

From: First Lieutenant Ariana B. Klay  
To: Commanding Officer, Marine Barracks Washington

Subj: APPEAL OF COMMAND INVESTIGATION INTO SEXUAL HARRASSMENT AND HAZING ALLEGATIONS

Encl:

1. I am appealing the Command Investigation into Sexual Harrassment and Hazing Allegations conducted by LtCol Brian T. Shinkle.

2. Paragraph 6c of Enclosure 3 of SECNAVINST 5350.16A indicates that "an appeal may be submitted on any legal or equitable grounds based upon a perception that existing DOD or DON regulations were incorrectly applied in the particular case, that facts were ignored or weighed correctly, that remedial action ordered by a commander was insufficient under the circumstances, or on any other good faith basis." This appeal will show that regulations were incorrectly applied, facts were both ignored and weighed incorrectly, and that remedial action ordered by a commander was insufficient.

3. The first part of this appeal summarizes the hostile work environment to which I was subjected and which the IO concludes was not hostile. The second part goes paragraph by paragraph through the investigation to demonstrate all errors. The third part of this appeal specifies all of the EO investigation review criteria from Appendix I of MCO P5354.1D W/Ch1 which this investigation does not meet.

#### Hostile Work/Environment

1. I suffered hazing, sexual harassment, and a hostile work environment at Marine Barracks Washington. I also believe that sexual relationships among seniors in my command, including my boss, Suzanne Brick, the Battalion Operations Officer, Major Quentin Jones, many captains and staff non-commissioned officers, and other field grade officers at Marine Barracks Washington and in the National Capital Region, created a hostile work environment in which sexual relationships contributed to unfair power over me, to the great detriment of my mental and emotional well-being. I addressed these problems to the Battalion Executive Officer, Lieutenant Colonel Carl Henger, in December of 2009 after the Battalion Commander, Colonel Andrew Smith, rejected my second attempt to deploy to Afghanistan to serve my country as well as escape this environment. I told LtCol Henger that inappropriate relationships in the command, such as Maj Jones having an affair with Suzanne Brick, were making my time at the command unbearable. As I was telling him this I was crying and telling him I could not take it anymore and had to get out. As soon as I got through the part about Suzanne's affair with Maj Jones, LtCol Henger cut me off mid-sentence and told me to be careful about making accusations. When I attempted to address problems to Col Smith, he told me to go back to Lieutenant Colonel Henger to resolve issues, so I do not know if Col Smith was aware of the serious problems in his command. Aside from identifying the improper sexual relationships in the command to LtCol Henger, I also attempted to get out of this situation by trying, on three occasions, to deploy to Afghanistan in response to a by-name request. In retrospect, I wish I had requested mast and gone above Col Smith. Given all I had seen in the command, the difficulty of taking such a step made it formidable. As this criminally

negligent investigation that I am appealing also demonstrates, my lack of faith in established procedures to resolve my problems was justified.

2. I believe that the sexual relationships of my boss, Suzanne Brick, contributed to the command's retention of her in a position well outside her abilities, and directly contributed to the consistent support she received from her immediate superior, Maj. Jones. I also believe that these sexual relationships made me powerless, as one of the lowest ranking officers in the command, and in the face of many senior officers who could be seriously hurt or even just embarrassed if their illicit sexual relationships with my boss came to light. My position formerly did not exist. I suspect that my position was created to compensate for my boss's incompetence and the command's lack of willingness to hold her accountable. There is likely an equal opportunity dimension to the lack of accountability, as my boss had had sex, which she told me about though I do not have other proof, with so many of the senior officers I worked with and for. Inappropriate sexual relations I am aware of, and the basis for my awareness, are presented below:

a. Suzanne Brick had regular sex with the Operations Officer, Major Quentin Jones, who knew her before she was hired. Maj Jones recommended she be hired and he regularly defended her and tried to help Capt Brian Wilson NJP me for sexual acts actually committed by Suzanne Brick. I know of Maj Jones' sex with Suzanne because Suzanne told me about it on multiple occasions; Maj Jones spent significant amounts of time with Suzanne, on and off post; his support of her in spite of her incompetence is highly suspicious and inexplicable in the absence of an ulterior motive; and his attempt to support my NJP for sexual acts Suzanne committed suggest his jealousy and the lows to which he was willing to go to protect his pride.

b. Suzanne Brick had sex with Capt Brian Wilson. I base this allegation on the fact that Suzanne verbally told me about this, and because when I mentioned it to Capt Wilson, he acted sheepish and did not deny it.

c. Suzanne Brick had sex with Capt Mike Deal, who was Capt Wilson's company commander. I base this allegation on the fact that Suzanne told me about it. It also may explain Capt Deal's lack of concern about the transgressions of his subordinate, Capt Wilson.

d. Suzanne Brick may have had sex with LtCol Sean Filson, the current Battalion Executive Officer. I base this allegation on the fact that Capt Jim Rowe told me and Capt Agoulnik, on separate occasions that he walked in on them having sex.

e. Suzanne Brick had sex with Capt Matt Bowman. I base this allegation on the fact that Suzanne and Capt Bowman both confessed to having sex with each other when Capt Wilson accused me of having sex with Capt Bowman, and the video evidence from the evening proved Capt Bowman's presence at the scene of the sex during the adultery investigations Capt Wilson initiated against me.

f. Suzanne has also told me about, or I have witnessed, sexual acts with multiple other officers, staff noncommissioned officers, or civilians who are associated with Marine Barracks Washington or Marine Corps leadership in the National Capital Region.

3. The sexual relationships of Suzanne Brick also had an immediate impact on the escalation of this hostile work environment when a former sexual partner

of hers publicly, abusively, and completely wrongfully tried to initiate a non-judicial punishment (NJP) against me for committing adultery with Captain Matt Bowman after he witnessed Suzanne in bed with this officer. After this allegation, Maj. Jones actively supported this attempt to NJP me as well, I suspect to protect his own feelings so that he would not feel jealous of another officer having sex with Suzanne.

4. Although this allegation was informally disproven with video evidence showing I was not present where the adultery occurred; the testimony of an officer, Capt Tom Shields, who was in my presence during one of the times of the alleged adultery (in Capt Wilson's initial accusation, he alleged that he saw me at 0300, but after his conversations with Maj Jones, he changed the timing to 0700); the testimony of Suzanne who claimed she had been the one having sex with Capt Bowman; and the testimony of Capt Bowman who claimed he had been having sex with Suzanne and not me, Capt Wilson continued to make allegations against me at Marine Barracks Washington. I know this because other officers told me that Capt Wilson continued to allege that I had committed adultery with Capt Bowman that night, because I walked by him on one occasion and heard him telling a Marine that he knew it was me having sex with Capt Bowman, and because after Capt Wilson's initial allegation, I had the reputation for being a "slut," a "ho," a "WM" (walking mattress; ie, someone who spends so much time underneath men who are having sex with her that she is a walking mattress) and of having had a "gang bang at Center House" in the "sex lies and videotapes scandal" for the rest of the time I served at Marine Barracks Washington.

