did not want to file a formal complaint, so Jane Doe #53 made a record of the incident.

### **Jane Doe #17 – Lobbyist**

Jane Doe #17 has been a lobbyist since 2005. In 2013, fellow lobbyists warned her to stay away from Rep. Durham, but she dismissed the warnings. She became acquainted with Rep. Durham during the 2013 Session when she lobbied his then suite-mate Rep. [REDACTED] and sometimes talked with him on those occasions. The first time she recalled meeting with Rep. Durham in his office was on or about March 10, 2014. She approached him regarding his proposed amendment to a bill that negatively impacted one of her husband's clients. Representative Durham had somehow seen her Facebook page and made comments such as, "I don't want you to think I'm stalking you but your wedding was so beautiful" and other compliments. Although it is not uncommon to be Facebook friends with legislators, Jane Doe #17 thought his statements were odd because they were not friends. He threw a ball back and forth with her during the conversation as they talked. She remembered the door to his office being open. They became Facebook friends sometime in March 2014.

During the 2015 Session, Rep. Durham was on the Insurance and Banking and State Government Committees, and Jane Doe #17 had no bills to discuss with him. In January or February 2015, Rep. Durham invited her to his office in the early afternoon. There was no specific business reason for the visit, and Rep. Durham shut the door between his office and that of his legislative assistant after they entered. This made her wonder what he was going to tell her. She was sitting on the couch in his office, and Rep. Durham was initially sitting in a chair. Representative Durham asked her something like, "What's going on in your world?" He made himself a cocktail and offered her one, which she declined. Representative Durham then came and sat next to her on the couch and engaged her in small talk and began discussing other lobbyists. He took out the lobbyist handbook and made comments as he looked at the pictures such as "I think she is really hot" or "I don't like her." He told Jane Doe #17 that "you're the hottest girl in here." He also told her that they could talk like this because nothing was going to happen and "we're buddies." He told her that she was so "distracting" that when he had seen her leaning over wearing a certain dress, it was all he could do to stay focused. She recalled Rep. Durham saying something to the effect that she had the kind of figure he finds attractive. Jane Doe #17 reminded him that he had a pretty wife at home, which he dismissed. When she got up to leave after about 20 minutes, Rep. Durham came over to her, moved into her, and gave her a full frontal hug,

squeezing her breasts into him and making a sound like “mmmmmm.” It was the type of sound that Jane Doe #17 said she would really get “pissed about if her husband made that to another woman” because, to her, it had a sexual connotation.

Jane Doe #17 stated that after this meeting, Rep. Durham engaged in what she described as “light-hearted flirting” with her and would make comments like “as long as I can have a hug.” In the two or three weeks afterward, she received an estimated 25-30 text messages from him, usually during session days and not later than 8 p.m. He sent overly familiar texts unrelated to any legislative business. Some of the texts said things like, “Hey, what are you doing? . . . Are you around? . . . Why haven’t you stopped by? . . . I miss you.” Other texts said, “Touching base. . . . Stop by. . . . Can we get a beer?” Representative Durham wanted her to meet him alone for drinks “out our direction,” which Jane Doe #17 thought was odd since she lived in Nashville and he lived in Brentwood. He asked her to meet at least three times, but she always told him she was unavailable.

In early April 2015, Rep. Durham asked Jane Doe #17 to stop by his office, which she did. At some point during the conversation, she told him she was [REDACTED] [REDACTED]. She stated he “blatantly” looked up and down her shirt at her breasts and stated something to the effect of “I’m sure that helps you get votes, too.” She attempted to deflect the comment with something like “Oh stop. [REDACTED]” However, she began to get irritated with him and wanted to keep things “light.” She explained that she wanted to maintain proper boundaries with him while at the same time not “tick off the legislator.” She stayed about ten minutes. Representative Durham tried to hug her as she left his office, and she moved her body sideways to avoid a full frontal hug. Representative Durham responded, “You’re not going to press those big boobs against me again?” Jane Doe #17 told him “I don’t have time for my husband to go to jail (referring to how he might react to Rep. Durham’s behavior).” Representative Durham said, “Oh, is he the jealous type?” Jane Doe #17 responded, “No, he is the husband type.” After this incident, she thought Rep. Durham got the message that she was not going to allow his behavior to continue escalating because she received fewer text messages from him.

After the 2015 Session ended, she received a few more text messages from Rep. Durham, some late at night. For example, on May 5, 2015, at 1:13 a.m., he sent a message to her and another number saying, “Hi. Mm.” When she texted him the following day regarding the late-night text, he responded “That’s random. I probably tried texting you and accidentally added someone else to it; Ha sorry for partying!” (Attachment “B” at 1.)

On June 10, 2015, Jane Doe #17 texted Rep. Durham about scheduling an appointment with him regarding one of her clients. In response to her texts inquiring whether she should stop by his office, Rep. Durham replied, “You know there’s a thousand places I’d rather meet you than my office ha.” (*Id.* at 1-2.) Jane Doe #17 said she felt the need to warn her client, who was involved in education in Williamson County, that Rep. Durham was “friendly” and “kind of a flirt” because she was afraid he would try to hug her too closely in front of the client. She ended up cancelling the meeting.

On September 8, 2015, at 2:25 p.m., Jane Doe #17 sent Rep. Durham a message asking, “How are you?” She believes she was trying to re-establish contact with him in order to meet with

him on client business. His response at 9:43 p.m. was "Totally miss you." (*Id.* at 2.) Jane Doe #17 replied, "Session will be back before you know it!" to which he then responded in several texts, "I want to see you before that. Of course, you realize I could never tell you no. You know I'll do whatever you want. Just want a big hug." (*Id.*) Jane Doe #17 texted back, "ha!" He then asked, "Is peck on the lips out of the question? Yes, I asked that." (*Id.*) She thinks she responded something like, "Ha, most likely" or "Ha! [REDACTED] [REDACTED] that is the last thing I'm thinking about." She stated she answered Rep. Durham's text in this manner to keep him from being uncomfortable. On October 29, 2015, she received another text from Rep. Durham "out of the blue" asking "Are you still with child? Haven't heard from you." (*Id.*)

When news of the allegations against Rep. Durham surfaced in January 2016, Jane Doe #17 called Rep. John Doe #68. She did not tell anyone about Rep. Durham's behavior in 2015 because she felt it would damage her relationship with the Caucus members. She thought they would feel the need to be "standoffish" to her if she did. In hindsight, she regrets not being stronger in rejecting Rep. Durham's conduct and deleted most of the texts for fear her husband would be offended by them or disapprove of something she said in response. She has since discussed Rep. Durham's behavior with her husband and told him about the texts she deleted. Representative Durham's conduct ultimately resulted in her decision not to go back to his office or directly lobby him during the 2016 Session. She stated that Rep. Durham barely made eye contact with her this session.

Jane Doe #17 stated that Rep. Durham's behavior is not the norm for legislators; he is the only one who has ever texted or said anything in a way that gave her pause. She felt anyone else would have thought she was rude if brushed off as many times as she brushed off Rep. Durham's advances, but he was like a "dog on a bone." Jane Doe #17 provided screen shots of the text messages with Rep. Durham remaining on her iPad from May 5 to October 29, 2015.

The following additional information was provided to the Office that is relevant to Jane Doe #17's account:

In his interview, legislative staff member John Doe #41 stated that in January 2016, Jane Doe #17 showed him inappropriate texts she previously received from Rep. Durham. He remembered seeing multiple texts messages sent between 11:00 p.m. and 1:00 a.m.

Representative John Doe #68 stated that he was contacted by Jane Doe #17 after some lawmakers called for Rep. Durham to resign as Whip. She asked him whether a screen shot of late-night text messages from Rep. Durham requesting pictures of a woman whose identity Jane Doe #17 would not disclose or a text to him saying, "[i]f you don't quit texting me my husband's going to jail" would be sufficient to constitute sexual harassment. Representative John Doe #68 discussed this with the Director of Legislative Administration but did not obtain the texts Jane Doe #17 reported.

### Jane Doe #63 – Lobbyist

Jane Doe #63 formerly served as an intern and has been a lobbyist since 2010. She did not know Rep. Durham prior to 2013 and had no specific memories of him during his first session. In fall 2013, Jane Doe #63 attended the annual meeting of the Tennessee Lobbyists Association in Gatlinburg, Tennessee. She recalled being with a group at a local brewery one evening. Representative Durham was there with another group of people and appeared to be very drunk. Jane Doe #63 stated he approached her and “hit on” her in the bar and was “chatting [her] up.” Representative Durham told Jane Doe #63 that he had seen her around and wanted to get to know her. He told her he thought when viewing her from behind that she was another lobbyist he named but that she was much prettier than the other lobbyist, whom he referred to as “butter face,” meaning everything “but her” face looked good. Representative Durham talked to Jane Doe #63 for about 30 minutes and tried to get her to stay with him at the bar. She said he was “leering” at her below the neck, looking her up and down, leaning into her, and wobbling during their conversation. Jane Doe #63 said she was struggling to get away from him and eventually a colleague, John Doe #72, who had been watching the conversation, intervened. John Doe #72 told Rep. Durham that he would go wherever he wanted to go with him instead. Jane Doe #63 stated Rep. Durham’s behavior “creeped me out” and “made me feel gross.” He may have asked for her card or phone number that evening as well. The next day, she discussed his behavior with other lobbyists (she named Jane Does #4, #27, #30, #45, #52, and #61 as possibly there) either at breakfast or during a break in the conference. The consensus amongst the group was “welcome to the club.” When she saw Rep. Durham after returning to Nashville, he jokingly referred to the incident and mentioned that they should have a drink. Jane Doe #63 brushed off his invitation. She had no further interaction with Rep. Durham in 2013 or during the 2014 Session because he was not on any committees she had business with.

Following the Tennessee Waltz in 2014, Jane Doe #63 posted a picture of herself at the event on Facebook. She received a private Facebook message from Rep. Durham, commenting on the picture, stating he did not want to post it publicly but “Damn you look amazing.” Later in 2014, Rep. Durham began sending unsolicited Facebook messages to her, sometimes late at night. For example, on October 6, 2014, Rep. Durham messaged Jane Doe #63 at 11:19 p.m., “How are things!?” (Attachment “C” at 1.) The next morning when she finally responded, Rep. Durham messaged “Saw you were online and didn’t know if you were up. Running against a dem is way better than running against an R.” (*Id.*) She described this as unusual, given the time he sent the message and the fact that the Legislature was out of session. On November 20, 2014, at 10:21 p.m., Rep. Durham messaged her “Hi.” Again, she did not respond until the next morning when she messaged back “Hey! All ok?” Representative Durham responded, “Of course. Like I need a reason to message you!” (*Id.* at 2, 3.) The day before New Year’s Eve, Rep. Durham sent another “Hey you” at 11:54 p.m. (*Id.* at 3.) She thought he may have called at some point and asked her to lunch as well.

In the 2015 Session, Rep. Durham served on the State Government Committee and Jane Doe #63 was advocating for two bills over which Rep. Durham had influence. The votes for both were “tight,” and she knew that Rep. Durham and Rep. Jane Doe #33 were close friends and often voted as a “package.”

