



January 29, 2025

Janette S. Knowlton, Esquire
County Attorney
Charlotte County
Office of the County Attorney
18500 Murdock Circle
Port Charlotte, Florida 33948

***Re: Internal Investigation (D’Juan Harris and Commissioner
Stephen R. Deutsch)¹***

Dear Ms. Knowlton:

The firm of DSK Law was retained to investigate an allegation by D’Juan Harris, the Metropolitan Planning Organization (“MPO”) Director, that Commissioner Stephen R. Deutsch used the term “Nigger” during an exchange in Commissioner Deutsch’s office.

Below are summaries of the interviews of the witnesses, which were taken under oath. All of the interviews occurred at the County Administration Building, located at:

¹ The Report was amended to correct transcript citations.

18500 Murdock Circle, Port Charlotte, Florida, 33948. The transcripts of the interviews are attached hereto as Composite Exhibit “A.”

D’Juan Harris: I interviewed D’Juan Harris on January 6, 2025. Mr. Harris testified that he has been employed as the MPO Executive Director for approximately 3 1/2 years. (Harris Depo. Tr. 7: 14-23).

He reports to the MPO Board which consists, in part, of three Charlotte County Commissioners (one of which is Commissioner Deutsch), Punta Gorda Mayor, Deborah Lux, and Charlotte County Airport Commissioner Thomas Thornberry. The MPO Board is a governing body with the authority to develop and adopt transportation plans, programs, and policies. (Harris Depo. Tr. 8:18-23; 9:6-25).

Mr. Harris said that during his tenure as MPO Director, Commissioner Deutsch contributed to Mr. Harris’ performance evaluation and Commissioner Deutsch routinely rated Mr. Harris “above average.” (Harris Depo. 27:2-7).

Mr. Harris said that he has regular briefing meetings with the MPO Board members prior to the Board meetings. (Harris Depo. Tr. 10:12-16). On or about December 12, 2024, he met with Commissioner Deutsch in Commissioner Deutsch’s office at 11:00AM. Mr. Harris said that Commissioner Deutsch often initiated discussions off topic during their briefings; requiring that Mr. Harris attempt to revert the conversation back to the topic of the MPO briefing. (Harris Depo. Tr. 12:2-12). Prior to the day in question, Mr. Harris never found Commissioner Deutsch’s side conversations or comments objectionable. That changed on December 12, 2024. Mr. Harris described Commissioner Deutsch’s demeanor during the briefing as “weird.” (Harris Depo. Tr. 12:11-12).

Mr. Harris said that on December 12, 2024, Mr. Harris arrived for his briefing with Commissioner Deutsch. Commissioner Deutsch's office door remained open during their meeting. Commissioner Deutsch initiated a conversation into the recent Presidential election, saying that the Country dodged a bullet in not electing Vice-President Kamala Harris. (Harris Depo. Tr. 12:14-17; 14:4-24; 16:2-25). Mr. Harris said that Commissioner Deutsch expressed his opinion that Vice-President Harris was never a viable candidate. Mr. Harris told Commissioner Deutsch that he did not believe that President-Elect Donald Trump deserved support because he pandered to suspected racists and supremacists. (Harris Depo. Tr.12:18-25).

Commissioner Deutsch continued to express his views in favor of President-Elect Donald Trump, saying that when he was a child his childhood friend's Mother would call for her son by calling him a "Nigger." Commissioner Deutsch indicated that in his days as a youth that the term "Nigger" was a term of endearment and not to be taken as offensive. (Harris Depo. Tr. 18:11-25; 22:4-12). Mr. Harris immediately responded to Commissioner Deutsch, telling him not to "say that fucking word." (Harris Depo. Tr. 18:18-19). Commissioner Deutsch continued to justify his comments. (Harris Depo. Tr. 19:2-3). Mr. Harris could not describe in detail what was said exactly. As Mr. Harris left the office (Mr. Harris is in a wheelchair, which he operates with joystick controllers), Commissioner Deutsch raised his fist in the air while chanting "fight, fight, fight", impersonating President-Elect Trump's chants after the assassination attempt on July 13, 2024. (Harris Depo. Tr. 25:21-25).