5. This was a hostile work environment. The sexual dynamics in the command had always made me humiliated and powerless, and had always made me want to get out, as evidenced by my three attempts to deploy to Afghanistan and LtCol Henger's disregard of my concerns. Though After Capt Wilson's initial abusive allegations, a hostile environment became completely unbearable. After Capt Wilson's accusations, I experienced, at least one to three times per week, direct or indirect allegations that I was the "slut" or the "ho" guilty of the "gang bang at Center House" that was part of the "Sex, Lies, and Videotapes Scandal." These allegations took the form of Marines of all ranks informing me of what they had heard about what a slut I am; walking by Marines of all ranks and hearing them discuss my illicit gang bang; seeing Marines snicker in my presence; hearing from Marines' significant others about how if I was cheating on my husband I should feel bad; and finally, in the presence of senior and junior Marines, being confronted by a Corporal with a record of misconduct, assaulted, told I was a slut and a ho, threatened with death, and filmed by his friends as I tearfully reacted to his accusations, repeatedly asked him why he was doing this to me, and finally snapped and slapped him.

6. It is unbearable to work under seniors who are having sex with each other and will protect each other for it. It is unbearable to know that because I choose and do not to have sex with my seniors, I cannot manipulate their decisions the way my boss can. It is also unbearable to be widely though falsely known at work and off duty as a "slut." In April of 2010, in tears, I told LtCol Henger about the widespread rumors that I was a "slut" who had participated in a videotaped gang bang in Center House, that I felt humiliated, and that I could not handle it anymore. LtCol Henger responded that he would address the officers of Center House, that he had informally counseled Capt Wilson, and that as an officer I need to not care about what people think. I have heard several times that I should not care about what people think. There is a misunderstanding about this in the command. At no

time, ever, is it acceptable for people to spread hateful and discriminatory epithets. It is so common within the Marine Corps for a female to be called a slut, a ho, or a WM that it barely raises eyebrows. Replace these terms with racial epithets, and I think the leadership would understand better that there are limits to how much tolerance senior officers should have for what other people think. I understand that as an officer, you have to get used to people saying bad things about you. You should never, and never be told, that you need to get used to people using hateful slurs about your race or gender. There is a cavalier attitude in the Marine Corps that boys will be boys and boys will call their female co-workers sluts, hos, and WMs, while talking freely, boisterously, and without concern for facts, about their sex lives. This needs to be understood as hateful discrimination equal to racial discrimination for which there is zero tolerance.

7. With regard to the address LtCol Henger made to the officers at Center House, my understanding is that it contributed to rather than decreased, my problems. Officers reported to me afterward that they were appalled that he had merely told them, "not to have sex in Center House." This could only exacerbate rumors, as it made it a publicly known problem that officers were having sex there, and the most publicly known sex scandal was falsely associated with my name, even though it was my boss, not me, performing the sex. My concerns about my humiliation were not an issue to the command and were not addressed.

8. The command's comfort with the abusive behavior of some of its Marines became especially evident when they promoted Capt Wilson to the most prestigious company grade billet in the Battalion--the Silent Drill Platoon Commander, shortly after this incident. There were many good officers competing for this. I do not know what criteria resulted in Capt Wilson's selection, but apparently his terrible judgment and abusive behavior in his attempt to NJP me violated leadership values of little importance to the command. In most workplaces, if a senior publicly and abusively berated a subordinate for illicit sex, had no evidence but the sight of a brown head of hair and a sighting as the person showed up for work, and then continued to allege to subordinates and peers that that person was having illicit sex at work, that person would be fired. At Marine Barracks Washington, a leader like that gets promoted.

9. Another violation of equal opportunity occurred in the investigation that resulted in my NJP. Cpl Gillespie's friends happily videotaped my humiliation. At the beginning of the video, you can hear me talking about Capt Wilson and the rumors about me that had spread like wildfire through the Barracks. My constant humiliation was clearly a part of, and relevant to, the hate crime of Cpl Gillespie's assault that happened that night. LtCol Henger, however, ordered the Investigating Officer, Major Fettig, not to bring up anything that would refer to incidents not related to that evening. When I told LtCol Henger about my concerns that the Capt Wilson incident was not being included, he told me not to bring up stuff from the past because then "he would bring up stuff about me from the past." Once again, LtCol Henger encouraged an incomplete investigation, just as he had during the Wilson incident. As I wrote my statement about the evening, my boss, Suzanne Brick, hovered over me and told me to remove any reference to Capt Wilson so as "not to open a can of worms." She likely did this because she did not want the impact of her sexual affairs on me to have any relevance to the investigation, or to be discussed. In addition, the father of Cpl Gillespie, a senior Marine officer, repeatedly contacted the command and investigating officers (Major Fettig in the case of my investigation and Captain Young in

the case of an investigation of another assault) who were investigating his son for at least two misogynist acts that included assault on women.

10. These things are directly relevant. Cpl Gillespie was following his leaders when he made the same tired accusations I had been living with for months. They are also relevant to key questions of the investigation. Why did Lt Klay snap? The answer is related to the question of how long someone should be expected to tolerate hateful slurs, the negative influence of sexual relationships among her senior leaders, and the tolerance of the command for all this. Why did Lt Klay not tell the Officer of the Day (OOD)? The answer to that question is related to the question of why someone should be expected to rely on the OOD when her last encounter with the OOD started her accusations of adultery within the command, and the OOD would only report to LtCol Henger, who had already made it very clear to her that she should not care about what people think, and he would not investigate a crime as disgusting as the potential fraud, waste, abuse, and adultery of the Battalion Operations Officer (Maj Jones) and would support the promotion of the worst perpetrator of her abuse. The investigation I am appealing further justifies my belief in the breakdown of good order and discipline within the command and my lack of trust that the command cared to do anything about it. The investigation is distorted, 93 days late, and criminally negligent, as I will show. It demonstrates clear lack of concern for the treatment of women.