During March and April 2015, Jane Doe #63 began receiving a number of unsolicited text messages of a personal nature from Rep. Durham. She assumed he got her cell phone number from her business card. Between March 6 and 10, 2015, Jane Doe #63 exchanged texts with Rep. Durham discussing legislation. (*Id.* at 4-7.) Then at 11:01 p.m. on March 11, 2015, he sent a text asking, "You awake?" Jane Doe #63 did not respond until the morning of March 12 and asked, "Hey! I was asleep. What's up?" He replied, "I'm one of those crazy people who thinks shop late at nite." She moved the conversation to a discussion of her bill but he interjected, "My gosh it's hot when you break out the legal rhetoric." She replied, "You are a mess" and the conversation ended. (*Id.* at 7-10.) At 9:50 p.m., Rep. Durham texted, "Can't stop thinking about you and I kinda wish I were kidding but not really. . . It's the way you carry yourself. My gosh." In response to Jane Doe #63's simple "Thanks. . .," he sent several texts saying, "You so hate me. . . Lol. . . Give me time. . . Like what a perfect I'm repulsed response. I don't know how I could be more for that." She again told him "you are a mess!" and "Goodnight." (*Id.* at 10-12.)

There were more daytime exchanges regarding one of the bills on March 13 and April 1, 2015. When Jane Doe #63 asked Rep. Durham to stick with her position on the bill on April 1, he texted, "Ha that might require more than a text! You might actually have to say hi to me in the hallway! . . . You're cold as ice!" (*Id.* at 16-17.) She did not respond.

On April 3, 2015, Rep. Durham sent her a picture of a bottle of what appears to be whiskey and a glass with ice and liquid in it along with "thought you'd appreciate what I'm doing right now." It was 3:56 in the afternoon. (*Id.* at 17.) At 7:43 p.m., he texted that Rep. Jane Doe #33 was "with us" and that "I will take care of it partially bc you're correct on the issue and partially bc I adore you." Jane Doe #63 simply responded, "I'll take it! :)" (*Id.* at 18.)

On April 6, 2015, Rep. Durham sent a text at 8:11 p.m., "Did you go home?" She replied that she had tickets to an event and asked, "What's Up?" He then asked if she was around to watch a game. She replied "Rain check!" (*Id.* at 18-19.) On April 7, the two texted about a bill and Jane Doe #63 thanked Rep. Durham for his help. He replied, "But that doesn't get you off the [hook] for drinks." She replied, "I'll bring my sweatshirt!" He responded, "What about thurs-sun. . . My roommate is gone and I'll be super bored." When she responded "Nice try," Rep. Durham said, "That's not what I meant. . . I was trying to be transparent!" Her response was "I have my little dude [so] drinks won't work this week or weekend." (*Id.* at 20-21.)

On April 15, 2015, Rep. Durham texted, "Don't you like when I make up reasons to talk to you? I'm cool like that." (*Id.* at 22.) Jane Doe #63 did not respond. The texts became less frequent and then stopped at the end of September 2015.

Jane Doe #63 explained that even though Rep. Durham's behavior toward her made her uncomfortable, "I did not feel I could tell him to buzz off," for fear he would retaliate against the bills she was supporting on behalf of her clients. She stated if another male had been communicating with her as he had, outside of legislative work, she would have made it clear to the individual he needed to "lose my number." She did not feel she could do this with Rep. Durham given his position and influence. She stated that his behavior affected her ability to do her job. Jane Doe #63 provided screen shots of the texts and Facebook messages on her cell phone from October 6 to December 30, 2014, and March 6 to September 25, 2015.

The following additional information was provided to the Office that is relevant to Jane Doe #63's account:

Lobbyist Jane Doe #18 recalled having a lunch meeting during which Jane Doe #63 told her about several "creepy experiences" she had with Rep. Durham. Jane Doe #63 told her that she got a text message from him telling her that his "roommate was going to be out of town" and suggesting she get together with him.

Lobbyist John Doe #72 recalled an incident during the 2013 Tennessee Lobbyists Association annual meeting in Gatlinburg involving Rep. Durham and a lobbyist. He and other lobbyists were sitting at a table upstairs in a bar when he noticed Rep. Durham was talking loudly with a female lobbyist in a manner that was drawing everyone's attention. He remembered Jane Does #63 and #8 being among the lobbyists there but could not recall which lobbyist Rep. Durham was talking to. Someone at his table mentioned that one of them needed to "rescue" the female lobbyist, who appeared to be trying to get away from Rep. Durham. John Doe #72 left the table and engaged Rep. Durham in conversation to allow the female lobbyist to leave, although he could not recall what they talked about.

#### **Jane Doe #30 – Lobbyist**

Jane Doe #30 has been a lobbyist since 2008. The first time she recalled meeting Rep. Durham was sometime around April 2014, when she was working on a clothing drive project for one of her firm's corporate clients. Representative Durham came to have his picture made with the corporate officials because the client has offices in his legislative district. Jane Doe #30 took the picture with her cell phone, and Rep. Durham asked her to send it to his phone, which she did. Within a few minutes, he texted back, "Thank you, let's grab a drink sometime" from [REDACTED]. She thought the invitation for a drink was odd because she and Rep. Durham were not acquainted. The text made her feel like he was "fishing, throwing the bait out" to see if she would respond. In her mind, he was a "creepy dude" because she does not have drinks with men she does not know. She did not recall having any further communication with Rep. Durham in 2014.

Her next communication with Rep. Durham did not occur until the 2015 Session. Her firm was representing a client on a bill. Originally, one of the firm's partners was leading the lobbying efforts with her, but in late March or early April, Jane Doe #30 was assigned to lobby Rep. Durham. One day, she was waiting outside Rep. Durham's office for an opportunity to discuss the legislation when he approached her and told her that he was glad she came to see him because she had never lobbied him and he had wanted to talk to her. She stated that Rep. Durham never said why he wanted to talk to her, which seemed overly familiar and put her on guard. When they entered his office, he shut the door and sat in a chair a few feet from hers. Jane Doe #30 began to discuss the legislation, but Rep. Durham kept interrupting by making a reference to a "mini-fridge" in his office. He told her he kept mixers in the refrigerator and liquor in his desk and if "you are ever over here late and want a drink" to come by his office. Jane Doe #30 kept talking about the legislation when Rep. Durham got up and opened the "mini-fridge" to show her the drinks in it. He asked no questions about the bill, nor did he engage in any discussion about it when she asked if he had any concerns about it. It seemed to her that her discussion about the legislation was "white noise" in the midst of his repeated references to having drinks. She thought he was

unprofessional and decided to leave through the door into the hallway. She stated that Rep. Durham walked out into the hallway with her and commented, "I'm for your bill but I'm going to expect something in return." No one else was in the hallway at the time. Jane Doe #30 was so annoyed by Rep. Durham's comment that she snapped, "We have the votes. We don't need yours, thanks." She took his comment as "dropping the bait" to see if she would have drinks with him. She understood it to mean that he expected her to have a drink and spend time with him. She felt that Rep. Durham was "hitting" on her and was "disrespectful" to her. She became tearful during the interview. She explained that this type of behavior is rare in the Legislature and this "bizarre interaction" with Rep. Durham was the first time she had experienced conduct like this from a legislator.

After this experience, she told one of the firm's partners, John Doe #48, about Rep. Durham's behavior and that she would no longer lobby him. With Jane Doe #30's permission, the partner subsequently contacted Rep. John Doe #42 in March or April 2015 about Rep. Durham's behavior and told Jane Doe #30 that the firm would support her if she wanted to file a formal complaint. After *The Tennessean* articles appeared in January 2016 with stories of other women's experiences with Rep. Durham, Rep. John Doe #42 contacted the partner to ask if Jane Doe #30 wanted to come forward and talk to Rep. Jane Doe #25 "off campus." Representative John Doe #42 called and talked to her about this as well. Jane Doe #30 and the partner met with Rep. John Doe #42 at Legislative Plaza, and she became emotional and had a "cryfest" before the meeting. During the interview, she stated Rep. Durham's behavior made her angry because her male counterparts would not have had to deal with that type of behavior.

Jane Doe #30 ultimately declined to file a formal complaint. On January 28, 2016, she texted Rep. Jane Doe #25 and thanked her for her willingness to have an anonymous and discreet conversation. She told Rep. Jane Doe #25 that while "I have a desire to make sure nothing like this (or worse) happens to anyone else that doesn't have a bench as deep as mine [a reference to her bosses watching out for their own] . . . I struggle with the anonymity aspect of coming forward" when her husband and family did not know about Rep. Durham's comments to her. (Attachment "D" at 2-3.) Because the press was "swarming around this issue, and the plaza buzzing with people trying to figure out who is coming forward" after the newspaper articles, her greatest fear was that her family would read her name in the paper. (*Id.* at 4-5.) Because she felt that she needed to keep herself "out of this situation," she decided not to come forward. (*Id.* at 4-5.) In the interview, she said she did not want to be in this situation or be in the newspaper and she did not want to harm her reputation at the Legislature. Representative Durham's behavior has affected her work, and when she recently had a bill before a committee on which Rep. Durham serves, she did not lobby him on the bill.

The following additional information was provided to the Office that is relevant to Jane Doe #30's account:

Lobbyist John Doe #48 stated that a member of his firm, Jane Doe #30, was assigned to lobby Rep. Durham on a bill in 2015. She came to him after meeting with Rep. Durham and stated she "had the worst experience with Jeremy Durham." She said Rep. Durham told her "I'll vote

for this but you may want some of this pocket candy.”<sup>17</sup> This was the same day of the incident and she was upset and did not like or appreciate Rep. Durham’s conduct. Jane Doe #30 said she told Rep. Durham “I don’t need your vote.” John Doe #48 and his partner in the firm thought Rep. Durham’s conduct toward Jane Doe #30 was inappropriate and sexual in nature. John Doe #48 decided to discuss the incident with Rep. John Doe #42 after getting Jane Doe #30’s permission to do so. In subsequent conversations, Rep. John Doe #42 indicated that Jane Doe #30 would have to “go public” and file a formal complaint in order to address Rep. Durham’s conduct, which she decided not to do. During the 2016 Session, Rep. John Doe #42 approached John Doe #48 about the 2015 incident involving Rep. Durham and Jane Doe #30 and told him Rep. Jane Doe #25 was willing to meet Jane Doe #30 away from the Capitol to discuss the incident. He provided Rep. Jane Doe #25’s personal cell phone number if Jane Doe #30 wanted to discuss the incident. In the end, Jane Doe #30 decided not to meet with Rep. Jane Doe #25. Jane Doe #30 and the firm have decided that she will no longer lobby Rep. Durham as a result of the 2015 incident.

Rep. John Doe #42 stated that, in March or April 2015, he was approached by lobbyist John Doe #48 about an incident in Rep. Durham’s office involving a female lobbyist in his firm, whom he identified as Jane Doe #30. John Doe #48 told him that Jane Doe #30 went to Rep. Durham’s office to ask his support for a bill, and he allegedly said words to the effect of “[y]ou need to do something for me if I do something for you.” Rep. John Doe #42 got the impression that this incident occurred during the 2015 Session. He met with Rep. Jane Doe #25 and legislative staff members John Does #22 and #41 and informed them of the allegations but did not reveal Jane Doe #30’s identity. They determined the proper procedure would require her to file a complaint with the Director of Legislative Administration, which Rep. John Doe #42 relayed to lobbyist John Doe #48. A few days before January 28, 2016, Rep. John Doe #42 met with John Doe #48 and Jane Doe #30 in his office. Jane Doe #30 told him that Rep. Durham said something inappropriate and she excused herself but she did not want to file a formal complaint. She had not told her husband and did not want to be on the front page of the newspaper. Representative John Doe #42 provided the text messages from January 26, 2016, with lobbyist John Doe #48 to set up a meeting with Jane Doe #30 and to Jane Doe #30 giving her contact information for Rep. Jane Doe #25. (Attachment “E.”)

