

Independent Investigation Report

I. Executive Summary

This engagement was prompted when Tom Hill, a former Baylor University Athletic Department employee, gave certain testimony in a deposition taken in connection with a Title IX case filed by a group of women against Baylor University. *See Jane Doe I, et al. v. Baylor Univ.*, No. 6:16-cv-00173-RP, in the U.S. District Court for the Western District of Texas, Waco Division (hereinafter “Title IX litigation”). During his deposition, Mr. Hill stated that he heard of an incident that allegedly took place in the city of Querétaro, State of Querétaro, Mexico (hereinafter “Querétaro”) and involved two former members of the Baylor Board of Regents, Richard Willis and Ramiro Peña, and a former Baylor Athletics booster, Greg Klepper.

Specifically, Mr. Hill testified that Mr. Klepper alleged Mr. Willis and Mr. Peña made racist, sexist, and anti-Semitic remarks during a business trip to Querétaro, Mexico in late July 2014. He also testified that Mr. Klepper alleged Mr. Willis and Mr. Peña were drunk during a dinner at the home of a local businessman in Querétaro and made some of the alleged remarks, causing them to be asked to leave the host’s home. These allegations quickly became public. Baylor asked Ashcroft Sutton Reyes to investigate to determine if these allegations were true.

Our key findings and conclusions can be summarized as follows:

- Messrs. Willis and Peña deny they made racist, sexist, and anti-Semitic remarks during the trip to Querétaro, Mexico. They admit drinking alcohol but deny being drunk.
- Mr. Klepper claimed to make a video recording of some of the alleged remarks, but also admitted that he destroyed the SD Card from the recording device before anyone could examine the video.
- Neither Mr. Klepper nor his business associate Alejandro “Alex” Montaña Urdaneta would identify the local Mexican businessman who hosted the group for dinner during the trip to Querétaro, Mexico, despite their allegations that some of the offensive remarks were made at the dinner party.
- Mr. Klepper and Mr. Urdaneta (who were both on the trip to Querétaro, Mexico) refused to be interviewed as a part of our investigation.
- Mr. Klepper’s account of the incidents given through his interview, deposition, and written affidavit is inconsistent and we do not find it credible.
- Mr. Urdaneta’s account of the incidents given through his interview and written affidavit is inconsistent and we do not find it credible.
- Mr. Klepper may be biased against certain administrators at Baylor, or Baylor generally, given prior litigation his company lost against Baylor University and his support for former Baylor football coach Art Briles.
- We conclude that Messrs. Willis and Peña did not make the alleged statements and were not drunk during the trip to Querétaro, Mexico.

II. Introduction

This independent investigation was prompted when Tom Hill, a former Baylor University Athletic Department employee, shared allegations made by Greg Klepper, a Waco businessman and former Baylor Athletics booster, during a deposition. The deposition was conducted as part of a civil lawsuit filed in 2016 in federal court in Waco, Texas by a group of women against Baylor University. *See Jane Doe 1, et al. v. Baylor Univ.*, Cause No. 6:16-cv-00173-RP, in the U.S. District Court for the Western District of Texas, Waco Division (hereinafter the “Title IX litigation”).

In the Title IX litigation, the Plaintiff women claim that Baylor was deliberately indifferent in response to alleged events of student-on-student sexual assault and sex-based harassment, and that Baylor’s indifference and failure to investigate created a hostile educational environment that increased the danger to the women and denied them access to educational opportunities. These allegations are the outgrowth of a series of events that took place at Baylor beginning in 2014.

In 2014, a Baylor football player was found guilty by a local Texas court of sexually assaulting a fellow female student.¹ In 2015, another Baylor football player was found guilty of sexual assaulting a fellow female student.² Several other football players were subsequently accused of criminal sexual assault in 2015 and 2016. In the fall of 2015, Baylor commissioned the law firm of Pepper Hamilton LLP to conduct an independent investigation into the University’s handling of allegations of sexual misconduct.

In May 2016, Baylor released a document summarizing Pepper Hamilton’s findings. Among other things, Pepper Hamilton concluded that Baylor administrators did not adequately respond to the accusations of sexual assault involving members of the football team, and that coaches stifled both school and criminal investigations into the allegations. In the following weeks, certain administrative and personnel decisions were made by Baylor that ultimately led to the departures of Head Coach Art Briles, athletic staff members Colin Shillinglaw and Tom Hill, Athletic Director Ian McCaw, and Judge Ken Starr, the former President and Chancellor of the University.

On June 15, 2016, the Title IX litigation was filed against Baylor by three women claiming they were sexually assaulted while students at Baylor. On August 20, 2018, Tom Hill gave testimony during a deposition in the Title IX litigation. During his deposition, Mr. Hill stated that he heard of an incident that allegedly took place in Querétaro, Mexico involving two former Baylor Regents and a former Baylor Athletics booster. Specifically, Mr. Hill testified that the booster, Greg Klepper, alleged that Richard Willis and Ramiro Peña made racist, sexist, and anti-Semitic remarks during a business trip they all took to Querétaro, Mexico in late July 2014. Mr. Hill further testified that Mr. Klepper also alleged that, during the trip to Querétaro, Mr. Willis and Mr. Peña were drunk during a dinner at the home of local businessman and made some of the alleged remarks at the dinner, causing them to be asked to leave the host’s home.

¹ *See, e.g.*, https://www.wacotrib.com/news/crime/ex-bu-football-player-gets-years-in-sexual-assaults/article_0e8c23fa-44cc-59da-a134-de9fe39a7d5e.html.

² The conviction of this player, Sam Ukwuachu, was vacated by the 10th Court of Appeals of Texas and is now pending before the Texas Court of Criminal Appeals. *See, e.g.*, https://www.wacotrib.com/news/crime/court-of-criminal-appeals-agrees-to-review-ukwuachu-reversal-again/article_6269691f-a978-5652-a4d8-e0ebb9c3e0a3.html.

The specific statements alleged are offensive. In particular, it is alleged that Mr. Willis made a statement that, “You’re damn right. We got the best n**ger football players because we got the prettiest blonde-haired, blue-eyed p**sy in the state.” It is also alleged that Mr. Willis referred to the wife of former Baylor President, Judge Ken Starr, as a “Jew b*tch.”³ These allegations quickly became public and were widely reported in media outlets.

Given the nature of the allegations in the Title IX litigation, the attorneys for the plaintiffs in that suit quickly sought to bring the allegations regarding Querétaro, Mexico into the Title IX litigation as evidence of the culture of Baylor’s administration during the relevant time period. The attorneys for the plaintiffs obtained signed declarations from Mr. Klepper and his business associate, Alejandro “Alex” Montaña Urdaneta (who accompanied Messrs. Klepper, Willis, and Peña on the trip to Mexico), and filed those declarations in the Title IX litigation. Eventually, Mr. Klepper repeated the substance of his allegations during a deposition in the Title IX litigation.

Baylor asked Ashcroft Sutton Reyes (“Ashcroft”) to conduct an independent investigation to determine if the allegations about Messrs. Willis and Peña are true. Ashcroft is a boutique law firm, led by former United States Attorney General John Ashcroft, and comprised of former federal and state officials, primarily former prosecutors. One of the specialties of Ashcroft is internal investigations.

Of particular concern to Baylor was the integrity of its mission, as the largest Baptist university in the world, “to educate men and women for worldwide leadership and service by integrating academic excellence and Christian commitment within a caring community.”⁴ Moreover, because the alleged conduct involved individuals intimately associated with University leadership, Baylor wanted to ensure the actions of individual Regents aligned with Baylor’s institutional values.