11. I am awaiting boards that will consider whether to separate me from the Marine Corps for my actions. Those boards have incomplete evidence. The Manual for Courts Martial directly states that the circumstances of a Marine's actions, the Marine's potential for change, and the impact of punishment on the Marine are directly relevant to punishment. I have already lost my promotion, and therefore much dignity and thousands of dollars, due to what I did, and the legal proceedings I have been a part of for it. An officer who is to determine my future must have the facts about the discriminatory, hate-filled environment in which my actions took place; how the command tolerated that environment, obstructed investigation into it, produced a late, false, and distorted investigation when finally forced; and how the sexual relations either among or tolerated by my seniors were a major contribution to my humiliation and powerlessness. My prior work performance, which was consistently so good that I was three times denied the ability to deploy to Afghanistan despite my impassioned pleas, and my rehabilitation from alcoholism and current performance at my job, and my off-duty activities where I am pursuing a master's degree in social work, should also be considered.

12. This investigation should also be considered as evidence, as it is evidence of the continued and documented tolerance of discriminatory behavior and distortion of the truth at Marine Barracks Washington. I do not understand why Lieutenant Colonel Brian Shinkle, the investigating officer and a lawyer, threw out and/or avoided the overwhelming evidence that would lead to the simple conclusion that I was in a bad environment. He could then leave it to the Battalion Commander to make his own decisions about how to make that environment better. I have perceived a refusal to admit defects, when in fact nothing is perfect and much can be made better. Aside from the negligence of this investigation, its extreme delay is also evidence of the tolerance for sexual harassment in the command. My own NJP was so urgent that, although the command happily let me perform my extremely public duties until the end of parade season, as soon as parade season was over, they pulled me off of leave, at great expense and humiliation to myself and inconvenience to my husband and his family, to receive NJP. In addressing my

own complaints, the command failed every deadline in MCO P5354.1D.W/CH 1, and spent three months producing a criminally negligent cover up. This investigation is proof of the treatment of equal opportunity at Marine Barracks Washington.

#### **Analysis of the Investigation**

1. Paragraph 1 of the preliminary statement has factual errors in all three sentences. The first sentence reads: "All reasonably available evidence was collected in the form of statements and interviews of witnesses." This is false. Evidence the investigating officer (IO) omitted includes:

a. I explicitly requested that the IO interview Master Sergeant Melissa Rios, Gunnery Sergeant Hammond, Staff Sergeant Nuroki (spelling unknown), Gunnery Sergeant Zumalt, Captain Scott McDonald, Captain Dan Meyers, Captain John MacLaughlin, Gunnery Sergeant Johnson, Corporal Tyce Havens, Lance Corporal Augustine, Captain Shields, Staff Sergeant Reed, and my husband. Either these people were never interviewed, or they were interviewed and the evidence was discarded. I also have further witnesses available if needed.

b. In my interview with the IO, the IO referenced a statement by Cpl Havens in which Cpl Havens indicated that there were more rumors about me of a sexual nature than about anyone at the Barracks. He omitted any indication that he had heard such a statement from his official investigation, from what I have seen in the investigation.

c. In a conversation with the IO in front of GySgt Hammond, the IO stated that it sounded like my boss, Suzanne Brick, should be investigated since it sounds like she might have created the "sexually hostile environment." The sexual relationships of my boss within the command, beginning with the relationship she told me she had with her boss and the third highest ranking Marine in the battalion, Major Quentin Jones, have been a central element of the hostile, sexually abusive environment I have been subjected to at Marine Barracks Washington. Even though at one point the IO seemed to recognize this, he omitted this from his investigation.

d. The IO does not present any evidence about the background of Captain Wilson, who initiated much of the hostility against me. There is much evidence regarding this, as Capt. Wilson has a documented history of hazing and sexual misconduct. Instead, the IO presents negative background about me, mainly collected from the people I have accused as complicit in my harassment.

e. The IO does not present any evidence about my boss, Suzanne Brick, whose sexual activity among those she worked with and for created much of the hostile environment and lack of candor that negatively affected me.

f. The IO omitted a statement from my husband. This was an October 17 email from Captain Ben Klay to Colonel Paul Montanus describing the events under investigation. Captain Klay is my husband and also served in Iraq in the same battalion as Captain Brian Wilson. He witnessed my daily suffering from the command climate. Col. Montanus forwarded the email to the IO and the IO omitted and ignored the evidence. LtCol Sean Filson told me that my husband's letter was not going to be considered because he was not from the Barracks. There is no basis in regulation for omitting evidence from people who are not in the command, especially if such people

have direct knowledge of the trauma of the command climate. The man I live with and who has observed my suffering firsthand and who deployed to Iraq with Capt. Wilson provided directly relevant information and the IO ignored it.

g. The IO did not return Capt. Klay's phone call in which he requested an interview nor did he act on repeated offers from me for me to meet with him on any available hours he had.

h. The investigation for my NJP documents sexually harrassing behavior I received from Marines. The IO omitted this evidence from his investigation. Furthermore, that investigation understates the harassment, as Lieutenant Colonel Carl Henger directed the investigating officer for that investigation to exclude evidence about Capt. Brian Wilson's harassment and accusations against me from that investigation, directing him to "maintain scope on the investigation." LtCol Henger should have initiated an investigation on Suzanne in December of 2009 when I first told him of her misconduct. He was aware and his wife was aware, as they told me, of "problems with her." In the opening of the video in that investigation, you can hear me respond to a junior Marine who had just made an accusation about me having group sex at the Barracks (the junior Marine's statement is not in the video; though). I explain, on video, that Capt Wilson started the rumors and they spread like wildfire through the Barracks.

i. All but one of the people whose statements are included as enclosures in the investigation have a conflict of interest.

i. Captain Brian Wilson is the person against whom the allegations are made. He does not have an interest in incriminating himself for sexual harassment.

ii. Ms. Suzanne Brick told me she has had sex with Capt. Wilson, her boss (Maj. Quentin Jones, who also recommended she be hired and that I be NJP'd for alleged sex with Capt Bowman), and many other officers, married and single, in the Barracks and National Capital Region. She confessed to having sex with then Lt. Bowman on the night I was accused of adultery with him. Any rumors about me reflect extremely negatively on her and it is not in her interest to be candid about her sexual relations within the workplace that have had an extremely deleterious effect on me. During the course of the investigation she told me I was not allowed to make any contact with Marines I had formerly worked with and is currently under investigation herself. She does not have an interest in revealing information about the sexual relations in the barracks that she was involved in and which had such a negative impact on me.

iii. Lieutenant Colonel Carl Henger was the Battalion Executive Officer largely responsible for the command climate. He has a conflict of interest, as an admission of sexual harassment would implicate him for being the second in command of a unit with such a command climate, and for being the highest leader to whom I had directly addressed my concerns about my boss's sex with the Operations Officer, my work environment, and the humiliation of the rampant rumors throughout the barracks.