Representative Jane Doe #25 recalled that in 2015, Rep. John Doe #42 approached members of her staff with information from two females who may have received inappropriate communications from Rep. Durham. Her staff informed Rep. John Doe #42 that the appropriate process would involve a formal complaint filed with the Director of Legislative Administration. Representative Jane Doe #25 stated that she subsequently approached Rep. John Doe #42 on January 24 or 25, 2016, and asked if two females who reported receiving the communications from Rep. Durham would be willing to file a formal complaint and offered to contact the females to discuss his conduct. Representative John Doe #42 relayed the information to Jane Doe #30, who

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<sup>17</sup> This statement is inconsistent with what John Doe #48 reported to Rep. John Doe #42 in 2015 (i.e., words to the effect of, “you need to do something for me if I do something for you”) and what Jane Doe #30 reported to our Office in her interview (“I’m for your bill but I’m going to expect something in return”). John Doe #48’s recollection of the second part of the statement, “you may want some of this pocket candy,” may be a conflation of his memory of Jane Doe #30’s report with another statement attributed to Rep. Durham during an incident involving lobbyist Jane Doe #9 (“You don’t want those. I’ve got this,” referring to a piece of candy from Rep. Durham’s pocket). Several witnesses we interviewed had heard about the “Pants Candy” incident. (See account of Jane Doe #9, p. 43-44.)

declined to file a formal complaint. Representative Jane Doe #25 provided our Office with screen shots of the text Jane Doe #30 sent her on January 28, 2016, at 12:55 p.m. (Attachment "D.")

### Jane Doe #31 – Lobbyist

Jane Doe #31, a former legislative director for a state agency, recalled having email contact with Rep. Durham during his first session in 2013, an exchange which she described as professional. During the 2014 Session, she spoke with every House member about a bill that affected her agency. Representative Durham became very friendly toward her and on one occasion asked her to come by his office for a minute around 4:30 or 5:00 p.m. While she was in his office, Rep. Durham offered her beer but she declined. She was in Rep. Durham's office about 5-10 minutes and was uncomfortable at what she perceived as him flirting. He said something like, "You gotta go have a drink with me." This incident affected her willingness to meet with him alone. She either skipped him altogether when lobbying legislators during the 2014 Session or dropped literature off at his office. She emailed him to maintain some distance between them. At some point, they became friends on Facebook. She continued to drop off materials to Rep. Durham's assistant during the 2015 Session, and she stated that Rep. Durham was very friendly and very persistent in asking to have drinks with her. However, Jane Doe #31 would not meet with him alone.

In July 2015, Jane Doe #31 decided to leave her employment with the State and emailed every legislator and assistant with her personal cell phone number and email address to let them know she would be glad to work with them in the future. Her employment ended in October 2015. She had not heard from Rep. Durham for some time when she received a private Facebook message from him at 11:25 p.m. on October 9, 2015, asking "You up?" She asked "What's up?" and he responded "You left us." She replied, "I know. It makes me sad but maybe I'll be back around!" Representative Durham then asked, "I still want drinks if you were half serious." She replied, "Absolutely! Don't worry—I'll be back around! Was at the plaza today for a while. . . ." Representative Durham responded, "Did we say flying saucer or did I ever get that far? Ha." Her reply was "Nope. In [sic] not even sure where that is! Sold my house so I'm busy moving this weekend and most of next week but maybe the week after?" (Attachment "F" at 1-4.) Representative Durham mentioned his title company and texted, "Love to. Let's get it on the calendar. Where are you moving?" When she told him she was renting an apartment for a while, Rep. Durham's replied, "Hm I do have beer in the office." (*Id.* at 4-8.) Jane Doe #31 told him to go to bed and she would call next week but he continued the conversation. He gave her his phone number and said, "I must admit I'm intrigued tho . . . by why you left. I wanted drinks with you to tell you something anyway." (*Id.* at 9-11.) When she told him that there are lots of good people still at her old department and that he would be in good hands, he replied, "But I'm more concerned about you." She responded that she was fine, to book the drinks, and "Goodnight!" To that, Rep. Durham answered, "You're cold as ice." Her reply was, "Now that was just mean! In [sic] not. Would just rather talk in person." He then messaged, "I can do phone for a minute." Jane Doe #31 told him that it was not a good time to talk. He then texted, "Ha ok. Fill in the blanks then." (*Id.* at 12-15.) Jane Doe #31 later texted her friend in December 2015 that she used moving as an excuse for not being available for drinks with Rep. Durham. (*See id.* at 16-19.)

Jane Doe #31 felt the messages were “terribly inappropriate” based on the time of night and the personal nature of them. It appeared to her Rep. Durham was trying to see how far he could get with her and she kept trying to change the subject during the exchange. However, she did not feel she could tell him to leave her alone because she was looking for a job at the time and did not want to be considered untrustworthy by legislators. She explained that legislators would fear that their friendliness would be misconstrued and would not trust someone who complained. Jane Doe #31 stated that Rep. Durham’s behavior “creeped me out.” His messages also surprised her because she is much older than he and is a grandmother. She said Rep. Durham is now cold to her when she says “hi.” Jane Doe #31 provided the Office with screen shots of Facebook messages from Rep. Durham from October 9, 2015, and the text message exchange with her friend on December 1-2, 2015.

#### **Jane Doe # 18 – Lobbyist**

Jane Doe #18 met Rep. Durham during the 2013 Session when she was introduced to legislators by other members of her lobbying firm. Her firm will not send her to meet alone with Rep. Durham. When she meets with him, at least one other member of her firm is present. She stated that Rep. Durham “stares at your chest when you are talking to him.” During the 2015 Session, Rep. Durham was the sponsor of a bill one of the firm’s clients was interested in. She recalled being in his office for meetings on as many as seven occasions and stated, “He’s [Durham] never looked at my face.”

Jane Doe #18 related another incident in 2015 that occurred during a committee meeting. Representative Durham was present and sitting up front, perhaps presenting a bill. She suddenly received an unsolicited text message from a cell phone number she did not recognize saying, “What’s up?” She showed it to the firm member sitting with her, who checked his phone and determined it was Rep. Durham’s number. She thought it was weird, presumptuous, and overly familiar because she and Rep. Durham were not friends and had no relationship that would have justified such a communication from him. She explained that, although many legislators have her cell phone number, “Legislators don’t do that.” She stated that no one wants to offend a legislator by not responding, but in this instance, there was nothing that would have made her respond. The message gave her a strange feeling that he was staring at her in the committee room. She deleted the text. She told her husband, who thought Rep. Durham may have been “hitting” on her.

#### **Jane Doe #52 – Lobbyist**

Jane Doe #52 is a former intern and research analyst who became a lobbyist in July 2011. During Rep. Durham’s first legislative session in 2013, she did not find her initial dealings with him to be offensive. However, she observed that as he became influential as a freshmen leader and got more power, his interaction with her changed. After her firm was instrumental in defeating a bill in committee during the 2013 Session, she and her partner stopped by Rep. Durham’s office. He complimented them on a masterful job of killing the bill and said to Jane Doe #52, “Especially you.” He commented on her clothes and how “good looking” she was. Jane Doe #52 stated this made her uncomfortable.

On January 12-13, 2016, Jane Doe #52's firm had a reception at the War Memorial Auditorium. Representative Durham stopped her as she passed his table and said, "You're doing something different. Are you working out? Keep doing what you're doing. It's working for you." She stated Rep. Durham looked her up and down and looked at her below the neck. This made her uncomfortable. A few days later, she dropped off some bill language by his office and had a short text and email exchange with him about it. He called her to ask what he was supposed to do with the bill and again made the same remarks about her appearance that he made at the reception as set forth above. She stated she politely thanked him. The number she had for Rep. Durham was [REDACTED].

As a result of her interactions with Rep. Durham, Jane Doe #52 told her boss that she will not go into his office to lobby in the future. She thought he was extremely bold to make such comments to her with everyone talking about his conduct toward females. She explained that Rep. Durham's behavior is different than what she has experienced with other legislators.

#### **Jane Doe #66 – Female Associated with the Legislature**

Jane Doe #66 was associated with the Legislature in 2014. She met Rep. Durham before the 2014 primary and saw him again at the end of 2014 at a Caucus fundraiser. During the 2015 Session, Jane Doe #66 became friends with a group of legislators, including Rep. Durham, who socialized on a regular basis.

One night, Rep. Durham texted Jane Doe #66 while she was in Nashville with her husband. On another occasion, Jane Doe #66 went to dinner with Rep. Durham and a group of legislators. When she left to go back to her residence, Rep. Durham texted her to ask where she was, that he needed to talk to her. He asked her to meet him outside her residence, which she did. Jane Doe #66 stated when Rep. Durham arrived, he told her that he had a crush on her. This made her very uncomfortable, and she did not know what to do. She told Rep. Durham she was happily married, but he laughed and said he was, too. He told her he wanted to warn her that she was going to have to help him deal with that when they were around each other. Jane Doe #66 said it was obvious Rep. Durham was "hitting on" her.

The next day, Jane Doe #66 saw Rep. Durham talking to another member when he sent her a text message stating something to the effect of, "Your smile gave me chills." The following weekend, Jane Doe #66 was at home with her husband on a Friday or Saturday evening when she received a text message from Rep. Durham. She stated the text message said something about her being beautiful or wanting to see or talk to her. She deleted the texts. She then blocked Durham's number and talked to her friend Rep. Jane Doe #65, who advised her, "Girl, you need to tell him to leave you alone and protect your marriage."

Toward the end of the 2015 Session, Jane Doe #66 went to dinner with Rep. Durham and a group of legislators. Representative Durham told Jane Doe #66 that he had tried to contact her all week about an important meeting but could not get in touch with her. When she told him she blocked his number, he appeared offended and gave her the impression that he thought it was silly. Through the week, Rep. Durham told her that he just wanted them to be friends, so she decided to unblock his number. She said she felt she needed to be able to get information from Rep. Durham,

whose role as a House leader gave him access to information that others did not have. Jane Doe #66 said that she only intended to be friends with Rep. Durham but that he pursued her. She no longer wants to be associated with the Legislature.

The following additional information was provided to the Office that is relevant to Jane Doe #66's account:

Representative Jane Doe #65 knew Rep. Durham socially. Near the end of the 2015 Session, a female associated with the Legislature, Jane Doe #66, was upset and confided in Rep. Jane Doe #65 that Rep. Durham was sending her text messages on weekends and all hours of the night and had "begged" to come up and stay with her one night at her residence. Jane Doe #66 was married. Representative Jane Doe #65 advised her to block Rep. Durham's phone number and protect her marriage.

In his interview, John Doe #51 stated that he had a phone conversation with Jane Doe #66 late in the 2015 Session during which she asked his advice about how to handle Rep. Durham's advances. She told him that she had dinner with Rep. Durham and others and when she was leaving, Rep. Durham either told her or texted her to stay a little longer. She stayed for a while longer. After she left the second time, Rep. Durham called her and told her he wanted to talk to her. Jane Doe #66 met him outside her residence, and Rep. Durham told her he thought highly of her and gave her the impression he was making a move on her. She told Rep. Durham she was happily married. She wanted to know what to do because she did not want it to happen again. John Doe #51 told her she should block Rep. Durham's number and avoid socializing with him. Several months later, she told John Doe #51 that she previously blocked Rep. Durham's phone number but unblocked it after he tried to send her a text message about an important meeting.