Mr. Harris said that he immediately initiated a complaint about Commissioner Deutsch's comment.

Claudia Mayo: I interviewed Claudia Mayo on January 6, 2025. Ms. Mayo is Commissioner Deutsch's assistant. Ms. Mayo's office is straight across from Commissioner's Deutsch's office. (A true and correct copy of photographs evidencing the distance between Commissioner Deutsch's office and Ms. Mayo's office are attached hereto as Composite Exhibit "B".

Ms. Mayo said she was working on December 12, 2024, and she observed Mr. Harris going into Commissioner Deutsch's office. She could not hear what was being said, but she noticed that she continued to hear the grinding sound of Mr. Harris' wheelchair, which she thought was odd. Ms. Mayo made her way to Commissioner Deutsch's office to find Mr. Harris exiting the office by reversing his wheelchair. Ms. Mayo said she quickly moved out of the way, and she could see that Mr. Harris was upset. He left the area abruptly, which was concerning because he was always polite and talkative. She had never seen him look that way.

I had the following exchange with Ms. Mayo:

Q. Did you see anything that was either concerning to you or out of the ordinary that day? And this is specifically during the time that Mr. Harris was meeting with Commissioner Deutsch.

A. What I saw was -- as you know, Mr. Harris is in a motorized wheelchair. I heard Mr. Harris engaging his wheelchair to back out of the commissioner's office. Mr. Harris normally doesn't fidget when he's in there doing his pre-agendas. So I thought it was extremely unusual to hear that wheelchair keep -- it kept engaging, because it made, like, a series of clicks. And I heard that a few times. After about, I don't know, ten, 15 minutes I heard it again, and at that point I got up and walked around my desk and was on my way towards the commissioner's office to find out what is going on and why the wheelchair was making that sound. At that point, Mr. Harris very quickly backed out of the commissioner's office, almost ran me over because he didn't know I was there. As Mr. Harris spun around, I heard him say, perhaps under his breath, because I don't know if the commissioner heard him, say "we will have this conversation another day, when I'm not here." I was attempting to wish Mr. Harris happy holidays. He

looked at me very quickly and shot past me down the hallway in his wheelchair, turned the corner to head to our exit, and that was it.

Q. Was that normal behavior for Mr. Harris?

A. No.

Q. Did he seem upset in any way?

A. Extremely. . . .

A. His [Mr. Harris] facial expression was not normal for Mr. Harris, as Mr. Harris is a very pleasant and polite individual, and he always smiles and takes the time to just have quick, brief, "How you doing? How's things going?", you know, conversations. It was very clear via the expression on his face he was extremely upset.

(Mayo Depo. Tr. 8:5-25; 9:1-20).

Commissioner Stephen R. Deutsch: I interviewed Commissioner Deutsch on January 6, 2025. Commissioner Deutsch said that Mr. Harris was an “asset” employee. (Commissioner Deutsch Depo. Tr. 6:21-25). He rated him high on his performance evaluations. (Id.).

Commissioner Deutsch said that he met with Mr. Harris in his office on December 12, 2024, for an MPO briefing. Commissioner Deutsch’s office door was open. (Commissioner Deutsch Depo. Tr. 6:4-8). Commissioner Deutsch said that Mr. Harris came into his office and saw a painting of President-Elect Trump, holding a child. (A photograph of the painting is attached hereto as Exhibit “C.”) A friend gave Commissioner Deutsch the painting in October 2024. (Commissioner Deutsch Depo. Tr. 7:1-6). Mr. Harris began to make negative comments about President-Elect Trump. (Commissioner Deutsch Depo. Tr. 8:1-6). Mr. Harris’ negative comments about President-Elect Trump led to Commissioner Deutsch and Mr. Harris sharing information about their backgrounds, including how and where they were raised as children. (Commissioner Deutsch Depo. Tr. 9:2-22). Commissioner Deutsch said that he told Mr. Harris that

children often referred to him as a “Nigger and Nazi” when he was a child and living in the Bronx in New York City. Commissioner Deutsch said that he never used the word “Nigger” towards Mr. Harris. (Commissioner Deutsch Depo. Tr. 14:18-21).