The Ashcroft investigation was led by Johnny Sutton, the former U.S. Attorney for the Western District of Texas. Ashcroft began its work in February 2019 and was able to review multiple documents and complete interviews of both Mr. Willis and Mr. Peña within the first month of the investigation. However, our inability to secure interviews with both Mr. Klepper and Mr. Urdaneta caused the investigation to take longer than initially expected. In the absence of Mr. Klepper and Mr. Urdaneta’s cooperation with the investigation, Ashcroft waited for transcripts of the July 1, 2019 deposition of Mr. Klepper and the December 10, 2019 deposition of Mr. Urdaneta⁵ in order to complete our investigatory process.

The following report begins primarily with an examination of what each of the four men involved say about the allegations. With respect to Mr. Willis and Mr. Peña, they consented to voluntary, in-person interviews, in addition to providing documentation we requested. They also provided written statements in advance of in-person interviews. Thus, the sections on those two witnesses are largely based upon their interview responses and the documents provided. Additionally, Mr. Peña was deposed in the Title IX litigation and we were able to review his deposition testimony. Mr. Willis was never asked to give a deposition in the Title IX litigation.

For Mr. Klepper and Mr. Urdaneta, we reviewed their written declarations filed in the Title

³ We understand that Mrs. Starr was raised in the Jewish faith but converted later in life.

⁴ See Mission Statement, Baylor University, *available at* <https://www.baylor.edu/about/index.php?id=88781>.

⁵ Mr. Urdaneta did not show for his deposition scheduled for December 10, 2019.

IX litigation. We also spoke with attorneys for Baylor in the Title IX litigation that interviewed Mr. Klepper and Mr. Urdaneta immediately after the allegations came to light during Mr. Hill's deposition. Those attorneys related to us what they heard from the two men during the interviews.⁶ Later, Mr. Klepper provided testimony in a deposition in the Title IX litigation and produced documents in response to discovery requests in the Title IX litigation. Mr. Urdaneta, on the other hand, failed to appear at his deposition noticed for December 10, 2019 in the Title IX litigation.

In response to written requests made to their attorneys, both Mr. Klepper and Mr. Urdaneta refused to sit for an interview with us. The attorneys for both men responded to Ashcroft that their clients may be willing to respond to written questions from Ashcroft. We did not pursue that possibility further, as answers to written questions are not normally helpful to us. Parties responding to written questions are not under oath or penalty of perjury, are not responding in-person where we can observe them and judge their credibility, and most often allow their written responses to be drafted and/or edited by their attorneys.

After our review of the statements by the four men, as well as associated documents, this report analyzes the evidence, noting the conflicts among the various accounts and considering the potential biases of each person. We draw conclusions about the credibility and likelihood of each man's statements.

We conclude the report with our finding that Messrs. Willis and Peña did not make the statements attributed to them, nor become intoxicated, while in Querétaro, Mexico in July 2014.

III. Primary Questions to be answered by the Independent Investigation

- A. Did Richard Willis or Ramiro Peña make racist, sexist, or anti-Semitic remarks during a trip to Querétaro, Mexico in July 2014?
- B. Did Richard Willis or Ramiro Peña drink to the point of intoxication during a trip to Querétaro, Mexico in July 2014?

IV. The Independent Investigative Team

Johnny Sutton and the law firm of Ashcroft Sutton Reyes LLC ("Ashcroft") were engaged by Baylor to perform the investigation. Ashcroft used a team of its attorneys to accomplish its investigation. All members of the team have extensive investigative experience:

- Johnny Sutton, Partner, Ashcroft Sutton & Reyes. Mr. Sutton led the investigative team. Mr. Sutton is the former U.S. Attorney for the Western District of Texas, serving in that position from 2001 to 2009 under the George W. Bush administration. Prior to

⁶ While helpful, these interviews took place before the attorneys for Baylor in the Title IX litigation had the opportunity to obtain documents from either Mr. Klepper or Mr. Urdaneta and thus many questions that arose later were not posed to Mr. Klepper or Mr. Urdaneta during those initial interviews. With the benefit of documents and subsequent deposition testimony, we would have been able to explore the men's allegations with greater precision and depth if they had sat for interviews with Ashcroft.

serving as the U.S. Attorney, Mr. Sutton served in various roles in federal and state government: Associate Deputy Attorney General in the U.S. Department of Justice in Washington, D.C.; Criminal Justice Policy Director under then Governor George W. Bush; and as a chief prosecutor for the Harris County District Attorney's Office. He is a graduate of both the University of Texas at Austin and University of Texas Law School. A more comprehensive biography of Mr. Sutton is available online at <https://ashcroftlawfirm.com/professionals/johnny-sutton/>.

- Chris Peele, Partner, Ashcroft Sutton & Reyes. Mr. Peele is a former Assistant U.S. Attorney for the Western District of Texas and Trial Attorney with the U.S. Department of Justice in Washington, D.C. Prior to his government service, Mr. Peele practiced commercial litigation with the law firm of Vinson & Elkins. He is a graduate of both the University of Texas at Austin and University of Texas Law School. A more comprehensive biography of Mr. Peele is available online at <https://ashcroftlawfirm.com/professionals/christopher-peeel/>.
- Austin R. Nimocks, Partner, Ashcroft Sutton & Reyes. Mr. Nimocks is a former Special Counsel and Associate Deputy Attorney General for Special Litigation in the Executive Administration of Texas Attorney General Ken Paxton. Prior to joining the Texas Attorney General's Office, Mr. Nimocks served as Senior Counsel for Alliance Defending Freedom in Washington, D.C., before which he served as a public defender and private attorney in Biloxi, Mississippi. Mr. Nimocks earned his undergraduate and law degrees from Baylor University. Following law school, he clerked for Presiding Judge Roger H. McMillin, Jr. of the Mississippi Court of Appeals. A more comprehensive biography of Mr. Nimocks is available online at <https://ashcroftlawfirm.com/professionals/austin-r-nimocks/>.

Ashcroft's main point of contact with Baylor was Chris Holmes, General Counsel to Baylor University. The General Counsel's office advised that any materials, witnesses, or information within the control of Baylor University would be made available to Ashcroft, if requested.

At no time did any employee or representative of Baylor University, nor any third-party, attempt to guide or direct our investigation. The findings and conclusions presented herein are ours and ours alone.

V. The Scope of the Independent Investigation

We investigated this matter from January 2019 through January 2020. During that time, we interviewed three witnesses. The witnesses were: Richard Willis, Ramiro Peña, and a man who identified himself as Marco Polo Resendiz Diaz. The interviews of Richard Willis and Ramiro Peña were conducted in person by at least two members of the investigative team, each of whom independently asked questions and took notes. The interview of Mr. Resendiz Diaz was conducted by Mr. Sutton by telephone. We attempted to conduct interviews of Mr. Klepper and Mr. Urdaneta. Both men, through their attorneys, refused to sit for an interview.

Other than Mr. Resendiz Diaz, we were unable to identify and contact any potential witnesses in Querétaro, Mexico and therefore did not interview any other witnesses there.

We met with counsel for Baylor in the Title IX litigation, Julie Springer, Geoff Weisbart, and Sarah Janes. They relayed to us facts and information they gathered in the course of their work on the Title IX litigation, as well as interviews they conducted of Messrs. Willis, Peña, Klepper, and Urdaneta.