iv. Lieutenant Colonel Sean Filson is alleged to have had sex with Suzanne Brick. I do not know the veracity of these rumors. If the rumors are true, it is not in LtCol Filson's interest to contribute information about a sexually discriminatory command climate that he contributed to.

v. Capt Agoulnik has no conflict of interest. This most likely explains why his statement is only referenced for one finding of fact, which is a finding of fact in my favor, #37, and states that I performed my duties with enthusiasm and a high level of competence.

vi. MSgt William Hunter works directly for Suzanne Brick, so it is not in his interest to make statements that could hurt his relationship with his boss.

vii. Capt Lisa Lawrence is identified as complicit in my harassment in my statement, as she recommended to Capt Wilson that he turn me into LtCol Henger for adultery, and, I had heard from Capt Tom Shields, had been known to make statements about me committing adultery as well as other slanderous statements, as late as September of 2010. Capt Lawrence has also called other female officers, including Narelle Helmer, Ashley Moore, and one of the two inbound female lieutenants (first name Emily, I forget her last name) slanderous terms such as "harlots" and "hussies" in front of CWO Campbell on the bus ride back from the H&S Company photo at the Lincoln Memorial. She has a conflict of interest.

j. I sent multiple emails to the IO with further information and the IO left these documents out of his investigation and did not appear to have considered them.

k. Aside from the sources I gave him, the IO also neglects many obvious sources of information. These include the professionals who were treating me for trauma, alcoholism and depression at Malcolm Grow Medical Center specifically Ms. Michelle Piaquadio or Dr. Morganstein or Dr. Thode, and any one of hundreds of the Marines at the barracks who could have easily corroborated my starring role in the widely known alleged "sex, lies, and videotapes" scandal.

2. The second statement of the investigation is also problematic. The IO states, "I encountered no significant challenges in conducting the investigation." If this is the case, the investigation should not have taken over three months to turn in, and it should not be so incomplete.

3. The third sentence is also problematic. If the command was "highly cooperative and accommodating" they should not have tolerated the investigation's lateness, distortions, and lack of effort. A cooperative command would ensure the investigation is completed thoroughly and on time.

4. In the second paragraph, the IO states that he kept "First Lieutenant Klay informed of the progress" of the investigation. This is a false official statement. The last time the IO informed me of the progress of the investigation was mid November of 2010. I repeatedly requested updates, from both the IO and Marine Barracks Washington, after this point and received no information and often no response.



5. In the second paragraph, the IO states that he informed me, on 14 October 2010, of his findings of fact, opinions and conclusion. This is incorrect. In that phone conversation, he stated that Cpl Tyce Havens had told him that there were more rumors of a sexual nature about me than of anyone else at Marine Barracks Washington. This is a highly relevant finding of fact, and the IO willfully omitted it from his investigation.

6. The tenth finding of fact states that I stated that I "continued to consume alcohol throughout the night until [I] reported to Marine Barracks Washington to assume Officer of the Day duties." He uses my own statement as a reference. There is no such statement in my statement.

7. The sixteenth finding of fact indicates that I did not suggest to LtCol Filson that I believed the conduct amounted to sexual harassment or hazing. This is a distortion of the truth. When I told LtCol Filson about the actions I was bawling with tears and I told him how humiliated I felt. I did not say, verbatim, "this is sexual harassment and hazing," but statements and tears were a clear indication that something was wrong and that I felt sexually harassed, hazed, and humiliated.

8. The twenty-second finding of fact indicates that LtCol Henger concluded that "there was not sufficient evidence to prove the allegations." This is a distortion that leaves the suspicion open that I had sex with Capt Bowman in Center House. Video evidence and the statements of multiple witnesses prove, well beyond a reasonable doubt, that I was innocent of the allegation. This is a gross distortion and characteristic of the lack of concern for my innocence and dignity that has characterized my treatment.

9. The twenty-seventh finding of fact indicates that LtCol Henger addressed the company commanders regarding the rumors. I am not aware of whether this is true, but it may be a distortion. Officers informed me that LtCol Henger addressed the officers only with the statement that they should not have sex in Center House, and this is the type of statement that could only enflame rumors. LtCol Henger told me that I should not care about what other people think on at least three occasions. This finding of fact, for which the only evidence the IO provides is LtCol Henger's own statement, bears further investigation.

10. The twenty-eighth finding of fact, which indicates that LtCol Henger had become concerned with my consumption of alcohol, is a distortion. It is true that LtCol Henger had expressed concern to me about my alcohol consumption in the fall of 2009, and there I have corroborated that I became an alcoholic at Marine Barracks Washington in spite of never having been an alcoholic before. LtCol Henger's concern was not reflected in his actions, as it did not stop him from requiring me to be at dozens of alcohol-related events and he took no action when I explained to him that my boss was creating a bad environment that I could not handle. In addition, I also received counseling at Marine Barracks Washington from my supervisor, Suzanne Brick, and her supervisor, Maj Jones, that I should drink more with Suzanne, even to the point of Suzanne's recommending that I divorce my husband so he could not prevent me from drinking. Her pressure to drink was constant, even to the point of responding to my statements that I was quitting drinking by pouring me alcohol in her office during working hours. If the command's position on drinking is considered relevant to this investigation, than all facts must be exposed, and it will be found that I faced heavy pressure to drink by my director supervisors, that drinking and drunkenness were rampant throughout the command, that I had complained about my environment multiple times, tried

to deploy to Afghanistan three times to get out of it, and that I was required to attend dozens of alcohol-related events.

11. Finding of Fact 32 is unclear, a distortion, and irrelevant to the investigation unless the IO is trying to prove that I deserved any negative sexual rumors about myself. The IO states, using the statements of Suzanne Brick and Capt Lawrence, that I socialized with junior troops and conversed with junior troops in a familiar manner. It is unclear what this means, but implies that I was guilty of fraternization or worse. "Familiar" could mean sexual relations, routine hanging out, dates, or kind conversation with a junior Marine about how his day is going. At no point have I fraternized with junior Marines. I have had brief conversation at work and during run-ins off-duty, but nothing more.