Commissioner Deutsch in sharing his background with me, said that his childhood friend, Robbie, was African-American and Robbie’s mother would call Robbie, “Nigger,” to call him home. I asked Commissioner Deutsch if he shared that story with Mr. Harris. He said that he had not. (Commissioner Deutsch Depo. Tr. 13:14-16).

Commissioner Deutsch could not recall one specific fact that Mr. Harris shared about himself when the two shared information about their raising and backgrounds. (Commissioner Deutsch Depo. Tr. 18:25, 19:1-8; 20:3-9).

CONCLUSION, FINDINGS AND RECOMMENDATIONS

Charlotte County Policy 3.45, DISCRIMINATION, HARASSMENT, AND OFFENSIVE BEHAVIOR PROHIBITED, states in pertinent part:

PURPOSE: To provide equal employment opportunity to all qualified persons; To provide a work environment free from discrimination, harassment or offensive behavior on the basis of race, color, national origin, religion, sex, gender, age, marital status, pregnancy, disability, veterans’ status, genetic information, or other status protected by federal, state or applicable local law; To provide an avenue for employees to report claims of discrimination, harassment (including sexual harassment) or offensive behavior; and To provide a procedure for investigating and resolving claims of discrimination, harassment (including sexual harassment) or offensive behavior

Hostile Work Environment – Unwelcome comments or conduct, based on protected class, that unreasonably interfere with an employee’s work performance or create an intimidating, hostile or offensive work environment. A hostile work environment may or may not result in tangible employment actions. A work environment that is perceived to be “hostile” based on reasons other than protected class is not technically a “hostile

work environment', although it may be offensive. It is the responsibility of all employees to refrain from all hostile or offensive behavior.

Offensive Behavior – Not all complained-of behavior rises to the level of unlawful discrimination or harassment. However, jokes, innuendos, insults, gestures, comments and other behaviors, as well as the display of posters, photographs, cartoons, magazines, graffiti and the like, based upon race, color, national origin, religion, sex, pregnancy, disability, marital status, veterans' status or other status protected by federal, state or applicable local law, are clearly inappropriate in the workplace. The County's goal is to correct offensive behavior before it rises to the level of unlawful harassment or discrimination

I find that Mr. Harris was a more credible witness. He was able to recall events in a manner that was reasonable and sensible. By way of example, Commissioner Deutsch said that Mr. Harris was taken aback and responded negatively and abruptly to his painting of President-Elect Trump during their meeting on December 12, 2024. I find it unreasonable to believe that Mr. Harris, someone described as an "asset" and mild mannered, would suddenly exhibit a "knee jerk" response to a painting that had been on display since October 2024. It is important to note that Commissioner Deutsch's political leanings were not unknown as his office is well adorned with political memorabilia.

Next, I find it interesting that Commissioner Deutsch said that he never told Mr. Harris the story of his childhood friend whose Mother used the term, "Nigger," to call her child home (as a term of endearment). Mr. Harris relayed the exact story to me during our interview. There is no other way that Mr. Harris would have known about Commissioner Deutsch's childhood friend unless Commissioner Deutsch told him. Moreover, Commissioner Deutsch's testimony that his use of the word, "Nigger," was the result of and he and Mr. Harris **each** exchanging personal stories about their childhood experiences falls flat when Commissioner Deutsch could not remember one specific fact

about Mr. Harris' upbringing. If in fact they were each sharing background stories, one would expect Commissioner Deutsch to remember something about Mr. Harris.

Thus, I find that Commissioner Deutsch used the MPO briefing to share a personal story about his childhood friend and in doing so he used an offensive and derogatory term. With that said, Commissioner Deutsch's comment did not rise to the level of creating a hostile work-environment.