We also reviewed approximately 2,900 pages of documents, consisting of:

- 717 pages of emails and documents produced by Mr. Klepper in the Title IX litigation.
- 26 pages of pleadings and settlement papers filed in the litigation and arbitration between Mr. Klepper's company, Energy and Automation, Inc. (E&A), and Baylor.
- 3-page spreadsheet summarizing gifts and donations to Baylor by Mr. Klepper, his wife, and Mr. Klepper's company.
- 28-page "Contact Report" summarizing Baylor's development efforts with Mr. Klepper.
- 689 pages of material produced by Mr. Peña in the Title IX litigation.
- 3-page "Supplemental Statement" provided to us by counsel for Mr. Peña.
- 576 pages of material produced by Mr. Willis in the Title IX litigation.
- 1-page "Supplemental Statement" provided to us by counsel for Richard Willis.
- 4 photographs of relevant pages in Mr. Willis' passport.
- 2-page letter from Mr. Willis to the Baylor Board of Regents addressing the allegations.
- Various pleadings filed in the Title IX litigation as well as exhibits thereto, totaling approximately 300 pages. Among those pleadings and exhibits were the Affidavit and Declaration of Mr. Klepper and the Declaration of Mr. Urdaneta.
- 13-page "Findings of Fact" document produced by the Pepper Hamilton law firm after its investigation of Baylor University.
- 54-page Answer filed by Baylor in response to a defamation lawsuit filed by Colin Shillinglaw against Baylor University.
- Various media reports regarding the Pepper Hamilton report, the Title IX litigation, Coach Art Briles, Mr. Klepper, and related matters.
- Mr. Klepper's Facebook posts.
- 297-page transcript (and corresponding video) of Mr. Klepper's July 1, 2019 deposition in the Title IX litigation.
- 99-page transcript of Mr. Peña's deposition in the Title IX litigation.
- 83-page transcript of Mr. Hill's deposition in the Title IX litigation.

VI. Investigative Results

A. The Trip to Querétaro, Mexico

Querétaro, Mexico (formally known as Santiago de Querétaro) is approximately 130 miles northwest of Mexico City, in the Mexican state of Querétaro. The greater metropolitan area has a population of approximately 1,100,000 people. It has a growing industrial sector and lies along the main federal highway that leads north to San Luis Potosi, Monterrey, and eventually the U.S. port of entry at Laredo, Texas.

While there was some initial uncertainty among the witnesses regarding the exact dates of the trip at issue, our review of receipts from the trip and date stamps in Mr. Willis' passport confirm that that Messrs. Klepper, Peña, and Urdaneta arrived in Querétaro on July 29, 2014, while Mr. Willis arrived on July 30, 2014. All of them left on the same day, August 1, 2014.

B. Richard Willis

Johnny Sutton and Chris Peele interviewed Richard Willis in the Ashcroft offices in Austin, Texas on March 1, 2019. His attorney, Ryan Squires of Scott Douglass & McConnico LLP, was present. Mr. Sutton led the interview, but both he and Mr. Peele asked questions and took their own notes of the interview. The synopsis that follows is not a transcript of the interview, nor does it encompass every question asked and answered. Instead, it represents a summary of the facts we found relevant to making our determination in this investigation. Further, we supplement Mr. Willis' statements during his interview with a written statement dated February 25, 2019, which he specifically affirmed as accurate during his interview.

Explanation of Legal Relationships and Privilege Issues

Mr. Sutton explained to Mr. Willis that Ashcroft was hired by Baylor to conduct the investigation, and that the firm did not represent Mr. Willis' interests. Mr. Sutton further explained that the investigation and its results were protected by the attorney-client privilege between Baylor and the law firm, and that it was up to Baylor if it decided to publicly release any or all of the investigative results – Mr. Willis would have no control over such release. After acknowledging these terms, Mr. Willis was still willing to be interviewed.

Personal Background

Mr. Willis was born in Oregon. He lived in Maryland, Oklahoma, and Idaho during his childhood. He completed junior high and high school in Idaho. He obtained his undergraduate and master's degrees at Baylor, graduating with his MBA when he was 21 years old.

Mr. Willis' first job after graduating from Baylor was with a Christian book and record company named The Word, located in Waco. He then went to work for one of ABC's magazine subsidiaries in New York City. He worked for various magazine companies in New York City, then Pennsylvania, Oregon, Cleveland, and then returned to New York City. In 1995, he took a job with Robert E. Peterson, a wealthy individual who bought a magazine company. Mr. Willis served as the CFO for the magazine company, and eventually it was sold. He then became involved with the private equity firm that bought the magazine company. He moved to Los Angeles and ran the magazine for the private equity firm. It eventually went public and was later sold for a significant profit. After that, his career has consisted of being brought into companies that are in poor financial condition, turning them around, and selling them.

Mr. Willis has been married to his wife for 37 years (as of the date of the interview), and they have three grown children. For a while, he and his family moved every time the company he was working for was sold and he took on a new project. Eventually they settled in Colleyville, Texas. At that point, his children were in middle and high school, so he started commuting so his family did not have to move again. Currently, he and his wife split their time between their homes in Waco, Texas and Boulder, Colorado.

Mr. Willis currently runs a pharmacy chain. He claims that the allegations against him are hurting his business interests.

Background with Baylor

Aside from his time as an undergraduate and graduate student, Mr. Willis' role as an active alumnus began around 1989, when he and his wife donated to Baylor after he received a bonus from work. From that point on, they donated every year, although the amounts varied. They made a one-time donation to hire a professor, donated money to build Baylor's Willis Family Equestrian Center, and have funded seven or eight Baylor scholarships. He estimates that they have donated around \$5 million to Baylor since 1989.

Mr. Willis became a Baylor Regent in 2010 and served as Chair of the Board of Regents from 2012–2016. He noted that, during his time as Chair of the Board, he dealt with more operational details than may be customary for a Board Chair. Mr. Willis attributes this deviation to the fact that the President of the University during Mr. Willis' tenure, Judge Ken Starr, was a first-time university president. However, Mr. Willis also noted that Judge Starr was good with people and had a good supporting team around him, so things generally went smoothly.

Relationship with Ramiro Peña

Mr. Willis met Mr. Peña while on the Baylor Board of Regents. They served on the Board together for approximately three years. Mr. Willis got to know Mr. Peña well sitting together in a luxury box at Baylor football games. They are still good friends and see each other once about every six weeks. Mr. Willis also shared that he does not believe that Mr. Peña and Judge Starr are fond of each other. He asserts that, one time, Judge Starr declined to ride on a private flight with Mr. Peña when Baylor representatives flew to meet Rev. Billy Graham and present him with an award.

Mr. Willis explained that he once loaned Mr. Peña money to help cover payroll taxes regarding Mr. Peña's sandwich shop, WiseGuys. Mr. Peña blamed the shortfall on a bad manager he hired. (See below in section discussing Mr. Peña's interview.) Mr. Willis did not initially recall the amount of the loan, but when shown an email referencing the loan amount, he agreed it was \$35,000. He stated that he has not been paid back and is not sure if he will get paid back. Mr. Willis did not seem to care if Mr. Peña repaid the loan. Mr. Willis stated that, because of this loan, and because he sometimes donates small amounts (\$500–\$1,000) to Mr. Peña's church, there was a time while he was Board Chair that he felt he could not appoint Mr. Peña as the Chairman of the Athletics Committee for the Board of Regents. He also stated that his son worked at Mr. Peña's sandwich shop for a while in 2014.

Relationship with Greg Klepper

Mr. Willis met Mr. Klepper when Clifton Robinson (a well-known businessman in Waco) asked Mr. Willis to evaluate Mr. Klepper's LED company, PRUF, because Mr. Robinson's son invested money with the company as part of a group of investors. According to Mr. Robinson, his son and the other investors were not very happy with Mr. Klepper, and vice versa. Mr. Willis recalls that the investor group owned about 50% of the LED company.