#### **Representative Jane Doe #65 – Witness**

Representative Jane Doe #65 was close to Rep. Durham, and she and other members often socialized together after he was elected. She stated her relationship with Rep. Durham changed during the 2015 Session due to her knowledge of inappropriate behavior by him which she did not want to be associated with. She noticed that Durham's drinking increased in 2015 and observed changes in his temperament and appearance. She stated she has seen Rep. Durham drinking at Legislative Plaza many times, sometimes during the day. Within a week of receiving the report of Rep. Durham's behavior from Jane Doe #66 above, Rep. Jane Doe #65 attended a political event with a "married friend" from her home district, whom she refused to name. A group of eight to ten people from the event went to a Nashville restaurant for a privately funded "meet and greet" for the Republican Party. Jane Doe #65 stated Rep. Durham was drinking and ended up sitting beside her "married friend." Representative Jane Doe #65 observed him "flirting hard" with her friend. The friend told Rep. Jane Doe #65 that Rep. Durham asked her to go have drinks with him but she declined. Representative Jane Doe #65 stated she has since "parted ways" with Rep. Durham. She reported that during the 2016 Session Rep. Durham told a group of members, in which she was included, that all the allegations against him are false.

## VII.

### REPRESENTATIVE DURHAM'S CONDUCT DURING NOVEMBER 2012-2014

The investigation revealed that Rep. Durham has a history of similar conduct in previous sessions toward female legislative staff, lobbyists, and others with whom he has interacted in his position as a state representative. The evidence obtained in the following interviews illustrates that Rep. Durham's aforementioned conduct was not limited to the 2015-2016 session of the General Assembly.

#### **Jane Doe #24 – Legislative Staff**

Jane Doe #24 first met Rep. Durham early in the 2013 Session when she worked as a legislative assistant for Rep. Jane Doe #33, with whom he was close friends. The first incident she described involving Rep. Durham was around February 2013 when he invited her to have drinks with him and Rep. Jane Doe #33 in her office at the end of the day. According to Jane Doe #24, Rep. Jane Doe #33 appeared surprised and annoyed that Rep. Durham invited her. When the conversation between Rep. Jane Doe #33 and Rep. Durham turned to a discussion of breast implants, he looked at Jane Doe #24 below the neck, nodded toward her, and said, "Some people don't need them." Representative Durham's comment made Jane Doe #24 feel uncomfortable, but she did not say anything because she thought that anyone standing up to a legislator would be ridiculed and that doing so could jeopardize her hopes for a higher staff position at the Legislature. She said she did not want to be "that girl," meaning one who rocks the boat or complains about a legislator. She stayed in Rep. Jane Doe #33's office having drinks for about 30 to 40 minutes and left. After that evening, Rep. Durham would often stop by Jane Doe #24's office to visit her, asking "What do you do for fun?" and about her personal life. They discussed where she lived. At some point, he gave her his cell phone number, telling Jane Doe #24 that it was just in case Rep. Jane Doe #33 needed to get in touch with him.

Shortly thereafter, Rep. Durham invited Jane Doe #24 to get drinks after work at the Tin Roof. She assumed she was meeting him with a group because early in the session, groups often met for drinks at Fleet Street and other places. She was flattered that Rep. Durham invited her, but when she arrived around 7 or 8 p.m., she was surprised that he was alone. Representative Durham made an excuse why no one else was there. They had drinks and talked. Representative Durham eventually moved next to her in the booth, saying he could not hear her. He put his arm around her and pulled her close while talking to her. He told her she was attractive, made comments about the tank top underneath a see-through top and the blue jeans she had on and was staring at her up and down. Jane Doe #24 stated that it was obvious he wanted to get her alone. She was worried that someone might see them and that Rep. Jane Doe #33 would be displeased. When she got up to leave after about an hour, Rep. Durham offered to walk her home.

Once at her apartment building, Rep. Durham asked her if he could come inside, but Jane Doe #24 told him no. He put his hand on her back while she got her key out, walked her to her door, and leaned in and kissed her. She said she was caught off-guard and reminded him, "You're married" and recalled saying something like, "This is not going to happen." Representative Durham laughed and then left. After this incident, Rep. Durham texted Jane Doe #24 early before

work and late at night (1:00 a.m. or so) five or six times asking if he could come over to her apartment. He sometimes stopped by and sometimes called on his way home but mainly asked her to let him come over after events. She kept making excuses or told him she was busy.

She recalled another incident during the session when Rep. Durham parked in the lot across the street from Rhythm around 8 p.m. and asked Jane Doe #24 to stop by on her way home from an evening out with friends to say "hi." She got into his car, which she described as a dark Jeep, for about 15 minutes. She described him as flirty and leaning in close to her. She accidentally knocked some of his campaign stickers onto the floor, and he stuck one on her leg and said, "You look pretty hot with my sticker on." She stated he kissed her on the neck but she did not kiss him back.

Jane Doe #24 stated she was "super uncomfortable" with the whole situation and thought it was unusually bold for a married legislator to be seen with a single girl out in public. She stated that she told her friend John Doe #15 about the Tin Roof incident but did not think she told him what happened in the car. She felt flattered by Rep. Durham's attention but knew he was married and was not contemplating an affair with him. At the end of the 2013 Session, she heard from another friend at Fleet Street that Rep. Durham had also asked her to meet him. After learning this, she thought she established appropriate distance with Rep. Durham.

A few weeks before the end of the 2013 Session, Rep. Jane Doe #33 found out Jane Doe #24 and Rep. Durham had been communicating and "hanging out." When the session ended, Human Resources immediately notified Jane Doe #24 that Rep. Jane Doe #33 wanted her reassigned. She said she subsequently received a letter of good standing from Human Resources and interviewed for other staff positions with the Legislature but was never hired. She heard from legislative staff member John Doe #32 that Rep. Jane Doe #33 did not speak well of her to other members. As a result, she said she was afraid to make Rep. Durham mad, thinking he would take Rep. Jane Doe #33's side against her since they were close friends.

Jane Doe #24 stated Rep. Durham continued to periodically text her even after she was let go from her job at the Legislature asking her "to hang out." She remembered text messages in April after the 2013 Session in which Rep. Durham asked her to meet, which she assumed meant alone. He also called her once around 9 or 10 at night intoxicated wanting to come over. On one occasion, to put him off, Jane Doe #24 invited him to come to a bar, the Standard, where she was with a group. On another occasion, Rep. Durham texted Jane Doe #24 asking her if she wanted to come out, and when she told him no, he texted "pics?" She assumed he meant naked pictures because he had access to regular pictures of her on Facebook. The texts stopped in July or August 2013 with the exception of a "Happy Thanksgiving" in the fall.

Jane Doe #24 said she is ashamed that she had allowed things with Rep. Durham to go on for so long and put up with things to stay in his "good graces." She eventually found a position as an executive assistant in February 2014 with a private company. Jane Doe #24 wanted to be a lobbyist from the time she was in high school but no longer wants to do so after her encounter with Rep. Durham. She stated "it's all gone."

The following additional information was provided to the Office that is relevant to Jane Doe #24's account:

Legislative staff member John Doe #15 was a good friend and confidant of Jane Doe #24 and would sometimes stop by her office to visit. He stated that he witnessed Rep. Durham making advances toward Jane Doe #24 in her office on several occasions. The advances included innuendo of a sexual nature, sexually suggestive comments, and what he referred to as "strong, strong flirting." He recalled that Rep. Durham would sit in Jane Doe #24's office for 30 to 40 minutes, sometimes with the door closed. John Doe #15 said legislators normally do not go into a staff's office like that. He was also aware that there were frequent text messages between Jane Doe #24 and Rep. Durham. She told John Doe #15 that the situation made her uncomfortable and her job was precarious because there were times Rep. Jane Doe #33, a close friend of Rep. Durham's and Jane Doe #24's boss, saw him making advances and reacted very negatively. John Doe #15 saw some of the text messages and Facebook messages from Rep. Durham that were sent at 2 or 3 a.m. saying things like, "Why don't you come over?" or "Can I come over?" He remembered one message from Rep. Durham asking to come over one morning before work that said something like, "I'll bring you breakfast in bed." It was clear to him that Rep. Durham wanted sex from Jane Doe #24 but does not believe she had sex with him. He was surprised that Rep. Durham was so forward. The texting continued throughout the 2013 Session and some after the session. Jane Doe #24 told him about one occasion when she met Rep. Durham at the Tin Roof. She told him that Rep. Durham portrayed the meeting as related to legislative business, but when she arrived, that was not the case. She and Rep. Durham ended up in either his or her car and some type of physical contact occurred. Jane Doe #24 told him the contact did not go beyond kissing. She also told him that Rep. Durham had asked her for pictures, which she thought meant pictures of a sexual nature. John Doe #15 stated that Jane Doe #24 went along with Rep. Durham because she felt "trapped," "awkward," and "stuck in the middle" because she was working for Rep. Durham's close friend and he was a legislator while she was a staff member. John Doe #15 talked to Rep. Durham about his behavior three or four times. The first occurred early in the 2013 Session, when John Doe #15 let Rep. Durham know how awkward Jane Doe #24 felt about his advances and gave him a "heads up" that people were talking about it. Representative Durham acted as though he would be careful about his behavior each time they talked but never changed his behavior toward Jane Doe #15.

During the 2013 Session, John Doe #32 was on staff at the Legislature. Late in the session, Jane Doe #24 told him that Rep. Durham was very flirtatious toward her.

#### **Jane Doe #12 – Legislative Staff**

Jane Doe #12 was working in the House Clerk's office when Rep. Durham approached her in a subcommittee meeting in February 2013 and asked for her business card. When she informed him that clerks do not get business cards, he asked that she text him her information, which she did. Although legislators do not typically get her information, she thought nothing of it at the time. Representative Durham talked with her in other subcommittee meetings and noticed her engagement ring. Her initial impression was that he was cute, funny, stupid, and a bit flirty but not "over the top." However, through the spring, she had received enough texts from him in which the tone did not feel right that she had an "uh oh" feeling. There were invitations for drinks with him. She stated it was not unusual for legislators to invite groups to go out, but Rep. Durham's

one-on-one suggestions were. She felt that he was being persistent in trying to get her alone. Every time she made an excuse, he would come back with another suggestion. She continued to make excuses. Jane Doe #12 got a new cell phone in June 2013 and no longer has the cell phone with these early text messages on it.

Toward the end of the 2013 Session, Jane Doe #12 was looking for another position, and on June 28 and July 2, 2013, Rep. Durham texted to let her know that Rep. Jane Doe #33 was interviewing to replace an employee she fired (Jane Doe #24) and that Rep. John Doe #55's assistant was leaving. (Attachment "G" at 1, 8.) Interspersed were texts in which Rep. Durham was arranging to have drinks with Jane Doe #12 and texted, "When do you get off," "What bars are close to you?" (*Id.* at 4-5.) They talked about plans, but she always made excuses. For example, on July 1, 2013, she sent him a text "Can we push drinks back a day? My dad is in town from Florida and asked if we could do something," and on July 2, "Ok that's probably best [a rain check] I need to have some family convos about which job I'm going to take." (*Id.* at 1, 5.)

Representative Durham called Jane Doe #12 at home sometime at the end of or after the 2013 Session and again asked her to have a drink with him. She told him it might not be appropriate and she was not getting back out. She reminded Rep. Durham that he was married and she was engaged and pulled "the Church of Christ card" on him. He replied, "Welcome to Capitol Hill." Jane Doe #12 saw Rep. Durham with his wife at functions and was polite but only engaged his wife in conversation.

In September 2013, she joined Rep. John Doe #55's staff. She had very little contact with Rep. Durham during the 2014 Session. On February 24, 2014, Rep. Durham texted, "Havent [sic] forgotten you owe me a drink!!" (*Id.* at 11-12.) On September 3, 2014, she received a text from Rep. Durham before work at 8:18 a.m. saying, "Tell [Rep. John Doe #55] I'm stealing you" and then at 8:21 a.m. "The young, attractive assistant is a horrible cliché anyway." (*Id.* at 14.) She said that she did not formally complain but showed the texts to Rep. John Doe #55 and told him that if she got one more text, she was going to the Speaker of the House. She showed them to her husband as well. A couple of months later, Rep. Durham came off an elevator as Jane Doe #12 and Rep. John Doe #55 were getting on. He turned and said, "The young hot assistant is such a cliché" as the doors closed. She stated Rep. Durham appeared to be under the influence of something. She described his eyes as being "sleepy" and his face red. She thinks he is a "creep" and warns new interns in her office to stay away from him. She does not feel the need to do this with any other legislator. She stated Rep. Durham has not acknowledged her presence since the news stories with the allegations of women appeared in January 2016.