12. Finding of Fact 33 is a distortion. The statement indicates that "Marines at Marine Barracks Washington are under tremendous pressure to consistently perform in a "zero defects" environment. First off, the IO references his own statement, and no other statements, as the basis for this finding of fact. It is instead his opinion. Secondly, in my attempts to deploy to Afghanistan, I had complained that I was not challenged enough. My job was not challenging, and I felt that I was put in place to compensate for my supervisor's failings, as my job had not existed before my supervisor was named to her position. Third, the statements of Marines at the command would be necessary to corroborate this statement. Many Marines have told me and my husband that they do not feel challenged enough. When I stated to Col Smith that I did not feel challenged enough, he commented that it bothered him that there were several officers who felt that way. Finally, according to my E.O. complaint, there are many, not zero, defects, in the environment, pertaining to the tolerance of sexual misconduct and the hateful treatment of women. Another defect in the environment is this investigation I am appealing, which is criminally negligent and 93 days late.

13. Finding of fact 35 is false with regard to SNCOs. It states there is a lack of NCOs and SNCOs at Marine Barracks Washington. There is an abundance of SNCOs and there is no numbers problem. I do not know the statistics regarding NCOs.

14. Finding of fact 36 is an opinion not supported by the facts. It states that "Marines at Marine Barracks Washington are aware that discrimination is not tolerated." My complaint is that discrimination is rampant, and I have provided a wealth of evidence in support of that. This is an incorrect opinion contradicted by the IO's selective attention to the evidence, and not a finding of fact. This opinion is also contradicted by the fact that the command tolerated this incomplete and criminally negligent report being submitted after three months, rather than after the mandated fourteen days.

15. Finding of fact 38, which states that I struck an enlisted Marine, is true as I did slap him, but requires context for inclusion in this investigation. The context is that the Marine I slapped accused me of the same gang bang which I had become so familiar with, pushed me against a wall, called me a slut, a ho, and a WM, and threatened to kill me and a female Marine I work with. There is an incomplete investigation that includes evidence about this Marine's discriminatory behavior. There is also a video about this incident which begins with me telling him that the allegations that started with Capt Wilson (whose name is clearly audible in the video) resulted in rumors that spread like wildfire throughout the Barracks. The IO only used this incident to assassinate my character, and willfully neglected facts directly relevant

to the case about the direct relationship between Capt Wilson's accusations, the command climate, and this Marine's belief that I was a slut, a ho, and a WM guilty of a gang bang in Center House who deserved to die along with my female Marine.

16. Finding of fact 39 is a distortion. It states that I did not suggest that I believed the incident to be sexual harassment or hazing. It is true that I did not make a formal complaint of sexual harassment or hazing using the words, "I am making a formal complaint of sexual harassment and hazing." As I have indicated, I expressed my humiliation repeatedly, to the point of crying about it to the Battalion Executive Officer and telling him about how humiliated I felt multiple times. It is a distortion to believe that no one had cause to believe I had been hazed and sexually harassed.

17. Finding of Fact 40 requires further context. The IO states that I accused Capt Wilson of sexual harassment and hazing after I received notification that I would be NJP'd. Appropriate context includes the fact that I had already made it very clear to the Battalion Executive Officer and throughout the command how upset I was about the handling of the incident. It is also appropriate to note that in my initial statement for the investigation for my NJP, I discussed Capt Wilson's treatment of me, as discussion of this was included in the video that was the basis of my NJP and it was directly related to the Marine's motive for calling me a slut, ho, and WM, giving me death threats, and for why his friends enjoyed filming me in my humiliation. My supervisor, Suzanne Brick, ordered me to remove any references to Capt Wilson from my statement, likely to protect herself. Her alleged sex with Capt Wilson, Capt Wilson's company commander Capt Deal, her own supervisor, Maj Jones, as well as others in the command, were directly related to a command climate in which Capt Wilson was promoted after his abuse, I was told that I should not care about the sexual slander I had been suffering, and a junior Marine who did not even know me was filled with so much hatred of me and supposed knowledge of my sexual transgressions that he committed the discriminatory hate-filled offenses of assaulting me, threatening me with death, and using the gender slurs of slut, ho, and WM to my face. Finally, it is also appropriate to note that in an investigation about this confrontation, the Battalion Executive Officer ordered the Investigating Officer to exclude any evidence of the basis for this confrontation, which was the hate-filled accusations of Capt Wilson that are described in the video (but willfully excluded from the transcript of the video by Maj Fetig and LtCol Henger) that is part of the evidence.

18. Finding of fact 41 is blatantly false and is a contradiction of my statement, which the IO claims is the documentary evidence in support of the finding. The IO states that I have not alleged that I heard, or heard about, any rumors or negative comments from Marines in my workspace (the Protocol Shop) or from officers or senior enlisted Marines. According to my statement, I heard the rumors from all sources. Secondly, if the IO is trying to narrow the definition of my workspace to the Protocol Shop so that anything outside the Protocol Shop would not be considered my workspace and therefore not sexual harassment, that is a distortion and in violation of MCO P5354.1D W/CH 1, which states, on page F-5, that "'workplace' is an expansive term for the military members and may include conduct on or off duty, 24 hours a day.'" Finally, aside from the fact that I repeatedly heard rumors about my sexual misconduct from within my workplace, I allege that the implicit reason my boss was hired and so highly protected was because of her sexual favors within the command. The Protocol Shop was one of the major

centers of sexual harassment in the command, but I would not fault the Marines within the shop, only my supervisor, Suzanne Brick.

19. Finding of fact 42 is a distortion and relies on faulty evidence. The IO states that the "vast majority of Marines interviewed by the Investigating Officer in the conduct of this investigation did not hear any rumors about First Lieutenant Klay and heard about the rumors only from First Lieutenant Klay." First off, as stated in paragraph 1 of this section of the appeal there are severe problems with the IO's use of evidence. He ignored evidence, such as the statement of Lt Klay's husband, the statement of Cpl Havens that there were more rumors about me of a sexual nature than of about anyone else at the Barracks, my statement, the video that begins with me making a rebuttal against a sexual rumor about my gang bang at Center House, and the abundance of Marines at the Barracks who could have been witnesses, especially those I asked he interview but which he either did not or left out of his investigation. The statements that the IO uses to back up his claim are of individuals who, as I stated in paragraph 1, have a conflict of interest against acknowledging my mistreatment. Finally, his use of the word "vast" is a gross distortion. In no context do six people ever constitute a "vast" number. This is also a distortion because by saying "the vast majority . . . did not hear any rumors" the IO is implying that he did collect information about rumors. In an investigation about a hostile work environment where these rumors are specifically noted as a severe source of distress, it would be essential for the IO to directly report on the evidence we know he collected on this. He omits these findings, however.

20. Given the serious problems with the findings of fact that I have described above, all opinions based on faulty facts should be disregarded.

21. The first opinion, that Marine Barracks Washington does not encourage, condone or tolerate sexual harassment or hazing, is supported by only one finding of fact, which I have discredited in this appeal. This very investigation discredits this opinion as well, as this investigation is an endorsement of hazing and sexual harassment and act of toleration by a lieutenant colonel in the Marine Corps, Lieutenant Colonel Brian T. Shinkle. The opinion is not valid.