Per Mr. Robinson's request, Mr. Willis visited the LED company's manufacturing facility,

reviewed the company's business, and reported back to the board of the company. Mr. Willis told the group, including Mr. Klepper, that there were not enough sales being made, that Mr. Klepper could not close sales, and that the company could not compete with LED lights being made in China. Mr. Willis suggested to the group that they needed to buy Mr. Klepper out of his ownership of the company. They did that. This occurred in 2014, not long before the trip to Querétaro, Mexico.

Mr. Willis does not believe that Mr. Klepper was angry with him for recommending that he be bought out of PRUF. Mr. Klepper received payment from the buyout, and Mr. Klepper was not happy with the investor group. Prior to learning of Mr. Klepper's allegations regarding the trip to Mexico, Mr. Willis did not believe Mr. Klepper held any animus toward him.

Mr. Willis does not dispute Mr. Klepper's claims that he and Mr. Willis only interacted three times: (1) when Mr. Willis visited the LED company's manufacturing facility, (2) at a business meeting regarding PRUF hosted by Mr. Willis, and (3) the trip to Querétaro, Mexico.

Mr. Willis told Ms. Springer that Mr. Klepper often made vulgar or lewd comments. As an example, he related that Mr. Klepper claimed to meet President Bill Clinton. Regarding this meeting, Mr. Klepper said, "I don't know if Ken Starr would give Bill Clinton a bl**job, but he'd sure keep someone's d*ck warm."

Relationship with Alejandro Urdaneta

Mr. Willis did not know Mr. Urdaneta before meeting him on the trip to Querétaro, Mexico.

Trip to Querétaro, Mexico

Mr. Willis first heard of a possible trip to Querétaro, Mexico when Mr. Peña told him about it. At the time, Mr. Willis was already planning his own trip to Querétaro to visit the company he was running (a company named "Speed Commerce"), so he agreed to arrive in Querétaro a day early and accommodate the request to spend time with Mr. Peña and Mr. Klepper before completing his planned activities with his company.

Mr. Willis told Ms. Springer that Mr. Klepper specifically asked him to invest in Mr. Klepper's business. Mr. Willis explained to us that he did not have any interest in Mr. Klepper's business and that he was not going to be a part of any sale or transaction involving Mr. Klepper's business. Mr. Willis did think that Mr. Peña was trying to be a part of whatever business Mr. Klepper generated in Mexico. In Querétaro, Mr. Willis attended events with Mr. Klepper and Mr. Peña just to be nice, since they invited him.

Mr. Willis departed from the Dallas/Ft. Worth airport on July 30, 2014 at around 8:15 p.m. on a direct flight to Querétaro that takes approximately 2.5 hours. He did not fly until the evening because of other business in Dallas during the day. He arrived in Querétaro at around 10:30 p.m., which was when that flight usually landed. (Because of his business in Querétaro, he was very familiar with that flight.) Upon landing, Mr. Willis went to the hotel where Mr. Klepper and Mr. Peña were staying and went to Mr. Klepper's suite. When he arrived at Mr. Klepper's suite, Mr. Peña, Mr. Urdaneta, and Mr. Klepper were already there. He did not remember anyone else being there. This was the first time he met Mr. Urdaneta.

Mr. Klepper's suite had a small living area. He recalls eating some food. It was light fare, and he thinks it was maybe chicken fingers. Mr. Willis thinks some of the others present may have had a beer or a glass of wine. He did not drink. He does not believe anyone was drunk. They did not stay up late. Mr. Willis believes they talked for about an hour and then went to bed. Mr. Willis stayed at the same hotel that evening.

Mr. Willis specifically denied the statements Mr. Klepper alleged were made in the hotel suite. He stated there were no racist, sexist, or lewd statements made by anyone in the hotel suite that evening or at any time during the trip. He stated that no one in the suite that evening discussed Baylor, the Baylor football program or its players, Coach Art Briles, Judge Ken Starr, Judge Ken Starr's wife, or female students at Baylor.

The next morning, on July 31, 2014, Mr. Willis joined Messrs. Klepper, Peña, and Urdaneta for a late breakfast at the hotel restaurant. He recalled that Mr. Klepper kept asking him how he could pay bribes to his customers in Mexico without getting in trouble, and Mr. Willis advised Mr. Klepper that he shouldn't do that because he could get in a lot of trouble. He further advised Mr. Klepper that he could consider offering customer rebates for ordering certain volumes of goods, but that he would have to be up front and open about the discount program. After breakfast, Mr. Willis went back to his room at the hotel and worked from there until about 4 p.m. At that time, he met with Messrs. Klepper, Peña, and Urdaneta again, after which they left the hotel to attend a dinner at someone's home.

He does not know the address of the house where it was held. He recalls that the group was driven to the house by a private driver. He also recalls that the house was located on a hill, with a very nice view of the city below it. The house itself was very nice, having been remodeled inside, with a large backyard, a flower garden, and a wine cellar that the host showed to the guests while they were there. There were large trees in the backyard and the dinner took place on tables set up in the backyard. The tables were three or four standard rectangular plastic tables with folding legs. Dinner was "self-serve" with three or four different types of meat served. Mr. Willis recalls someone telling him they were local dishes.

Mr. Willis does not recall the identity of the host of this dinner but remembers some details about him. The host was a friendly man in his late forties or early fifties. He was well dressed and appeared to be wealthy based on his clothing and overall appearance. He does not remember the nature of the host's business or career. The host spoke English well. Mr. Willis believes that the host was connected to the group through Mr. Urdaneta's father.

The host gave them a tour of the house, gardens, and wine cellar. The wine cellar was large enough to walk into. The house was large, about 4,000–5,000 square feet in his estimation. He recalls large beams running across the ceiling.

There were approximately 15–20 people, all men, present for the meal. Mr. Willis sat between the host and Mr. Peña. Mr. Klepper and Mr. Urdaneta sat at the same table for about half the dinner. Mr. Willis spoke mainly to the host and to Mr. Peña. At some point during the conversation with the host, Mr. Willis recalls the subject of Hawaii coming up. He and his wife own a house on the island of Lanai in Hawaii, and he recalls telling the host that if he wanted to stay at the house, he was welcome to do so. (Mr. Willis indicated that they often invite people to stay at their home in Hawaii, and many take them up on the offer.)

Mr. Willis confirmed that people at the party were drinking wine, and he does not recall anyone getting drunk. He found it unlikely anyone got drunk, because he believed that the men present worked for the host, and because Mr. Klepper was trying to conduct business – so all of them had good reason not to get drunk. He stated that no one was asked to leave the party.

Mr. Willis drank some wine, probably between one-half to a full glass. He does not drink red wine because it gives him a migraine headache. He thinks the host poured both red and white wine, because the host was “really into wine.” He would have taken a sip of the red wine to polite but would not have drunk anymore. Mr. Willis denies being drunk. He stated that he does not drink much, and that the last time he was drunk he was about 25 years old. The most he has had to drink in any one instance since that time was two beers on his 50th birthday.