Jane Doe #12 provided screen shots of text messages from Rep. Durham's number, [REDACTED], dated June 28, 2013, through September 3, 2014. She no longer has the cell phone with older texts on it.

The following additional information was provided to the Office that is relevant to Jane Doe #12's account:

Representative John Doe #55 stated that in late 2014 or early 2015, Jane Doe #12 reported to him that Rep. Durham sent her a text message that made her uncomfortable. John Doe #55's

recollection of it was that Rep. Durham said she was a sexy assistant and needed to come work for him. He encouraged her to show the text message to her husband and determine what she wanted to do about it. She told him that she did not want it to happen again but if it did, she wanted to report it. Subsequently, Rep. John Doe #55 and Jane Doe #12 encountered Rep. Durham at an elevator in Legislative Plaza and Rep. Durham made a comment to Jane Doe #12 that caused her to say, "He's a creep," after Rep. Durham left. Representative John Doe #55 could not remember the exact statement he made.

Legislative staff member Jane Doe #39 stated that Jane Doe #12 told her that when she worked in the Clerk's Office, Rep. Durham asked for her phone number and began texting her. She said that clerks do not give their numbers to members but Rep. Durham asked for Jane Doe #12's number, saying it was in case he needed to get in touch with her. Jane Doe #12 told Jane Doe #39 that Rep. Durham's texts made her uncomfortable and that she told him at some point that she was getting married and did not want to receive his texts. Jane Doe #12 told her that Rep. Durham's response was, "Welcome to the General Assembly." Jane Doe #39 did not see the texts. She stated that this type of behavior is not normal for legislators in her experience.

In her interview, legislative staff member Jane Doe #20 recalled a conversation she had with Jane Doe #12 in approximately September 2015 in which Jane Doe #12 told her that Rep. Durham had sent her text messages which started out appearing to be innocent and escalated to being inappropriate. These messages were sent in the evening after work. Jane Doe #20 did not see the text messages. Jane Doe #12 told her that she reported Rep. Durham's behavior to Rep. John Doe #55 and to her husband, who was angry about the messages. Jane Doe #12 said she told Rep. Durham that the texts were inappropriate and he needed to stop sending them.

Lobbyist Jane Doe #52 recalled Jane Doe #12 telling her that Rep. Durham did something that made her feel uncomfortable. She thought Jane Doe #12 also told her boss.

#### **Jane Doe #38 – 20-Year-Old College Student/Political Worker**

While working for a candidate for State Senate, Jane Doe #38 met Rep. Durham in May or June 2014 at a political fundraiser for a Dickson County mayoral candidate. At that time, she had a "very professional" conversation with Durham and Rep. Jane Doe #33, whom she already knew. Representative Durham told her that he eventually planned to run for Congress and wanted her to work on his campaign. At the time, Jane Doe #38 was 20 years old and had just finished her junior year in college. During the conversation, Rep. Durham gave Jane Doe #38 his business card and asked her to text him so he would have her cell number for future reference. She texted Rep. Durham something to the effect of "Hi, this is [Jane Doe #38]."

That same day, on her way to another meeting from the fundraiser, she received a text message from Rep. Durham saying, "Call me." When she did so around 7:30-8:00 p.m., he said he wanted to get together with her because he did not feel they had been able to talk long enough at the fundraiser. She suggested they meet at the "Relay for Life" event at Logan's Restaurant, which she understood Rep. Jane Doe #33 would attend. However, Rep. Durham suggested they should meet at another location, and they agreed on O'Charley's Restaurant in Dickson. Jane Doe #38 met Rep. Durham for dinner around 7:30 or 8:00 p.m., and the two had what she described as

a "very professional" conversation about politics. She stayed about an hour, and Rep. Durham gave her a friendly hug when she left.

The following day Jane Doe #38 received a text message from Rep. Durham asking to meet again soon to talk more. A week later, the two exchanged text messages about political events, and about two weeks later, Rep. Durham sent another invitation asking if they could meet. Jane Doe #38 was working on an election campaign in Robertson County at the time and suggested they meet at Logan's Restaurant in Cool Springs on her way home for the weekend. She stated she knew Rep. Durham was married but felt their interactions had been professional. The two had dinner at Logan's Restaurant discussing politics, after which Rep. Durham hugged Jane Doe #38 goodbye and the two left separately. Jane Doe #38 recalled being at work later that week when she and Rep. Durham exchanged text messages about some political issues. During the course of the exchange, she mentioned going on a date with someone, and Rep. Durham's texts became "flirty" at that point. He texted her something to the effect of "I think you know what I'm talking about. You know I really like you." Upon her return to Robertson County, she received a phone call from Rep. Durham during which he told Jane Doe #38 his marriage was not going to work out and that he was getting a divorce because his wife did not want the same things he did. At the time, Jane Doe #38 thought it was "cool" hanging out with a legislator.

The next night, which Jane Doe #38 placed in June 2014, Rep. Durham asked her to meet him and "hang out" in his legislative office. She parked near Legislative Plaza, and he drove her in his car to the Plaza. Representative Durham brought a cooler of beer, and the two went to his office and drank the beer he provided and talked. Jane Doe #38 was under 21 years of age at the time. She stated that at first, Rep. Durham sat behind his desk and she was in a chair in front of the desk. He eventually moved around and sat on the desk in front of her. In between some discussion of business and other "banter," Rep. Durham made flattering comments about her appearance, which indicated to Jane Doe #38 that he liked her. She stated that Rep. Durham suggested they move into an adjoining office to some couches, which they did. He told her that he wanted to kiss her, and the two kissed and had sexual intercourse. Afterward, they talked and watched a baseball game in his office, during which time Rep. Durham told her, "I better be careful or I could end up falling for you." About 45 minutes later, he drove her back to her car.

After the incident, Jane Doe #38 texted Rep. Durham to tell him she felt "sick" about it. He responded that he wanted a positive experience for her and it was "no big deal." She said the texts between them became more like "friend" texts, and Rep. Durham said that he wanted to see her again and "hang out."

In mid-summer 2014, Jane Doe #38 went to Washington, D.C. for an internship. She stated while in Washington, she and Rep. Durham exchanged text messages. She reported receiving text messages sometimes late at night, telling her "I miss you," "I adore you," and "I like you." Representative Durham told her he wanted to come see her in Washington and was trying to find a conference or some arrangement to come visit. Although he did not visit her while she was there, the two agreed to "hang out" upon her return. In August 2014, a week after Jane Doe #38 returned from Washington, D.C., Rep. Durham sent her a text message asking her to come "hang out" at his house. She stated the two had sexual intercourse while at his home. There was no mention of Rep. Durham's wife.

Following the encounter with Rep. Durham at his home in August 2014, Jane Doe #38 attended an Americans for Prosperity Conference and heard from people who knew Rep. Durham that he was still married and was "flirty." She returned to college in the fall, and the two had little contact between then and late 2014. She saw Durham with his wife at a political campaign fundraiser in November 2014 and recalled speaking to them. Eventually, Rep. Durham asked to see her again and she agreed they could "hang out."

The day Rep. Durham was elected Majority Party Whip, he saw Jane Doe #38 at the Plaza; he asked if she would be around later, and said that he would text her. Between 9:00 and 10:00 p.m., Rep. Durham texted, "I would like to see you naked around midnight." Jane Doe #38 stated she went to Rep. Durham's legislative office at midnight and he was intoxicated. The two had sexual contact.

During the time they were communicating, Jane Doe #38 said she received text messages from Rep. Durham as late as 1:30 a.m., and on one occasion, he asked her to send him a picture. She said she assumed he wanted a nude picture and did not send one. She recalled going to Rep. Durham's house with some other members on another occasion after a State Republican Executive Committee Meeting in early April 2015. As late as April or May 2015, Rep. Durham was still sending her late night texts, usually after she had already gone to bed, such as "I like you," or "You know I adore you," but by this time, Jane Doe #38 had seen him together with his wife at several functions. When she responded to Rep. Durham's texts by talking about how nice his wife seemed and told him to leave her alone, Rep. Durham replied with something like "Whoa." She blocked Durham's number and the two have not spoken since.

Jane Doe #38 was visibly emotional during the interview and cried when talking about her sexual encounters with Rep. Durham. She stated she had considered working for the Legislature at one time but after her experience with Rep. Durham, she no longer has any interest. She stated that she was very stupid and naïve and "politics was very new to me." She previously deleted the text messages from Rep. Durham.

The following additional information was provided to the Office that is relevant to Jane Doe #38's account:

During his interview, John Doe #15 stated that in mid-2015, he saw text messages from Rep. Durham to Jane Doe #38, who was 20 or 21 years old at the time, sent during the 2015 Session. They were similar to the sexually suggestive messages Jane Doe #24 received in 2013, which he also saw. He explained that Jane Doe #38 attended many of the legislative receptions in her position and was even more uncomfortable with the texts than Jane Doe #24 because she said she had just met Rep. Durham. She told John Doe #15 that she finally told Rep. Durham to leave her alone and the texts stopped.

#### **Jane Doe #1 – Lobbyist**

Jane Doe #1 was a lobbyist at the time of the incidents involving Rep. Durham. She was introduced to him in December 2012 while attending a lobbyists' dinner at the American Legislative Exchange Council ("ALEC") Conference in Washington, D.C., but they did not talk.

After attending another event, she began making arrangements to return to her hotel in Alexandria, Virginia. On the way, she spotted a group of Tennessee freshman legislators, which included Rep. Durham, in a bar and decided to introduce herself. Seated at the table were Rep. Jane Doe #65, whom she knew, Rep. Jane Doe #33, and another member. She joined their conversation, passed out her business card, and subsequently left in a cab. While in the cab, she looked at her phone and discovered she had two or three text messages from Rep. Durham to the effect of, "Hey, this is Jeremy Durham. Don't you want to come outside? We can talk out here. Why aren't you answering my texts?" She stated the messages were so odd that she did not respond and felt uncomfortable. When she awoke the next morning, she saw texts from Rep. Durham sent at approximately 2:30 or 3:00 a.m. asking such things as, "Where are you? Are you staying at the hotel? What are you doing?" Jane Doe #1 said she was caught off-guard and felt "creeped out" and "uncomfortable" by the unsolicited texts and could think of nothing that warranted the texts. This was not common behavior for legislators at that time. She responded something like, "Sorry I missed you. Flying to Nevada." That day, she left the conference and travelled to Las Vegas to watch her friend Jane Doe #47 run a marathon. While in Las Vegas, she showed Jane Doe #47 the text messages Rep. Durham sent her.

Jane Doe #1 received additional text messages from Rep. Durham in April 2013 after she attended a fish fry in Printer's Alley hosted by Jane Doe #47 for legislators and their staff. She did not notice Rep. Durham at the event. She stated, however, after leaving the event and going with friends to a nearby bar called Miss Kelly's, she began receiving texts from Rep. Durham such as "Where did you go? . . . I saw you" and "You look really hot in that skirt you are wearing." Jane Doe #1 stated she was with two friends who disliked Rep. Durham and this became the topic of a group discussion. Jane Doe #47 shared the texts with her friends, who agreed that "this guy is sick." She responded to Rep. Durham's texts by taking a group picture with her two friends and sending it to him. Jane Doe #1 stated he began sending multiple texts asking, "Who else is there . . . What are you saying?" and "I don't like this at all." Jane Doe #1 said she felt disgusted and "creepy" that he was watching her when she gave him no reason to do so. She did not respond and did not hear from him again.