22. The third opinion indicates that LtCol Filson had no reason to believe that I perceived Capt Wilson's conduct as sexual harassment or hazing. I was bawling with tears about disgusting uncorroborated sexual allegations, which is a clear indication that I felt sexually harassed and hazed. It is true, though, that I did not initiate a formal complaint or use the words "sexual harassment" or "hazing." What I was complaining about, though, was sexual harassment and hazing. Commanders have so much responsibility that it is not obvious they should be punished for everything they miss. They should, though, acknowledge when they miss something, especially when it is the clear indication of sexual harassment and hazing that a reasonable person would infer from a bawling woman who has repeatedly complained about the sexual allegations against her and how she has been treated.

23. The fifth opinion acknowledges that Capt Wilson's actions "may" have caused other Marines to think and speak negatively. This is an instance of the IO tacitly acknowledging that there could have been rumors about me, though he negligently fails to come to a conclusion as to whether there were or not.

24. The IO's sixth opinion blames me for rumors about myself and is completely inappropriate and unfounded. First, a description of how I was "overly familiar with junior troops," and adequate evidence in support of this, are required if this claim is to be used as evidence against me. "Overly familiar" is not defined and leaves the imagination open to the idea of fraternization. I have never fraternized with junior troops. The extent of my familiarity is conversation, when approached. The IO then alleges that I was an excessive drinker. This is true and I have taken responsibility for becoming an alcoholic and then reforming myself (I have not had a drop of alcohol since August 2010, I attended rehabilitation, and I have been to over 100 alcoholics anonymous meetings). However, drinking does not justify hateful misogynist slander and if my drinking is to be used against me, the context of rampant alcohol consumption among the other Marines of the command and my boss's and boss's boss's counseling of me for not drinking with my boss should also be described and taken into account. The IO's allegation against me suggests that there were rumors about me, but other statements from the IO state that he could not find evidence of rumors. The IO is contradicting himself as well as statements he knew of but did not include in his investigation. The fact remains that at no point is hateful slander justified. If a person of a certain race engages in illicit behavior and there is slander about his race, the racial slander is not justified because the person had bad behavior. Likewise, sexual harassment is not justified for any reason, even if a person drinks. My drinking was wrong and I am deeply sorry. I have atoned for it and it does not justify the abuse I have taken. If the IO is especially interested in my drinking, he should also investigate whether I was an alcoholic before checking into Marine Barracks Washington (I was not) and whether there is any evidence that I used drinking as a coping mechanism to deal with a dreadful climate I had addressed as high as the Battalion Executive Officer (and even the Battalion Commander, who told me to go back to the Battalion Executive Officer).

25. The IO's seventh opinion is that Capt Wilson's actions did not meet the definition of hazing and that his investigation was within the scope of his duties. MCO 1700.28 defines hazing as "any conduct whereby one military member, regardless of Service or rank, causes another military member, regardless of Service or rank, to suffer or be exposed to an activity which is cruel, abusive, humiliating, or oppressive." It was not within the scope of Capt Wilson's duties to publicly, lengthily, and aggressively berate me for a crime of adultery for which he had no credible evidence, to increase the aggression of his accusations after Suzanne confessed to him, and to continue to claim to Marines in the ensuing months that he knew for certain I had been having sex with Capt Bowman. As the officer of the day, if it was a problem that he saw a brown-haired woman in bed with Capt Bowman, he should have interrupted their sex in the act, or in the many hours after he saw them in bed. Lengthy, aggressive, unfounded public beratement for sexual misconduct and the subsequent spreading of rumors is completely abusive, humiliating, and oppressive.

26. Opinion number eight indicates that Capt Wilson was appropriately counseled. It would be appropriate to also describe the basis for Capt Wilson's promotion to Silent Drill Platoon Commander immediately following this incident, as any perceived displeasure from the command at Capt Wilson's lack of tact, judgment, and decency was more than shattered when every Marine came to be aware that his exemplary conduct merited the most prestigious company grade billet in the Battalion.

27. The ninth opinion is that Capt Wilson's actions did not meet the definition of sexual harassment, and that my work environment was challenging, but not intimidating, hostile or offensive.

a. SECNAVINST 5300.26B states that "workplace conduct, to be actionable as 'abusive work environment' harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive [Note: 'workplace' is an expansive term for military members and may include conduct on or off duty, 24 hours a day.]"

b. Hostile environment is defined on page F-3 of MCO P5354.1D W/CH 1 as "a type of harassment that occurs when unwelcome behavior of one or more persons in a workplace produces a work atmosphere which is offensive, intimidating, or abusive to another person using the reasonable person standard."

c. The reasonable person standard is defined on page F-4 of MCO P5354.1D W/ CH 1 as "an objective test used to determine if behavior constitutes sexual harassment. This standard considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. The reasonable person standard considers the recipient's perspective and not stereotyped notions of acceptable behavior. For example, a work environment in which sexual slurs, the display of sexually suggestive calendars, or other offensive sexual behavior abound can constitute sexual harassment even if other people might deem it to be harmless or insignificant."

d. I believe the facts, which the IO ignored, are available to corroborate that a reasonable person would find my environment a hostile work environment.

i. An environment where there is sex among my boss, my boss's boss, and multiple other officers in the command, likely with the return of favors, such as potentially my boss's job, her large overtime pay, her power over me in spite of my objections and attempts to deploy to Afghanistan, her lack of relevant ability or experience, and her lack of accountability, is hostile and offensive.

ii. Likewise, an environment where a senior can publicly berate a subordinate for offensive adulterous sexual acts and persist in these accusations, with the complicity of the Battalion Operations Officer who had nothing to do with the incident except his desire to believe that it was me, not Suzanne Brick, who was having sex with Capt Bowman, despite his lack of evidence and the existence of confessions and video evidence, is hostile and offensive.

iii. Likewise, an environment where there are false rumors throughout the command about my illicit group sex, and where, as a result, I am widely known as the slut, ho, and WM of the sex lies and videotapes scandal that involved my gang bang at Center House, and I must hear about these rumors on average multiple times per week and be told, by the Battalion Executive Officer, on at least three occasions, that I should not care what people think, is hostile and offensive.