The same private driver drove them back to the hotels from the dinner party. In the car were Messrs. Klepper, Peña, Willis, Urdaneta, and the driver. Mr. Willis brought his bags to the dinner party, so he could be dropped off at a different hotel where he would be staying for the rest of his trip. (Mr. Willis’ hotel was not as nice as the hotel where Mr. Klepper reserved rooms, but it was more convenient for him because it is within walking distance to the company in Querétaro that he was running at that time.) Mr. Willis does not recall any conversation in the car on the way back to the hotels and denies making the alleged racist, anti-Semitic, or sexist comments. Mr. Willis was dropped off at his hotel. He does not recall if he was dropped off first or after the others were returned to their hotel.⁷

The next day, August 1, 2014, Mr. Willis went to the offices of the company he was running, Speed Commerce. He visited with his employees, ate lunch with them, and then went to the Querétaro airport sometime in the afternoon or evening. He does not remember if Messrs. Klepper, Peña, or Urdaneta were on the flight back to Texas with him.

At the end of the interview, we asked Mr. Willis to review the sworn statements executed by Mr. Klepper and Mr. Urdaneta in the Title IX litigation against Baylor. Mr. Willis stated that, with respect to Mr. Klepper’s affidavit, the last sentence of paragraph 3 and all of paragraphs 4–8 were false. (These are the portions of Mr. Klepper’s affidavit where he alleged that Mr. Willis made various inappropriate comments and that his behavior caused the host of the dinner party to ask them to leave.) Mr. Willis stated that, with respect to Mr. Urdaneta’s declaration, the last sentence of paragraph 2 was incorrect (because Mr. Peña was not on the Board of Regents of Baylor at that time) and that all of paragraphs 3–7 were false. (These are the paragraphs that allege Mr. Willis made various inappropriate comments.)

We also asked Mr. Willis to review a document created by Mr. Klepper purporting to chronicle statements by Mr. Willis and Mr. Peña during their time in Querétaro. (Klepper Depo. Ex. 26.) Again, Mr. Willis stated that all the statements Mr. Klepper attributes to him on that document are false. Mr. Willis went on to note that at the time of the trip to Mexico in July 2014, there were no allegations of misconduct or mismanagement by Judge Starr or Coach Art Briles, thus negating any reason or motive for him to say anything negative about Judge Starr, his wife,

⁷ We note that during his interview with Ms. Springer, Mr. Willis stated that Mr. Klepper often would complain about the incident with Mrs. Starr at the 2012 NCAA Women’s Basketball National Championship game and that Mr. Klepper repeated that complaint at some point during the trip Mexico. When we asked Mr. Willis about statements regarding Mrs. Starr, Mr. Willis stated the subject never came up in Mexico.

or Art Briles.

We asked Mr. Willis why he thought Mr. Klepper accused him of saying these things. Mr. Willis suspects that these allegations stem, at least in part, from his role in the departures of Coach Art Briles, Athletic Director Ian McCaw, and Mr. Klepper's friend, Tom Hill, from Baylor, as well as the demotion and subsequent departure of Judge Ken Starr from the University. Mr. Willis states that the decisions associated with these individuals were difficult and complicated for both him and others involved, but he believes they were the correct response to the circumstances the University was facing at the time. He understands many people, including influential alumni, do not agree with many of those decisions. He suspects that Mr. Klepper is among those upset about these personnel decisions and that he may also be influenced by alumni who were (or remain) upset about various personnel decisions.⁸ Mr. Willis also believes that Mr. Klepper made these specific allegations because Mr. Willis was virtually isolated with Mr. Klepper in a foreign country, thus making the allegations hard to disprove.

We asked Mr. Willis if he had ever been accused of making racist, sexist, anti-Semitic, or other similarly inappropriate comments. He said "no," and stated he was not aware of anyone ever accusing him of such things.

We asked Mr. Willis if there was anything else we should know. He stated that Mr. Peña mentioned to him that Mr. Urdaneta said inappropriate things during the trip. Mr. Willis was unsure what Mr. Urdaneta said, because he did not hear it. He recommended we speak with Mr. Peña about it.

C. Ramiro Peña

Johnny Sutton, Chris Peele, and Austin R. Nimocks interviewed Ramiro Peña in the Ashcroft offices in Austin, Texas on March 5, 2019. His attorney, Ryan Squires of Scott Douglass & McConnico LLP, was present. Mr. Sutton led the interview, but he, Mr. Peele, and Mr. Nimocks asked questions and took their own notes of the interview. The synopsis that follows is not a transcript of the interview, nor does it encompass every question asked and answered. Instead, it represents a summary of the facts we found relevant to making our determination in this investigation.

We also were provided a supplemental written statement by Mr. Peña from his attorney. Similarly, we were provided with a copy of the deposition transcript from Mr. Peña's deposition taken in connection with the Title IX litigation against Baylor. Where indicated, we note when facts are drawn from those sources, or where interview responses are corroborated or contradicted by other information.

Explanation of Legal Relationships and Privilege Issues

Mr. Sutton explained to Mr. Peña that Ashcroft was hired by Baylor to conduct the investigation, and that the firm did not represent Mr. Peña's interests. He further explained that the investigation and its results were protected by the attorney-client privilege between Baylor and

⁸In his two-page letter to the Baylor Board of Regents following Mr. Klepper's allegations becoming public, Mr. Willis publicly and vehemently denied Mr. Klepper's allegations and gave the same explanation. See <https://baylorliariat.com/2018/10/02/baylor-investigates-former-board-of-regents-chair-richard-willis/>.

the law firm, and that it was up to Baylor if it decided to publicly release any or all of the investigative results – Mr. Peña would have no control over such release. After indicating that he understood this, Mr. Peña was still willing to be interviewed.

Personal Background

Mr. Peña was born in 1964 in Corpus Christi, Texas. He was raised in Temple, Texas. Both of his parents are from Laredo, Texas. His father graduated from Baylor and his mother graduated from Howard Payne University. Mr. Peña graduated from Temple High School. He attended one year at Temple Junior College and then transferred to Baylor. He attended Baylor from 1983 to 1986 but left while one credit short of his undergraduate degree to enter a two-year training program in pastoral counselling. He later returned to Baylor, completed his final credit, and received his baccalaureate degree.

Later, while employed by Baylor, he took classes to earn an MBA. He is two courses shy of receiving his MBA from Baylor. Mr. Peña is conversationally fluent in spoken Spanish, giving himself an 8 out of 10 for fluency. He is not as strong in his reading and writing of Spanish and, if asked to author something in Spanish, he would ask someone else to compose it to ensure its grammatical accuracy.

Mr. Peña began his career as a pastor in 1984 at a small church named Templo Bautista. He was licensed and ordained in 1985 at the Goodwill Mexican Baptist Church in Temple, Texas. The church was a part of the Baptist General Convention of Texas as well as the Hispanic Baptist Convention. He also performed one year of pastoring at Scott & White Hospital.

In 1986, he married his wife, Orphalinda. They have three children. His 30-year-old daughter is a Baylor graduate and a social worker in Houston. His 28-year-old daughter is a University of Texas Health Science graduate and a registered nurse. His 26-year-old son is a Baylor graduate and a CPA with a major accounting firm.

In addition to full-time pastoring, Mr. Peña invested in a local sandwich shop in Waco named WiseGuys. His business partner was supposed to run the business and allow Mr. Peña to be a silent investor. But the partner did a poor job, leading Mr. Peña to take over operations and eventually shut the business down.

Mr. Peña suffers from poor heart health and has had five surgeries since 2008 to put in five different stents.

Asked about his use of alcohol, Mr. Peña mentioned that he previously suffered from depression and implied that he had some drinking issues at those times. He stated that he does not consume as much alcohol as he used to because of these health concerns. When pressed on this issue, he acknowledged past problems with alcohol, but stated he does not currently struggle with alcohol abuse.