Jane Doe #1 recalled passing out lobbying materials at a Republican Caucus fundraiser in December 2013<sup>18</sup> with fellow lobbyist Jane Doe #46 and then going with a group to Morton's Steakhouse afterward. She recalled Rep. Durham and his wife were there, as well as legislative staff member John Doe #41, Rep. Jane Doe #25, Rep. John Doe #55, another member, and other lobbyists and staff. When Jane Doe #1 arrived, Rep. Durham was having a loud argument with another member and left the restaurant. Jane Doe #1 showed the texts from Durham to legislative staff member Jane Doe #39 in Rep. John Doe #55's presence, but he did not see them.<sup>19</sup> She stated that lobbyist Jane Doe #46 has also seen the texts.

Because of his behavior, Jane Doe #1 refused to lobby Rep. Durham on three bills she had before his committee in the 2014 Session and asked Jane Doe #47 to go in her place. Jane Doe #1

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<sup>18</sup> Jane Doe #46 and Jane Doe #39 placed this event in December 2012.

<sup>19</sup> Jane Doe #39 remembered attending the dinner at Morton's Steakhouse during which Rep. Durham argued with another member but did not recall any discussions about inappropriate text messages. To preserve confidentiality of witnesses, we did not specifically ask her to recall a conversation with Jane Doe #1.

no longer has the phone she was using at the time and did not keep the text messages from Rep. Durham. She provided a screen shot of the group picture she sent Rep. Durham from Miss Kelly's dated April 13, 2013.

The following additional information was provided to the Office that is relevant to Jane Doe #1's account:

In her interview, Jane Doe #47 remembered that Jane Doe #1 came to Las Vegas when she ran a marathon two or three years ago. She recalled Jane Doe #1 telling her that she had received inappropriate text messages from Rep. Durham. She stated Jane Doe #1 was "shocked and appalled" by his text messages.

Lobbyist Jane Doe #46 described Jane Doe #1 as an "honest, hard worker. . . . If I had a company, I'd hire her tomorrow." She recalled that Jane Doe #1 showed her text messages from Rep. Durham that were "out of line." She did not remember the exact wording but said when she read them, she thought "he is off the charts" and persistent. She recalled Rep. Durham first texted Jane Doe #1 when she was at an ALEC conference. The texts Jane Doe #46 saw were sent late at night and in the early morning hours on more than one occasion. She recalled at least three occasions on which Rep. Durham texted Jane Doe #1. It was clear to her that Rep. Durham was "hitting on" Jane Doe #1, and she thought he was clearly interested in sex, based on the content and late hour they were sent. Jane Doe #46 stated the texts bothered Jane Doe #1 greatly and she would likewise have been bothered by them. She did not recall the exact dates involved. She recalled being at Morton's Steakhouse following a Republican Caucus fundraiser with Jane Doe #1 and a number of legislators and staff, including legislative staff member Jane Doe #39 and Rep. John Doe #55. Representative Durham had been there and had a disagreement with another legislator. Jane Doe #46 saw Jane Doe #1 shaking her cell phone at Rep. John Doe #55, telling him about the texts she received from Rep. Durham, and saying, "[Rep. John Doe #55], you are going to have to fix this." When Rep. Durham was on the State and Local Committee, Jane Doe #46 knew Jane Doe #1 would not be able to lobby him or be alone with him after receiving the texts from him. Jane Doe #46 said Jane Doe #1 was stressed about being put in this position and wondered how she would tell her boss she could not lobby Rep. Durham. Jane Doe #46 decided she would go in Jane Doe #1's place but does not remember having to do so. She stated that Rep. Durham's text messages put Jane Doe #1 "between a rock and a hard place."

Legislative staff member Jane Doe #20 recalled having lunch with Jane Doe #1 in the summer of 2015 during which Jane Doe #1 disclosed that she had received inappropriate text messages and possibly some voice mail messages from Rep. Durham at a conference that both attended. Jane Doe #20 thought the conference was in Las Vegas. She did not see the text messages but she remembered that Jane Doe #1 was afraid to make a formal report due to the fact that she was a lobbyist at the time and feared repercussions if she reported.

In the interview with legislative staff member John Doe #21, he recalled that early in the 2016 Session following a press conference by the Lieutenant Governor regarding Rep. Durham, Jane Doe #1 contacted him. She told him that she first met Rep. Durham at an ALEC conference in Washington, D.C. and gave him a business card. She reported that she immediately began

receiving text messages from Rep. Durham late into the night. She asked John Doe #21 to provide this information to our Office, which he did.

### Jane Doe #47 – Lobbyist

Jane Doe #47 was a lobbyist when she met Rep. Durham through friends in the summer of 2010 before he was elected to the House. Shortly after she met him, she shrugged off his repeated attempts to get her to “hang out with him” at the pool when she knew he was engaged or had a girlfriend. (Attachment “H” at 1-3.) They became Facebook friends at some point after meeting. After Rep. Durham won the primary in 2012, she met with him for drinks at M. L. Rose on Franklin Pike to “build social capital” because she knew she would be working around him at the Legislature.

On February 12, 2013, she attended a legislative reception and received what she considered an inappropriate text message from Rep. Durham afterward saying, “Nice dress tonight!!” (*Id.* at 4.) She responded that she made it herself in an effort to deflect his comment. On another occasion on May 6, 2013, she met with Rep. Durham in his office to discuss a bill she had before his subcommittee. His behavior made her feel like he was “hitting” on her, but she did not provide specifics. On May 15, 2013, Rep. Durham asked her to meet for drinks with him but she made excuses for cancelling the plans. She texted him on May 15, 2013, at 11:29 a.m. to say she had allergies and needed a “rain check.” (*Id.* at 13-14.)

On May 14, 2013, Jane Doe #47 sent a text message to Rep. Durham after she noticed he was “present not voting” on one of her bills. He replied, “Oh yeah that’s unconstitutional. I honestly didn’t vote no because it was you.” (*Id.* at 10-11.) After the 2013 Session was over, Rep. Durham sent Jane Doe #47 an unsolicited, private Facebook message at 12:06 a.m. on August 26 asking, “what’s up with ya?” She tried to deflect the text with her response and offered to get drinks next week. He responded, “like I would ever not pick a date you chose! i mean, i am the right wing wacko who sees you bringing union bills into my office yet i still eat out of your hand for some reason!” (*Id.* at 15-16.) On October 17, Rep. Durham texted, “Does this mean we reschedule our pool date? Ha!” She replied, “Hahahaha careful I’m out here drinking on the golf course so I better not agree to anything at this time,” to which he responded, “What if we said a smaller pool?” She asked, “Smaller pool?” and he responded, “Ha! Not sure you’re cool enough for me to put that in writing!” She replied, “I was thinking that’s what u were meaning.” (*Id.* at 20-22.) When she texted on November 14, “I’ll need to bring my [client] I’ll see if he want [sic] to grab a beer or coffee or fish and we can meet up” to give Rep. Durham a check from her client, he replied, “Well half my ideas just got eliminated jk.” (*Id.* at 23-24.) She received an unsolicited text from Rep. Durham on March 4, 2014, at 9:30 p.m. asking “you around?” She responded by saying she was in a client’s office and received no more texts from him after this date. (*Id.* at 35.)

Jane Doe #47 stated that Rep. Durham was flirtatious, appeared to have ulterior motives, and always seemed to be “fishing” to see how she would react to his communications. She stated that he is “creepy” and “weird.” She has not lobbied Rep. Durham since 2014 because his positions on her client’s bills are known and she avoids him because of his behavior. She said Rep. Durham’s behavior and private communications are not typical of her experiences with other legislators, regardless of age.

### **Jane Doe #2 – Lobbyist**

Jane Doe #2 had an encounter with Rep. Durham in August 2013 at the ALEC annual meeting in Chicago, Illinois, which he attended with his wife. After socializing with the Durhams at the event, Jane Doe #2, a female friend, and the Durhams planned to have drinks together and took a cab. Representative Durham had been drinking heavily and appeared intoxicated when all four got in the back of the cab. Representative Durham sat between his wife and Jane Doe #2. During the ride, Rep. Durham reached his hand over and began rubbing Jane Doe #2's thigh, which made her uncomfortable and gave her the "heebie geebies." She was so uncomfortable that when the cab stopped, she excused herself and informed Rep. Durham that she and her friend would not be joining them. The incident in the cab affected Jane Doe #2 to the point that she limits her interaction with Rep. Durham, and it has affected her willingness to meet with him alone in his office on legislative business. She said it is generally known among female lobbyists that you do not want to be in Rep. Durham's office alone.

### **Jane Doe #11 – Lobbyist**

Jane Doe #11, a lobbyist since 2011, first met Rep. Durham during the 2013 Session at a "meet and greet" for new legislators. She recalled giving him her business card while in his office for a few minutes and may have written her cell phone number on the card. Toward the end of the 2013 Session, Jane Doe #11 began receiving unsolicited text messages from Rep. Durham asking her to get a drink or "Hey, what are you doing?" She had not met with him or lobbied him on legislation during the session but initially thought the messages were innocuous. The texts were generally sent after she left Legislative Plaza but not late in the evening. However, she recalled that on a Tuesday or Wednesday night, she had gone to Fleet Street with friends when she received another unsolicited text message from Rep. Durham to the effect of "What are you doing?" She responded to the message by telling him where she was but did not invite him to join her. A short time later, he showed up intoxicated at the bar where she was with friends. He talked to Jane Doe #11 for about 20 minutes while hugging her, standing physically close to her, and staring at her the whole time. She described his conversation as flirtatious and not the type of conversation or interaction that normally occurs between colleagues. After he left, Rep. Durham texted her "I came to see you." The message made her feel uncomfortable and seemed directly flirtatious, and she tried to brush off his comment with something like "you left quickly ha ha."

After that, Jane Doe #11 thinks she may have received one more unsolicited text in 2013 from Rep. Durham to the effect of "What's up?" She did not hear from Rep. Durham for over a year until he unexpectedly sent her a private Facebook message a day or two after Christmas 2014 asking, "Are you around? Come have a drink with me." When she messaged back that she was in Chattanooga, he suggested, "How about when you get back?" Her response was something like "See you in a few weeks for session."

Jane Doe #11 did not hear from Rep. Durham again until the end of the 2015 Session. While she was at the Sheraton Nashville Downtown Hotel bar with friends, she and lobbyist Jane Doe #28 both received similar text messages from Rep. Durham within a few minutes of each other asking something like "Hey, where are you? What are you doing?" The messages were unexpected and very strange. She thinks Jane Doe #28 responded and told Rep. Durham where

they were, to which he answered, "Come have a drink in my office." Within a short time, he showed up at the bar intoxicated and told them he had been drinking in his office. The group moved to some couches to watch a ballgame and Rep. Durham was sitting in a chair. When Jane Doe #11 went to the restroom, Rep. Durham moved from the chair to the couch beside Jane Doe #28. According to Jane Doe #11, she and Jane Doe #28 left the bar after Rep. Durham. Jane Doe #11 no longer has the text messages.

The following additional information was provided to the Office that is relevant to Jane Doe #11's account:

Jane Doe #28 stated in her interview that Jane Doe #11 received unsolicited text messages from Rep. Durham that were "hitting on" her, and the two of them were part of a group text from him in 2015 asking if they wanted to come drink beer in his legislative office. She stated that they did not go and ended up going to Morton's Steakhouse instead.