- iv. Likewise, an environment where there is an investigation about me that includes video evidence that starts off with talk about Capt Wilson and these rumors and the Battalion Executive officer orders the investigating officer not to mention this in the investigation is hostile and offensive.
- v. Likewise, the fact that my boss directed me to delete mention of the causes of my humiliation in this incident in my legal statements about it is hostile and offensive.
- vi. Likewise, the complete untimeliness of this three month report on my harassment that was supposed to be completed in fourteen days, according to MCO P5354.1D W/CH 1, is hostile and offensive.
- vii. Likewise, the fact that a lieutenant colonel produced this distorted dishonest investigation; with limited evidence that primarily relies on those who have an interest in a verdict that there was nothing wrong with the environment, throws out readily available evidence that is either easy to get or actually handed to him and ignored, contradicts my own statement about the incidents, and attacks my character without even looking into the character of those being investigated, is hostile and offensive.

28. The IO's tenth opinion is that Capt Wilson's conduct was not 'conduct of a sexual nature.' This is logically impossible. An accusation about sex is fundamentally of a sexual nature. The IO goes on to reiterate his opinion that I did not work in an intimidating, hostile, or offensive environment. Paragraph 28, above, refutes that.

29. The eleventh opinion, that I did not make a claim of sexual harassment, is distorted. Col Montanus, the commanding officer of Marine Barracks Washington who succeeded Col Smith, was the first senior officer to become aware of my treatment who told me I needed to make a formal complaint. Previously, I had voiced the same concerns about my humiliation repeatedly, though not in the manner of a formal documented complaint. LtCol Henger's response, on at least three different occasions over the period April-August during all of which I was extremely upset, was that I should not care so much about what people think. The IO seems to imply that I have only made this complaint because I was punished for wrongdoing. I had complained about my treatment very clearly well before my NJP.

30. The twelfth statement of opinion is a gross falsehood. The IO states that I "formed a belief that Marines at Marine Barracks Washington spoke negatively about [me] and may have believed that this created a hostile work environment, but it appears that [I] did not form this belief until after the incident that lead to [my] non-judicial punishment on 7 August 2010. [I] may have perceived that [my] work environment was hostile or abusive, but that perception was not reasonable." The IO is accusing me of making my accusation up so that I could get out of punishment. My rebuttals of almost every finding and opinion the IO has make clear that there is no basis to believe any of his opinions. Rather than investigate my complaint and use the wealth of evidence I either gave him or he had available, the IO has turned the investigation into an investigation of me. He has made an unfounded statement about my mental state, essentially accusing me here of the severe crime of making false allegations so that I could get out of punishment. As I have shown and I am sure a proper investigation would prove, the IO is the one making false allegations, not me. This statement,

like the rest of the investigation; corroborates my exasperation, fear of reprisal, and lack of faith in my leadership to correct sexual harassment when Cpl Gillespie assaulted me, threatened me with death, accused me having a gang bang, and called me a slut, ho, and WM.

#### EO Investigation Review Criteria

1. This section will use the EO Investigation Review Criteria presented in Appendix I of MCO P5354.1D W/CH 1 to demonstrate the insufficiency of this investigation.
2. Timeliness. The investigation took 107 days, which is over 7 times as long as an EO investigation is supposed to take, per MCO P5354.1D W/CH 1. Items 6 and 7 of the review criteria are the date the investigation was initiated and the date, the investigation was completed. I provided my statement on September 20, 2010, the IO began the investigation on September 23, 2010, the Investigation is dated December 21, 2010, and I received the results on January 5, 2011. It thus took 107 days to complete, which is over seven times as long as such an EO investigation is supposed to take, by the Marine Corps order.
3. Investigating Officer Factors. Though the IO is from outside the command, the command is responsible for the investigation. This creates two problems. First, the command seems to have had limited ability to get the IO to complete his investigation on time, as evidenced by its lack of timeliness. Second, the allegations in the complaint suggest such widespread problems in the command that there may be a conflict of interest in having a command conducting an investigation that could largely serve to implicate itself. This is partially mitigated by the fact that the current battalion commander was not in command during the period of the allegations, but the allegations are so unpleasant that the investigation could result in implicating the previous battalion commander, at least for mismanagement, and this places a colonel in the unfair position of signing off on the criticism or indictment of another colonel.
4. Allegations Thoroughly Addressed. Item 14a asks if all allegations were thoroughly addressed. The IO did not thoroughly address any allegation, as described in the preceding section in this appeal. The IO relied on a limited number of witnesses, most of whom do not have an interest in incriminating themselves; disregarded information I sent him and my husband sent him; and did not interview any of the recommended witnesses or witnesses who would have been obvious to consult in a serious investigation. Information my husband and I submitted describes sexual misconduct among my boss and senior leaders of the command, lack of concern among the leadership, the abusive behavior of Capt Wilson, and the widespread comfort and confidence throughout the command that Marines had in claiming and discussing their supposed knowledge that I was a slut, ho, and WM who committed the gang bang at the Barracks in the sex lies and videotapes scandal. I also believe that Capt Wilson's background—rather than my background—ought to be a topic of this investigation, as I am confident that a thorough check would uncover a history of misconduct.
5. Discarded Information. Item 14b asks if any relevant information the complainant submitted was not included or addressed. The IO discarded multiple emails submitted by the complainant, interviewed none of the recommended witnesses (or excluded the results of those interviews),



disregarded the statement of the complainant's husband, and, as the previous section shows, failed to address almost every allegation.

6. Scope. Item 14c asks whether the IO properly defined the issues "so as not to limit the full scope of the complaint." The IO focused the issues on denying my complaint, attacking my character, and explaining my motive for a false allegation. A reading of my complaint makes it clear that I felt humiliated in a command where inappropriate sexual relationships potentially amounted to fraud, waste, and abuse; supported the cover-up and disregard for my abuse; and I experienced sexual humiliation several times per week. These issues were not adequately investigated.

7. Complainant Interview. Item 14d asks whether the complainant was interviewed at the beginning of the investigation. I was given an incomplete interview at the beginning of the investigation. There was so much to discuss about the sexual relationships of my boss in this interview that the IO and I did not even begin to discuss the actions of Capt Wilson. GySgt Hammond witnessed this interview and can verify this. The IO stated that he thought the investigation should also be about my boss, Suzanne Brick, though the investigation does not reflect that the IO ever considered this. After this, there were about two or three brief phone conversations focused on the IO telling me that he did not think there was an harassment. In spite of my repeated emails and requests to meet with him again, the IO never interviewed me again and never asked me about Capt Wilson.

8. Informing the Complainant. Item 14e asks if the complainant was kept informed of the status of the complaint/investigation. I was not kept informed of the investigation's status. The investigation took 107 days. The last time I heard from the IO about the investigation, in spite of repeated subsequent requests for an update, was in mid-October. At the beginning of December, I contacted Captain Nute Bonner and Colonel Miner asking about the status of the investigation, and they both indicated it was receiving JAG review in Quantico. I did not hear of the investigation again until I was notified on January 4, 2011 that I would receive the results the next day.