Background with Baylor

In 1990, Mr. Peña was offered a job at Baylor as the Hispanic Liaison Officer doing public relations work focused on recruiting Hispanic students. After six months, he took over as the Director of the Office of School Relations in charge of all student applications. His office greatly

increased the number of applications during his tenure. In 1995, Robert Sloan became the President of Baylor, at which time Mr. Peña became an advisor to President Sloan. In 1996, Mr. Peña returned to full-time ministry.

In 2005, Mr. Peña was asked to serve on the Board of Regents at Baylor. He attributes his candidacy for the position to the time he spent working with President Sloan. Mr. Peña did not know anyone on the Board at that time. Mr. Peña noted that he felt a bit like a “fish out of water” because other Board members were mostly successful or wealthy businessmen and women who donated a lot of money to Baylor. He noted that his inclusion as a Regent fulfilled the roles of pastor and Hispanic, a demographic the Board wanted.

Mr. Peña served for nine years on the Baylor Board of Regents – three consecutive 3-year terms – from June 2005 through May 2014. (Baylor’s fiscal year runs from June 1 to May 31.) The Board varied in size while Mr. Peña was on it, ranging from approximately 17–18 people all the way to somewhere in the high 30’s.

Relationship with Richard Willis

Mr. Peña met Richard Willis through their time on the Board of Regents together. Mr. Willis came onto the Board after Mr. Peña. They spent time together at football games and had dinners together. They never traveled or vacationed together, other than the trip to Querétaro, Mexico and a trip they made to meet Rev. Billy Graham and give him an award on behalf of Baylor. Mr. Peña describes Mr. Willis as smart, gregarious, kind, and thoughtful.

At one point, Mr. Willis loaned Mr. Peña \$35,000. Mr. Peña said he took the loan, so he could expand and improve his WiseGuys sandwich shop. During his interview with Ashcroft, Mr. Peña told us that he has not paid that loan back, but he does not believe the loan has been forgiven. This representation was slightly different from how he answered questions about the loan during his deposition; he stated in his deposition that he could not remember how much he paid back or whether the loan was forgiven. (Peña Depo. 92:15–93:6.)

At one point, the loan became relevant to Mr. Peña and Mr. Willis’ Board service because Mr. Peña was hoping to be named the head of the Board’s Athletic Committee. (Mr. Peña previously served as a member of that committee.) At that time, Mr. Willis served as the Board’s Chair and therefore appointed the various committee chairs. Mr. Willis consulted with in-house counsel at Baylor about whether the business dealings between him and Mr. Peña – the loan – created a conflict of interest or the appearance of one. Mr. Willis concluded that a potential conflict existed and, thus, did not name Mr. Peña as Chair of the Athletic Committee. Mr. Peña did not believe that a conflict of interest existed but told us that he understood the decision. He stated there were no hard feelings between him and Mr. Willis over that decision.

Relationship with Greg Klepper

(Many of these details were contained in the written Supplemental Statement Mr. Peña provided on February 26, 2019 through his lawyer.) Mr. Peña first met Mr. Klepper through Pete Rowe, a Baylor Athletics employee. Mr. Peña thinks this was in the mid-2000’s, when Guy Morriss was the Head Coach of the Baylor football team. Mr. Peña thinks he was serving as a Regent at the time he met Mr. Klepper.

When they met, Mr. Klepper told Mr. Peña he was a Baylor athletics supporter, that he did work at the Ferrell Center (Baylor's basketball/volleyball arena), and that he loaned a private plane to various Baylor coaches and Baylor President, Judge Ken Starr.

Mr. Peña and Mr. Klepper frequently interacted at Baylor sporting events, and they also occasionally traveled to Baylor games that were out-of-town. For example, Mr. Peña and Mr. Klepper traveled on a private plane to San Antonio when the Baylor football team played in the Alamo Bowl in 2011. They and their wives, along with Tom Hill and his wife, had dinner together on that trip. Mr. Peña and Mr. Klepper (and their wives) took another trip on the same private plane in 2012 when they traveled to Denver, Colorado for the NCAA Women's Basketball National Championship game.

Outside of Baylor sporting events, Mr. Klepper and Mr. Peña personally socialized. Mr. Klepper took Mr. Peña on two fishing trips, one in West Texas and one in South Texas. Mr. Klepper also gave Mr. Peña a rifle. (Mr. Peña noted the rifle was subject to a recall and he did not really want it.) Mr. Klepper and Mr. Peña had lunches together in Waco at the Baylor Club and other locations. Mr. Peña and his wife attended several outdoor cookouts at Mr. Klepper's home on Sunday evenings. Mr. Peña and his wife would also visit Mr. Klepper's house to pray over his sick daughter, Haley. Mr. Klepper attended a Texas Rangers baseball game in Arlington, Texas with Mr. Peña, Mr. Peña's son, and another person. Mr. Klepper attended Mr. Peña's 25th wedding anniversary celebration. Mr. Peña attended the funeral of one of Mr. Klepper's parents. Mr. Peña agreed that he had a "close relationship with [Mr.] Klepper."

Mr. Peña stated that Mr. Klepper was often graphic and vulgar when speaking about women. For example, Mr. Peña shared one instance where Mr. Klepper described certain sexual acts he wanted to participate in with a female Baylor employee.

They also interacted about business opportunities, primarily as Mr. Klepper sought business and investors for his lighting company, but also regarding Mr. Peña's business projects. Examples:

- Mr. Peña introduced Mr. Klepper to many Baylor Regents, including Dary Stone, Buddy Jones, Joel Allison, William Robbins, and Clifton Robinson.
- Mr. Peña attended several meetings at Mr. Klepper's offices with a representative of William Robbins as Mr. Robbins evaluated investment opportunities with Mr. Klepper.
- Mr. Peña introduced Mr. Klepper to Judge Ken Starr in a private meeting at Judge Starr's office on the Baylor campus. Mr. Klepper often made available to Judge Starr what he characterized as "his plane." Such offers were generally made through Mr. Peña to Judge Starr.
- Mr. Peña introduced Mr. Klepper to various directors at Alliance Bank in Waco.
- At Mr. Klepper's request, Mr. Peña attempted to introduce Mr. Klepper to Drayton McLane several times. Mr. Klepper wanted to talk to Mr. McLane about potential investment opportunities.
- Mr. Klepper outfitted Mr. Peña's church with LED lighting and wanted to use the church as a showroom for his lighting products.
- Mr. Klepper loaned Mr. Peña money to flip a house.
- Mr. Klepper did electrical work at the sandwich shop owned by Mr. Peña. Mr. Peña

paid him for the work.

- At various points prior to the trip to Querétaro, Mexico in 2014, Mr. Klepper offered employment to Mr. Peña, which Mr. Peña declined. Mr. Peña explained he did not want a full-time job but was happy to make introductions for Mr. Klepper and maybe work on a few small business projects.

During his interview, Mr. Peña was shown an email thread among Mr. Willis, Mr. Klepper, and himself dated May 11–12, 2013, discussing what appeared to be business opportunities. Mr. Peña could not remember exactly what they were discussing, as it is not clear in the email itself, but Mr. Peña construed the email thread as evidence of Mr. Klepper trying to establish business opportunities with Mr. Willis.

Prior to the trip to Querétaro, Mexico, in approximately April 2014, Mr. Klepper contacted Mr. Peña regarding the Baylor football stadium project. Mr. Klepper's company received a contract to run audio/video cabling in the stadium. According to Mr. Klepper, the stadium project was behind schedule for reasons beyond his control, but that his company was being pushed to double their manpower to get the project back on schedule. In an April 17, 2014 email, Mr. Klepper told Mr. Peña about these problems and asked him for help to avoid what Mr. Klepper thought would be an ~\$200,000 loss for his company. Mr. Peña said he normally forwarded such emails to Mr. Willis and Reagan Ramsower, the Chief Financial Officer of Baylor at that time.