#### **Jane Doe #28 – Lobbyist**

Jane Doe #28 has no specific recollection of lobbying Rep. Durham during the 2013 Session and had very little interaction with him in either the 2014 or 2015 Session. She described their relationship as "not close." She stated that she has received phone calls and text messages that were business-related. On several occasions during legislative sessions, she received what she felt were inappropriate text messages from Rep. Durham, sometimes as late as 11:00 p.m. to midnight, asking "Where are you?" "Are you guys out?" or "Are you downtown?" She did not respond to these texts. Jane Doe #28 produced a private Facebook message Rep. Durham sent outside of session on December 8, 2014, at 12:43 a.m. which stated, "I'm bored as hell. Lobby me." She responded, "Ha ha." She also produced another late night private Facebook message at 11:54 p.m. which stated, "Hey you." Jane Doe #28 stated that these messages were unsolicited and inappropriate for work colleagues. She felt Rep. Durham was "hitting on" her or trying to flirt with her. Because she knows Rep. Durham's wife, she thought the late night texts were "gross." She has never received this type of message from any other legislator. In 2015, she was part of a group text with Jane Doe #11 in which Rep. Durham invited them to drink beer in his legislative office. She did not go and went to dinner at Morton's Steakhouse instead. She believes she discussed Rep. Durham's messages with fellow lobbyist John Doe #32 after the December 2014 Facebook messages and asked him to talk to him. Because of Rep. Durham's conduct towards her, Jane Doe #28 does not lobby Rep. Durham in person by herself.<sup>20</sup>

During her interview, Jane Doe #28 permitted us to view and copy verbatim the private Facebook message referenced above and initially agreed to provide a screen shot of the message. But she ultimately did not respond to our investigator's request to obtain screen shots.

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<sup>20</sup> Legislative staff member John Doe #15 stated that he has seen Jane Doe #28 being "cozy" with Rep. Durham on several occasions. In her interview, lobbyist Jane Doe #18 stated that during the 2015 Session, she observed Rep. Durham "making out in the corner" and engaging in "aggressive kissing" in the Sheraton Nashville bar with Jane Doe #28. When the Office confronted her with the allegation, Jane Doe #28 was visibly uncomfortable and denied any physical contact with Rep. Durham. Legislative staff member Jane Doe #12 said that Jane Doe #28 told her the rumors that she was "making out" with Rep. Durham were hurtful.

The following additional information was provided to the Office that is relevant to Jane Doe #28's account:

Jane Doe #11 is a good friend of Jane Doe #28. She stated that Jane Doe #28 is a truthful person and told her that she (Jane Doe #28) also received text messages that she considered inappropriate, similar to those received by Jane Doe #11 from Rep. Durham. Jane Doe #11 also related the incident at the Sheraton Hotel bar at the end of the 2015 Session in which both she and Jane Doe #28 received an unexpected text from Rep. Durham asking where they were, what they were doing, and to "come drink in [his] office."

John Doe #32 stated that Jane Doe #28 told him that she received late night text messages from Rep. Durham, which he recalled as 10:00 p.m. to 5:00 a.m. Jane Doe #28 said that she ignored him. John Doe #32 got the impression that the texts were an annoyance and of a personal and unwanted social nature but not necessarily offensive. They were not business-related. He did not see the texts and did not remember anyone asking him to talk to Rep. Durham; however, to preserve confidentiality, we did not ask him specifically about Jane Doe #28's claim to have done so.

#### **Jane Doe #61 – Lobbyist**

Jane Doe #61 met Rep. Durham when he first took office in 2013 and had some interaction with him on various bills because he was the freshman leader. One Sunday during the 2013 session, she was driving back to Nashville from visiting family and received an unexpected call from Rep. Durham. [REDACTED]

[REDACTED] On April 9, 2013, he texted to ask Jane Doe #61 to have drinks to discuss business "in a less threatening setting than the office," but she declined. When he suggested lunch or something else, she agreed but let him know she would be bringing a colleague. He replied, "Well [sic] see I have to verify that she's cool!! I'm trying to elevate our relations to a more amiable situation!!" (Attachment "I" at 2-3.)

Subsequently, they exchanged several other texts about [REDACTED] along with some business information. (*See id.* at 3-7.) On Sunday, May 12, 2013, Rep. Durham sent an iMessage to Jane Doe #61 [REDACTED]. When she responded [REDACTED] he replied, "Sounds like someone is a church skipping heathen! No wonder you want Medicaid expanded." She replied that her grandparents were almost too fragile to go to church and she did not know whether there was a nursery for her child but in any event, "we could've gone to the early service and you could have been wrong!" Representative Durham replied, "That was one heck of an explanation. I forgot you get paid for that!! It was your heathen tendencies that gave it away though!!" (*Id.* at 7-9.)

In early June 2013, Rep. Durham invited Jane Doe #61 to a fundraiser in Franklin despite the fact that she could not support him financially; however, she assumed it might be to increase the "body count" at the event. Jane Doe #61 met Rep. Durham's wife at the event. She texted him that evening to thank him for the introductions. He replied that he was now giving her name to potential clients and subsequently suggesting that "This may be an in-person. . . Convo." When

she agreed they should talk further in person, he asked, "Are you around tomorrow? I just ask b/c I'm in Nashville part of he [sic] day. Afternoon/lunch." (*Id.* at 10-14.) They set the meeting for 12:30 p.m. the next day, June 4, 2013. (See *id.* at 15-16.)

But when Jane Doe #61 stopped by his office for the meeting, she said Rep. Durham arrived late and disheveled and told her that he and his wife had a fight. He began divulging details about the fight and his private life, which she thought was inappropriate and gave her the "ick factor" because she did not know him personally. Representative Durham let her know during the conversation that things were not good at home with his wife. The meeting was supposed to be about getting referrals for her services, but he spent the whole time discussing his marital problems. Jane Doe #61 said she tried to steer the conversation back to the purpose of the meeting but was unsuccessful. She considered the experience "weird" and "strange" and wondered if Rep. Durham was "fishing." The experience caused her to avoid any closed-door meetings with Rep. Durham.

On June 18, 2013, she sent Rep. Durham a text message to let him know she never heard from any clients he said he would recommend her to. (*Id.* at 16-17.) He texted back "I'm about to send that email. Thought about it in the shower. Ha! I just realized I told you I thought about you in the shower! That was not appropriate!!" Jane Doe #61 deflected the comment by telling him, "I think in the shower too. I get it! Not creepy." He replied, "Hahahaja good to hear!" (*Id.* at 17-18.) She then saw that the email came through and thanked him. (*Id.* at 18.)

On September 16, 2013, Jane Doe #61 attended the Tennessee Lobbyists Association conference in Gatlinburg. She left the conference to go to a brewery with a group of legislators and received a text message from Rep. Durham asking "Where did you go?" (*Id.* at 20.) She felt he was "fishing" for an opening with her. She also recalled Rep. Durham asking her in the hallway of Legislative Plaza if she watched "Family Guy" because one of the characters is always [REDACTED]. He told her, "you have a hot face even though you are [REDACTED]" Although she said it did not bother her, she felt it was inappropriate. Because she considers Rep. Durham's actions toward her inappropriate, Jane Doe #61 will not lobby him or go into his office.

Jane Doe #61 permitted us to obtain screen shots of the texts she had on her cell phone. These covered the time period from March 26, 2013, to September 16, 2013. She identified the messages as coming from Jeremy Durham, [REDACTED].

#### **Jane Doe #60 – Lobbyist**

Lobbyist Jane Doe #60 believes she met Rep. Durham through members of her firm at the beginning of the 2013 Session but did not lobby him during that session. In September 2013, she attended the annual meeting of the Tennessee Lobbyists Association in Gatlinburg, Tennessee, and remembered seeing him intoxicated in the lobby after being out with some members and lobbyists. She ran into him again during fall 2013 at the University of Tennessee v. Auburn football game in Knoxville. The two had a friendly conversation, and she recalled his asking for her cell phone number in case he needed to call her during session. At the time, Jane Doe #60 did not think anything of it and provided it to him for business purposes.

A week or so before Christmas 2013, Rep. Durham sent her a text message from his cell phone number, [REDACTED], saying he was in Nashville with friends and she should meet up with him. She did not respond for a while because she and Rep. Durham did not have any sort of friendly relationship that warranted the invitation. She eventually began to feel bad for not responding because he was a legislator and her firm had to deal with him. She finally responded something to the effect of "Thanks. Already in Knoxville. See you during session." Representative Durham replied to the effect, "That's not what I meant but I'll see you then." She does not believe she responded to the second text.

Jane Doe #60 stated that the texts were very strange because she has never been in a social, friendly setting with Rep. Durham outside of the Capitol. There was no business reason for him to contact her in December, and she was the "low person on the totem pole" at her firm at the time. She found the texts from him to be inappropriate and thought he was "hitting on her" as if he was "on the prowl." She told Jane Doe #52 about the messages.

During the 2014 Session, she ran into Rep. Durham sitting at a table with Reps. Jane Doe #33, John Doe #23, and Jane Doe #65 at The Oak Bar. She was there with Jane Doe #52 and another firm member. He spoke to her and said something to the effect of, "Sorry you missed a good time. Thought you might want to go out." Jane Doe #60 still had an "ick" feeling about Rep. Durham's pre-Christmas text messages and felt he had been trying to "hit" on her. His comments at The Oak Bar did not change that.

After the 2014 Session, Jane Doe #60 made a joint decision with her firm that she would not lobby Rep. Durham one-on-one because of the text messages he sent her and rumors of his behavior toward other females. She stated that there was a common understanding from conversations with other female lobbyists that they felt uncomfortable dealing with Rep. Durham alone because of the way he made them feel.

The following additional information was provided to the Office that is relevant to Jane Doe #60's account:

During her interview, lobbyist Jane Doe #52 suggested that our Office talk to Jane Doe #60 for information related to the investigation.

#### **Jane Doe #9 – Lobbyist**

Early in the investigation, we attempted to interview Jane Doe #9 but she refused to talk to our Office. We were subsequently able to conduct a phone interview with her on May 23, 2016, about an incident she reported to legislative staff member John Doe #41 and fellow lobbyist Jane Doe #18. In her interview, Jane Doe #9 stated that this occurred during the 2013 or 2014 Session when she was alone in Rep. Durham's office with the door closed. He had a dish of candy on his desk. When she wanted one, he reached into his pocket, rummaged around in it, pulled out an unwrapped, dirty mint, and said, "You don't want those. I've got this." Although she considered Rep. Durham's behavior odd, she stated she was not offended by it and thought it was more of a joke. She said she made up the name "Pants Candy" for Rep. Durham afterward and that her

husband and others to whom she demonstrated the incident interpreted his action and comment as sexually suggestive. In hindsight, she said she thought his behavior was inappropriate.

During the investigation, two witnesses independently related the "Pants Candy" incident as lobbyist Jane Doe #9 reported it to them. Both witnesses demonstrated the account as it was relayed to them by Jane Doe #9:

Legislative staff member John Doe #41 stated that Jane Doe #9 contacted him in January 2016 regarding an incident. She reported that Rep. Durham had a bowl of breath mints sitting on the desk in his office. When she asked for one, Rep. Durham said, "No." He then stood up behind his desk, put his hand in his pocket, and moved it around in a manner that made "quite a display" of accentuating his genitalia. He then pulled an unwrapped, dirty mint from his pocket and said something to the effect of, "I think this is the piece you want." As a result, Jane Doe #9 began referring to Rep. Durham as "Pants Candy." At our request, John Doe #41 stood up during the interview and demonstrated the account as provided to him by Jane Doe #9.