9. Complainant's Witnesses. Item 14g asks whether the complainant's witnesses were interviewed. If the IO interviewed any of the witnesses I offered, this is not reflected in his report. In conversation with me the IO said that a witness he interviewed, Cpl Tyce Havens, told him that there were more rumors about me of a sexual nature than anyone else at the Barracks. The IO disregarded this evidence. He also disregarded the written statement that my husband sent to Col Montanus, and which Col Montanus forwarded to him; and he disregarded the phone request my husband made to him for an interview.

10. Key Witnesses. Item 14i asks whether any key witnesses were not interviewed. As described in the previous section, six of the seven witnesses interviewed (other than myself) either definitely or may have a conflict of interest against giving the IO the full story. The IO also neglected to interview the mental health professionals who have helped me since I left Marine Barracks Washington and can provide professional opinions about source(s) of my drinking and depression. The IO also neglected to interview the battalion's psychologist, LCDR Rice, who told me that if she were me, she would think about suicide, and told me I deserved rumors because I wore shorts and a tank top when I work out in Washington, DC in the summer. In including only seven statements other than mine, the IO shows that he chose not to interview almost any of the hundreds of the Marines of the

barracks who could have corroborated my allegation that I was widely known for being a slut who had a gang bang in Center House;

11. Documentation of Testimony. Item 14j asks whether there is documentation of witnesses' testimony. As stated, multiple emails from me, an email from my husband, and a summary of what Cpl Havens told the IO were discarded from the investigation.

12. Thorough Review. Item 14m asks if the investigation includes a thorough review of the circumstance under which the alleged discrimination occurred. As the previous section shows, this is not the case. The IO concludes that "there was not sufficient evidence" to prove that I committed adultery (thereby leaving it open that I did actually commit adultery in spite of overwhelming evidence to the contrary). This is not thorough. The IO fails to investigate the influence of alleged sexual relationships within the command on my treatment and sense of fairness and the hostility of the work environment. That is not thorough. The IO accuses me of being "familiar" with junior troops. This is a character attack suggestive of fraternization that must be substantiated and defined if it is going to be included in an official record against me. That is not thorough. The IO states I "did not suggest that [I] believed the incident to be sexual harassment or hazing." Since I cried about the incident multiple times and referred to the environment as humiliating and something I could not take anymore, in the presence of multiple officers, including the Battalion Executive Officer on more than one occasion, and tried to get out of the command by trying to deploy to Afghanistan on at least three occasions, and developed depression, insomnia, and alcoholism while in the command in spite of no prior history and my rapid recovery upon leaving the command, the IO should clarify that what he means by "did not suggest" is only that I did not request mast above the battalion executive officer and formally document an official EO complaint in writing. In all other respects, my actions and complaints about my sexual humiliation and the sexual conduct of my boss suggested a hostile work environment that constitutes sexual harassment. The IO did not thoroughly review this. The IO describes the challenging work environment, implying that the challenge, rather than the harassment, was the source of my stress. When I tried to deploy to Afghanistan, I complained about the lack of challenge to the command. The environment was not challenging, my performance was high, and my records show that I am academically and physically very able. The IO did not thoroughly review this. The IO does not describe details about Capt Wilson's treatment of me, except to say that he did an informal investigation, and that in his opinion the investigation was done inappropriately. A thorough review would thoroughly describe the investigation, Capt Wilson's consultation with Maj Jones and Capt Lawrence, and Capt Wilson's continuation of allegations against me. The IO states that I formed an belief that I had been harassed after I was NJP'd, thereby making an official allegation against me that I made a false complaint in order to get out of punishment. This is a serious allegation that is not substantiated or thoroughly reviewed.

13. Treatment of Women. Item 14n asks whether the investigation includes a thorough analysis of how the victim was treated compared to the victim's demographic group. There is no treatment of this in the report. It would be particularly important to reveal my treatment compared to the treatment of Suzanne Brick, who, I allege, has had sexual relationships with many officers senior to me in the command. I also offered witnesses who could discuss the treatment of women, and all my witnesses were ignored.

14. Related Policies or Practices. Item 14o asks whether the investigation identified any related policies or practices or issues that may constitute, or appear to constitute, discrimination even though they may not have been raised by the complainant. The IO realized, early in the investigation, that the sexual relationships of my boss with other members of the command might contribute to a hostile work environment. The IO told me this, in person, in front of GySgt Hammond. However, the IO disregarded this in his investigation.

15. Objectivity. Item 14r asks whether the IO clearly and objectively presented the facts of the case. The previous section shows that this is not the case. The IO disregarded evidence and focused the report on discrediting my character and motives rather than on describing the incidents in question and making an accurate assessment of whether I was working in a hostile environment.

16. Bias. Item 14t asks whether there is evidence of bias. There is clear bias, as shown in the previous section. The IO collected practically no evidence, willfully disregarded evidence that did not support his conclusions, almost exclusively included evidence from sources that have a conflict of interest against corroborating allegations of a hostile work environment, and provide little information about the actual complaint.

17. Investigation of Complainant Rather than Complaint. Item 14u asks whether there is evidence that the complainant rather than the complaint was investigated. This investigation clearly focuses on the complainant rather than the complaint. As indicated, much evidence about the complaint was either not looked into or willfully disregarded. Also, nine of the 42 findings of fact presented only serve to discredit my character or explain a motive for making a false accusation. In contrast, there are no findings of fact supporting conclusions about the character or motives of anyone else related to the investigation.

18. Support of conclusions by the facts. Item 14v asks whether the conclusions are sound, logical and supported by the facts. As noted, the IO disregarded evidence he had, failed to pursue evidence that was readily available, and showed bias in his choice of sources. All conclusions should thus be thrown out and the investigation should be redone.

19. Recommendations. Item 14w asks if the recommendations are appropriate for the circumstances. Given that, as I have shown, the investigation does not adequately describe the circumstances, all recommendations should be disregarded.

20. Deficiencies. Item 14aa asks whether there were deficiencies, discrepancies, incongruities or nonconcurrences in the findings, conclusions or recommendations. The second section of this appeal goes through the investigation line by line pointing all such problematic items.

21. Legal Sufficiency Review. The investigation does not state whether there was a legal sufficiency review.

22. Essential Documents. Item 14ac asks whether essential documents relevant to a fair determination were contained in the file. As noted, particularly in the second section of this appeal, essential documents were disregarded.