Mr. Peña's interactions with Mr. Klepper ceased in the weeks following the trip to Mexico. Mr. Peña attributes this to several factors. First, Mr. Klepper commented to Mr. Peña that Baylor was "using" him because, "you're Mexican." Mr. Klepper also told Mr. Peña that immigrant children at U.S. southern border were, "cute as puppies now but will all grow up to be criminals." These comments bothered Mr. Peña.

Mr. Peña and Mr. Klepper's once close relationship was also harmed by what Mr. Peña described as an embarrassing interaction with the leadership of the Baylor University Medical Center of Dallas. Mr. Klepper claimed he knew a "billionaire" Mexican businessman named Joe "Pepe" Perez who wanted to meet with the Baylor hospital leadership to discuss a prospective partnership between Baylor and a hospital in Guadalajara, Mexico. At Mr. Klepper's behest, Mr. Peña arranged for Mr. Perez to meet with the head of the Baylor Healthcare System, Joel Allison.

On the day of the meeting, before it began, Mr. Allison told Mr. Peña that their research indicated that Mr. Perez was not a "billionaire," as Mr. Klepper represented. Mr. Peña asked Mr. Urdaneta, also present for the meeting, about the "billionaire" representation made by Mr. Klepper as they were standing outside the doors of the meeting room. Mr. Urdaneta agreed that Mr. Perez was not a billionaire.

Mr. Peña was embarrassed. He felt he used his position as a Regent to set up a meeting for nothing. He believes that Mr. Klepper misrepresented Mr. Perez's wealth to get an audience with the Baylor hospital leadership to try to sell them his lighting products. When Mr. Peña confronted Mr. Klepper, Mr. Peña said that Mr. Klepper blew it off and said he was told that Mr. Perez was a billionaire and assumed it was true. From that point forward, Mr. Peña did not interact with Mr. Klepper much at all, other than to say hello if they ran into each other at a restaurant in Waco or something of a similar nature.

What Mr. Peña told us about the reasons behind the deterioration of his relationship with Mr. Klepper are inconsistent with his deposition testimony. During his deposition, when asked if there was a specific reason why he and Mr. Klepper do not interact anymore, Mr. Peña stated, “Not particularly.” (Peña Depo. 47:16–17.) Mr. Peña was asked if he knew why Mr. Klepper stopped inviting him on social trips, such as hunting and fishing, and he said he did not know why. (Peña Depo. 48:10–14.)

Relationship with Alejandro Urdaneta

Mr. Peña did not know Mr. Urdaneta before meeting him on the trip to Querétaro, Mexico. Once Mr. Peña met him on the trip, he wondered why Mr. Klepper asked him to translate on the trip, since Mr. Urdaneta could do that. Overall, Mr. Peña’s impression of Mr. Urdaneta was that he was a hard-working young man trying to make money through business deals. Mr. Peña noted that Mr. Urdaneta was young and acted deferentially toward Mr. Klepper, even though Mr. Peña believes that Mr. Urdaneta was an employee of Ben Barnes and not Mr. Klepper.

Trip to Querétaro, Mexico

According to Mr. Peña, Mr. Klepper talked about a trip to Mexico for quite a while before it took place. He kept telling Mr. Peña to tell Mr. Willis that there was a ton of money to be made on LED lights in Mexico. Mr. Peña thinks Mr. Klepper talked about the trip for 6–12 months before they went.

In June 2014, emails began between Mr. Klepper and Mr. Peña regarding specific dates for a trip. Mr. Peña understood that Mr. Klepper wanted him to be on the trip to help translate. He also understood that Mr. Klepper wanted Mr. Willis to be on the trip so Mr. Willis would personally see the business opportunities to sell LED lighting in Mexico and develop an interest in investing in Mr. Klepper’s business. Mr. Klepper told Mr. Peña that if Mr. Willis invested, Mr. Peña would receive some type of payment. Mr. Peña said he did not have any interest in investing his own money into Mr. Klepper’s business plans for Mexico.

Mr. Klepper made the reservations for the trip and paid for Mr. Peña’s travel. Draft itineraries for the trip were circulated by Mr. Klepper, but Mr. Peña believes that Mr. Urdaneta created them and was responsible for setting up the various meetings listed on the itineraries. Mr. Peña also believes that Mr. Urdaneta had the connections with the various people they met with on the trip. When shown the itineraries from the Querétaro trip, and asked about the specific names listed on them, Mr. Peña stated that he did not recognize any of them and did not remember the names of others with whom they met on the trip. All he remembers about the meetings is that the group visited a municipality and a bus depot at night.

When we asked Mr. Peña to walk us through the trip, he stated that he flew into Querétaro on July 29, 2014 on the same flight as Mr. Klepper. He did not remember if they had a meeting, dinner, drinks, or any details of the first evening after arriving in Querétaro.

More generally, Mr. Peña did not recall anyone being drunk, nor did he recall Mr. Klepper encouraging people to drink. He did not recall any of the comments alleged by Mr. Klepper being made by Mr. Willis or himself. He did not recall the any discussion of Baylor football, Coach Art Briles, Judge Ken Starr or his wife, Baylor female students, or racist or sexist topics during the trip. Mr. Peña’s denial of the alleged statements alleged is consistent with his deposition

testimony. (Peña Depo. 58:10–15; 60:3–61:22.)

Mr. Peña does recall Messrs. Klepper and Urdaneta repeatedly talking about visiting a “chichero,” which is Spanish slang for a strip club. He said it became annoying. Mr. Peña eventually told them he did not want to go, but that they could drop him at the hotel and go ahead – he did not want to ruin their fun. Mr. Peña did not know whether Messrs. Klepper and Urdaneta ever went to a “chichero” while in Querétaro.

Mr. Peña recalls Mr. Urdaneta making inappropriate statements about one of the female businesspeople they met with. He found those statements and prior statements regarding making a visit to a chichero contrary in nature to the way Mr. Urdaneta spoke about his dedication to his girlfriend. Mr. Urdaneta talked seriously about marrying his girlfriend and even asked if Mr. Peña might perform the service for them.

Mr. Peña could not recall details of the next day of the trip, July 30, 2019. He thought that was the day the group had dinner at the house of a local businessman. Travel records establish, however, that Mr. Willis did not arrive until after 10 p.m. on the 30th, so that could not have been the night the group ate together at the local businessman’s house.

When asked to describe the dinner at the home of the local businessman, Mr. Peña’s written supplementary statement describes the house as situated on a hill overlooking the city. Mr. Peña did not think he would recognize the house, even if someone showed him a photograph of it. He did recall that the house had a wine cellar that was very beautiful and large, with what appeared to him to be thousands of bottles of wine. He did not recall the host’s name. He assumed the host’s name was Jose Luis because that is what is written on one of the agendas produced by Mr. Klepper and shown to Mr. Peña during his interview. (Klepper Depo. Ex. 2.) He has no independent recollection of the host’s name but recalls him being hospitable.

Mr. Peña stated there were only 10–12 men at the dinner. Mr. Peña believes it was the host, his sons and other young men their age, Mr. Klepper, Mr. Urdaneta, Mr. Willis, and himself at the dinner. They were all seated at one long table in the backyard of the house. This description is consistent with Mr. Peña’s deposition testimony. (Peña Depo. 56:8–21.) However, it differs from Mr. Willis’ memory of the layout and tables for dinner. Mr. Peña stated he was seated to the right of the host, with Mr. Willis and Mr. Klepper seated to his right (although he is not sure which was seated closer to him). Mr. Peña stated he only spoke Spanish with the host and does not recall speaking English. He translated for Mr. Willis and the host. There were many servers preparing and bringing food.