The second witness who related the "Pants Candy" incident was fellow lobbyist Jane Doe #18. Jane Doe #9 told her that she was in Rep. Durham's office with a male lobbyist when Jane Doe #9 made a comment about Rep. Durham having the best candy for guests. Representative Durham stood up from his desk and started digging around in his pocket in a manner that was drawing attention to his genitalia and stated, "You don't want that candy. You want this candy." He pulled an unwrapped piece of candy from his pocket, like a life saver. Jane Doe #9 told Jane Doe #18 that Rep. Durham's conduct was "quite a production" and the male lobbyist with her thought it was inappropriate, sexual, and an attempt to draw attention to his genitalia. Jane Doe #18 also showed us the movements Jane Doe #9 demonstrated to her, which were like those John Doe #41 showed us.

#### **Jane Doe #43 – Lobbyist**

Lobbyist Jane Doe #43 met Rep. Durham some time before he was elected and again at a political fundraiser shortly after he was elected in November 2012. She went to his office two or three times during the 2013 Session to discuss bills. She initially received business-related texts during the 2013-14 Session and was surprised that Rep. Durham had her cell phone number. But at some point during the 2014 Session, the tone of his text messages to her changed to "flirty." He commented on her looks or how good she looked in what she was wearing. On April 26, 2014, Rep. Durham saw Jane Doe #43 at the Tennessee Waltz and texted her cell phone, commenting on her looks. She thought it was inappropriate for a married man to send her such a text. She replied nothing more than "thank you." She received more than two unsolicited texts from Rep. Durham and thought he was testing her boundaries through the texts. She stated that Rep. Durham's behavior was more persistent than what she is used to at the Legislature. The texts were not offensive but inappropriate for a married man to send to any woman. She told her husband about the texts and deleted them. Since April 2014, Jane Doe #43 thought she may have met with Rep. Durham on one occasion in his office but had an intern with her. She is not comfortable meeting with him alone because of his unsolicited text messages to her, rumors about his behavior with other women, and his reputation for approaching women. Jane Doe #43 no longer has the text messages on her cell phone.

The following additional information was provided to the Office that is relevant to Jane Doe #43's account:

In his interview, Rep. John Doe #55 recalled that in the latter part of 2015, he was at Morton's Steakhouse having dinner when Jane Doe #43 informed him that she received a text message from Rep. Durham. She asked him if he wanted to see the text and he told her "No."

#### **Jane Doe #8 – Lobbyist**

Jane Doe #8 had what she described as an uncomfortable interaction with Rep. Durham in February 2014 after attending an evening lobbying event at War Memorial Plaza sponsored by [REDACTED] firm. That evening, Rep. Durham appeared intoxicated and approached Jane Doe #8 with a drink in his hand. He told her that he needed to talk to her and asked her to come to his office. She told us that Rep. Durham's tone and body language were suggestive, and she took his invitation as "baby, come by my office." The request was odd because he gave her no business reason to meet, the two had no prior relationship, and he was not on any legislative committees with which she had professional dealings. She made an excuse for not accepting his invitation. About an hour later, Jane Doe #8 received a text message from Rep. Durham stating, "Hey, are you coming? I need to talk to you." She does not remember her response but thinks she may have told him she would talk to him the next day. The following day, Jane Doe #8 went to see Rep. Durham first thing in the morning. When she found him at Legislative Plaza and asked what he wanted to talk to her about, he harshly told her "never mind." She recalled that whenever she encountered Durham alone during the rest of the session, he was rude to her and looked at her "like I kicked his mother."

### **VIII.**

#### **OTHER WITNESSES**

Several witnesses stated that they had not seen any inappropriate conduct by Rep. Durham toward any women and did not know of any such conduct:

#### **Representative Jane Doe #33**

Rep. Jane Doe #33 first met Rep. Durham when he was Chairman of the Young Republicans and got to know him during the 2013 Session. She described their relationship as "best friends" and said they socialize regularly. She denied observing or having any knowledge of any sexual advances, comments, pictures, sounds, or other inappropriate behavior by Rep. Durham toward any women. She stated that he has never done any of these things to her or any other person to her knowledge. Nor has anyone reported such conduct to her. She denied hearing any rumors about Rep. Durham prior to *The Tennessean* articles in 2016. She stated that she has discussed the allegations in the news stories with Rep. Durham and they "laughed about it." Representative Durham denied the allegations to her.

### Representative John Doe #13

Representative John Doe #13 first met Rep. Durham before his election to the House in 2012. Once Rep. Durham took office, the two became friends and political allies. Representative John Doe #13 stated he first heard about Rep. Durham sending inappropriate text messages to female lobbyists in the summer or fall of 2015. He stated that, on or around Monday, January 11, 2016, he approached a long-time friend and female lobbyist ("Lobbyist #1"), whose name he declined to provide, concerning information he had heard regarding Rep. Durham sending inappropriate text messages to her. Representative John Doe #13 approached Lobbyist #1 on the first floor of Legislative Plaza outside LP-27 and told her that he understood she had received inappropriate texts from Rep. Durham. He stated that Lobbyist #1 denied that Rep. Durham sent inappropriate text messages to her. However, he questioned whether Lobbyist #1 was honest with him about Rep. Durham's conduct toward her based on her overall demeanor. Representative John Doe #13 stated she did not want to talk about it; she did, however, tell him that she had heard the rumors of Rep. Durham's inappropriate texts and provided him the name of another lobbyist (Lobbyist #2). He had no further communication with Lobbyist #1 regarding the allegations.

Representative John Doe #13 then approached Lobbyist #2 (the female lobbyist whose name he was provided by Lobbyist #1). He declined to provide the identity of Lobbyist #2 to the Office. He described Lobbyist #2 as a "good friend." Representative John Doe #13 stated he asked Lobbyist #2 to come to his legislative office and had a private conversation with her. Representative John Doe #13 said he told Lobbyist #2 that he had heard the rumors about Rep. Durham sending inappropriate text messages and asked, "You didn't get any did you?" He said that she laughed and stated, "No," followed by a statement to the effect that she would "break his head" if he did. Lobbyist #2 told Rep. John Doe #13 she had heard rumors about Rep. Durham and gave him three names. In the interview with the Office, he stated that he remembered the name of only one woman mentioned by Lobbyist #2 but declined to provide her identity to the Office. Representative John Doe #13 stated he did not follow up with any of the females whose names were provided by Lobbyist #2 and has not spoken to Lobbyist #2 regarding the allegations since that date.

During the week of January 11, 2016, possibly on Thursday, Rep. John Doe #13 approached another female lobbyist ("Lobbyist #3") regarding the allegations against Rep. Durham. He stated he had no information that Lobbyist #3 had received inappropriate text messages from Rep. Durham; however, he told her that he had been hearing rumors of such conduct and asked if she had received any such messages. Her answer was "No, absolutely not." Representative John Doe #13 also asked Lobbyist #3 whether her intern had received any such messages. Lobbyist #3 told him that she read her intern's text messages at the end of each day and was confident the intern had not received any inappropriate text messages. Representative John Doe #13 declined to provide the Office with Lobbyist #3's identity.

Representative John Doe #13 stated he had not discussed his conversations with any of the above-referenced lobbyists with anyone. He stated no individual has ever come to him with any direct complaints about Rep. Durham's conduct related to allegations of inappropriate text messages sent to lobbyists, employees, staff members, or interns. Representative John Doe #13 recalled more than one conversation with Rep. Durham after *The Tennessean* articles about three

women's texts appeared in January 2016. During those conversations, Rep. Durham told Rep. John Doe #13 that he did not remember sending inappropriate text messages.

### **Representative John Doe #23**

Representative John Doe #23 stated that he, Rep. Durham, and a group of House members regularly socialize together and became "fast, close friends." He denied ever witnessing Durham make any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct (such as sexual innuendos, suggestive comments, sexual jokes, propositions, threats, sexually suggestive pictures, sounds, leering, obscene gestures, etc.) toward any employee of the legislature, other state employee, staffer, intern, or lobbyist. He stated that had he witnessed such conduct, he would have "said something." However, Rep. John Doe #23 stopped "hanging out" with Rep. Durham during 2015 because he was "not fun to be around." Representative John Doe #13 stated no person has ever come to him directly and reported any inappropriate conduct by Rep. Durham. Representative John Doe #23 had a conversation with Rep. Durham after *The Tennessean* articles appeared, and Rep. Durham told him that he did not remember sending the texts and denied doing anything wrong.

### **Additional Information**

During the investigation, the Office conducted 78 interviews of 72 witnesses. This number includes both men and women. Not all witness interviews are included in the report because witnesses in an investigation are interviewed for a variety of reasons. Some witnesses have actual experiences with the subject of an investigation, others are eyewitnesses to or have knowledge of another person's experience with the subject, others have information that leads to relevant evidence, and still others have no knowledge or helpful information. This investigation was no different. A number of witnesses in this instance had to be interviewed before the Office discovered the identities of women who had disclosed to someone, usually a friend or colleague, that they had an experience with Rep. Durham. Consequently, there were a number of witnesses who did not report experiencing inappropriate conduct by Rep. Durham themselves but often had heard rumors about others who had, which we followed to the source, or had some personal knowledge of another person's experience, which provided a lead.

## **IX.**

### **REPRESENTATIVE DURHAM'S RESPONSE TO REQUESTS FOR INFORMATION**

On February 11 and 13, 2016, the Office obtained Rep. Durham's state-owned Lenovo desktop computer and iPad. The Office notified him by a hand-delivered letter on February 12, 2016, that it had obtained an image of the desktop. The Office also requested that he provide all data, including emails and text messages, from any cell phone he used from January 2013 to the present. Representative Durham did not respond.

The Office sent a second hand-delivered letter on February 22, 2016, notifying Rep. Durham that it would begin reviewing the data on the state-owned devices on February 29, 2016, and requesting that he identify any data that constitutes attorney-client privilege, private spousal

and other family communications, and other private financial or medical information. Representative Durham did not respond.

On March 4, 2016, the Office met with Rep. Durham's counsel, Mr. Harbison, who informed us that his firm had retained LogicForce Consulting, LLC, to preserve Rep. Durham's personal cell phone data. The data covered only the past year. In a subsequent correspondence, Rep. Durham requested that the Office provide him with search terms for the information sought on his personal cell phone, which we declined to do. The Office had concerns that providing Rep. Durham with this information would compromise the integrity of the investigation and confidentiality of the witnesses. Representative Durham subsequently rejected the Office's proposal to supply confidential search terms to LogicForce Consulting for screening, rather than providing them directly to him or his counsel. Initially, Rep. Durham agreed to discuss a method for the Office to obtain the data relevant to the investigation; however, he did not propose or entertain any alternative method by which the Office could examine the contents of his personal cell phone aside from giving him the search terms directly. Thus, the parties were unable to agree on a procedure that would allow the Office to obtain relevant data and screen out privileged information, which prevented us from having access to the data on Rep. Durham's personal cell phone.

The Office again requested Rep. Durham's cooperation, through letters to his counsel on March 8 and 17 and April 20, 2016, to screen confidential information before the Office examined the data on his state-owned devices. Representative Durham, through counsel, responded with an objection to the examination on April 20, 2016, citing attorney-client and spousal privileges, but did not identify any specific data these privileges covered. We subsequently retained the services of a third party to obtain a forensic image of the data on the state-owned devices, and we analyzed the data obtained. Additionally, the Office requested in the March 8, 2016 letter that Rep. Durham provide us with the names of any other witnesses with relevant information that the Office should interview; however, he did not provide any names.

Early in the investigation the Office informed Rep. Durham's counsel that we would seek to interview him to give him the opportunity to address any allegations and evidence of inappropriate conduct. The Office recently made a formal request through Rep. Durham's attorney to interview him as part of the investigation. Representative Durham declined to be interviewed.