To establish a hostile-work-environment claim based on race, a Plaintiff must show five things: (1) he is a member of a protected class; (2) he experienced unwelcome harassment; (3) the harassment was race-based; (4) the harassment was "severe or pervasive enough to alter the terms and conditions of [his] employment and create a discriminatorily abusive working environment;" and (5) "the employer is responsible for the environment under a theory of either vicarious or direct liability." See *Adams v. Austal, U.S.A., L.L.C.*, 754 F.3d 1240, 1248–49 (11th Cir. 2014) (citing *Miller v. Kenworth of Dothan, Inc.*, 277 F.3d 1269, 1275 (11th Cir. 2002)); *Buckley v. Sec'y of Army*, 97 F.4th 784, 796 (11th Cir. 2024)

There is no denying that Mr. Harris meets the first element, being an African-American male. However, any claim arguably fails on element four.

As to the fourth element, I do not find it likely that a court would hold that the one time use of the term, "Nigger," **alone** rises to the level of "severe and pervasive" conduct. In evaluating the objective severity and pervasiveness of the harassment, courts consider among other factors, (1) how often the conduct occurs; (2) how severe the conduct is; (3) whether the conduct is physically threatening or humiliating, or a mere offensive

utterance; and (4) whether the conduct unreasonably interferes with the employee's job performance. See *Mendoza v. Borden, Inc.*, 195 F.3d 1238, 1246 (11th Cir.1999).

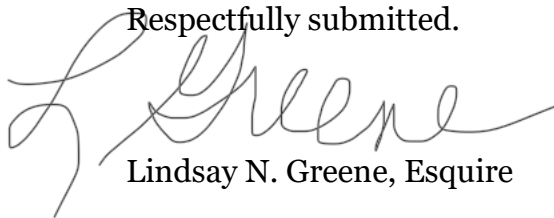
In *Baldwin v. Blue Cross/Blue Shield of Alabama*, 480 F.3d at 1301–02, the Eleventh Circuit wrote: “Title VII does not prohibit profanity alone, however profane. It does not prohibit harassment alone, however severe and pervasive.” To be clear, Title VII is not a civility code. By way of example, the court in *Michaels v. Sasser's Glass Works Inc.*, 662 F. Supp. 3d 1223, 1235 (S.D. Fla. 2023), wrote, “Michaels (unwisely) rests his entire direct-evidence claim on the mistaken view that racial slurs alone constitute direct evidence of discrimination. As he sees it: ‘The use of racial slurs by a manager is an example of direct evidence of discrimination.’ . . . But that's not the law.” Irrespective of the vileness of the word chosen by Commissioner Deutsch, the use of that word alone does not rise to the level of creating a hostile work environment based on race.

I do find, however, that Commissioner Deutsch violated *County Policy 3.45* in engaging in offensive behavior as defined above. Offensive words based on race which are inappropriate in the workplace are prohibited. Again, Commissioner Deutsch used a business meeting to use a historically offensive and denigrating word. To use that word in a meeting with Mr. Harris, an African-American, rendered Commissioner Deutsch’s commentary both offensive *and inflammatory*. Simply put, Commissioner Deutsch should have known better. As an aside, even if the events occurred as Commissioner Deutsch described wherein, he supposedly told Mr. Harris that it was he who was called a “Nigger” as a child....it would still be offensive and it had no place in a work environment. He clearly misses this point.

Recommendation: Based upon the findings above, I recommend that the Charlotte County Commission (or authorized person/body) issue a public reprimand of Commissioner Deutsch for his use of a derogatory comment during a business/work meeting and that he be required to participate in a management training class focused on improving his communication skills.

Should you have any further questions or concerns, do not hesitate to contact me.

Respectfully submitted.

A handwritten signature in cursive script, appearing to read "L. Greene". The signature is written in a dark ink and is positioned above the printed name.

Lindsay N. Greene, Esquire