When asked about the consumption of alcohol, Mr. Peña stated he was drinking and estimated that he drank 3–4 glasses of wine over the course of the evening. He stated that he was not drunk from that amount of alcohol. This is consistent with his deposition testimony wherein he stated he drank wine at the dinner. (Peña Depo. 57:4–10.)

When it came to others at the party, Mr. Peña told us he assumed people were drinking but doesn’t recall anything and did not remember Mr. Willis drinking any alcohol. This is consistent with Mr. Peña’s deposition testimony that he could not recall if Mr. Willis was drinking at the

dinner. (Peña Depo. 57:11–12.)⁹ He does not recall anyone at the dinner being drunk, which is also consistent with his deposition testimony that he has never seen Mr. Willis drunk. (Peña Depo. 57:13–16.)

Mr. Peña stated that the subjects of Baylor football, Coach Art Briles, Judge Ken Starr or his wife, Baylor female students, or racist or sexist comments did not come up during the dinner, or on the way back to the hotels. This is consistent with his deposition testimony. (Peña Depo. 58:10–15; 60:3–61:22.)

Mr. Peña told us that no one was asked to leave the party because of drunkenness. This is consistent with his deposition testimony. (Peña Depo. 56:25–57:1.) He asked, somewhat rhetorically, “Why would anyone ask us to leave?” Mr. Peña also noted that there were no women at the party, implying that none of the men could have been acting improperly toward a woman. Mr. Peña did allow that perhaps someone at the party said something along the lines of, “ok, it’s time to go,” but he firmly believes that it was not because of drinking. He also allows that perhaps someone else could have heard the same comment and thought it was a gentle way of “kicking people out” of the dinner.

When they left the dinner party, they returned in the same private vehicle with a private driver. He does not recall the nature of the vehicle or the identity of the driver. Beyond Mr. Peña’s denial that the topics alleged by Mr. Klepper and Mr. Urdaneta did not arise during the ride back to the hotel, he does not recall any specific conversation in the vehicle on the way back to the hotel.

The next morning, Messrs. Peña, Klepper, and Urdaneta all met in the hotel lobby. Mr. Peña recalled Mr. Urdaneta looking sick, and he asked what was wrong. Mr. Urdaneta stated he was hungover. They went to the airport, and Mr. Peña flew back with Mr. Klepper. He believes Mr. Willis was also on the same flight.

When shown an email from that same day, wherein Mr. Urdaneta responded to an email from Mr. Peña with an email address for Jose Luis, Mr. Peña did not remember it. (Klepper Depo. Ex. 24.) He assumed it must be the host of the party whose contact information he was seeking. He does not recall ever sending an email to the host, and a search of his phone during the interview did not reveal any entry for the host.

General Questions for Mr. Peña

When presented with the alleged statements from a document produced by Mr. Klepper (specifically the document titled “RW and RP quotes from 8/21/14”), Mr. Peña stated that the statements attributed to him are false and that he did not make those statements. (Klepper Depo. Ex. 26.) Mr. Peña said that the statements attributed to Mr. Willis are false, as far as he knows. He acknowledged it was possible that Mr. Willis said something he did not hear, but firmly avowed that Mr. Willis would not say the kinds of things alleged by Mr. Klepper.

He also pointed out that the alleged statements about Judge Ken Starr and his wife make no sense because, in 2014, there was no tension between the University and Judge Starr. Tension between the Board and Judge Starr came up later as problems with the Baylor football began to

⁹ As an aside, Mr. Peña stayed at Mr. Willis’ house once and there was no alcohol in the house. He is not sure if Mr. Willis drinks alcohol. Similarly, Mr. Peña told us that he’s not sure if he’s ever seen Mr. Klepper drink alcohol.

become known. Mr. Peña stated that while he had differences of opinion with Judge Starr during his nine years as a Regent, those differences of opinion never rose to a level of animosity.

We asked Mr. Peña to review the affidavit Mr. Klepper provided in the Title IX litigation against Baylor. (Klepper Depo. Ex. 3.) Again, Mr. Peña told us the statements attributed to him are false and that he never said those things. With respect to the statements attributed to Mr. Willis, Mr. Peña stated that he never heard Mr. Willis say those things and does not believe Mr. Willis ever would say those things.

We asked Mr. Peña to review the declaration Mr. Urdaneta provided in the Title IX litigation against Baylor. He, again, denied making any of the alleged statements attributed to him and denied hearing Mr. Willis make any of the statements attributed to Mr. Willis. He also noted that Mr. Urdaneta's declaration was inaccurate in that it claimed Mr. Peña and Mr. Willis were on the Mexico trip in a purely social sense. Mr. Peña states Mr. Klepper was trying to get Mr. Willis to invest in his lighting business and offered to pay Mr. Peña if it happened, so they had a business purpose for being in Querétaro. Mr. Peña also notes that, contrary to Mr. Urdaneta's declaration, he was not a Regent at the time of the trip to Querétaro.

We asked Mr. Peña to review a post Mr. Klepper made on the Facebook page of Mr. Peña's church, Christ the King on February 12, 2017. The post states, "Quettero [sic] Mexico what a time there with Romero [sic] and Richard Willis the Chair of the Baylor Board of Regents at that time. Got to see and hear some things those few days with several other friends that really was eye opening." Mr. Peña did not see the post at the time but was later made aware of it by counsel in the Title IX litigation against Baylor, Ms. Springer. He could not recall if he saw the actual post or whether Ms. Springer just described it for him. Mr. Peña did not know why Mr. Klepper made the post.

When asked why he believed Mr. Klepper made the allegations about him and Mr. Willis, Mr. Peña offered several prospective reasons. First, Mr. Peña stated that he thinks Mr. Klepper has a lot of animosity toward Mr. Willis for his role in the actions that led to the parting of ways between the University and Art Briles, Tom Hill, and Ian McCaw. In this regard, Mr. Peña also suspects that Mr. Klepper was talking to other Baylor alumni that still support Art Briles and other former Baylor employees, told those alumni that he had some negative information regarding former Regents (especially Mr. Willis), and that perhaps that crowd made him feel important and encouraged him to come forward with his story. Mr. Peña believes that is why most of Mr. Klepper's allegations are about Mr. Willis and not Mr. Peña.

Second, Mr. Peña believes Mr. Klepper has actual hatred toward Alice Starr, based on the interaction between them following the 2012 NCAA Women's Basketball Championship game. (When the Lady Bears won the game, they took Klepper's sick daughter onto the court with them for the post-game celebration because she had become an unofficial mascot for the team that year. Mr. Klepper and his wife followed to keep an eye on their disabled daughter, and Mrs. Starr allegedly told them to leave the court in a mean or unfriendly way.)

Mr. Peña noted the statements alleged are the types of things Mr. Klepper himself would say. He stated that Mr. Klepper is very vulgar and loud, especially when discussing women. According to Mr. Peña, in 2012, when Mrs. Starr told Mr. Klepper he could not go onto the basketball court with his daughter, it was Mr. Klepper that used the term "Jew b*tch" to describe

Mrs. Starr. During our interview, Mr. Peña became animated and showed emotion about how the allegations by Mr. Klepper bothered him, but he never used vulgar terms or cursed. At worst, Mr. Peña called Mr. Klepper a “bit of a bubba.”

Mr. Peña was not aware of any direct financial harm he suffered from Mr. Klepper’s statements but acknowledged it was emotionally hurtful to have false accusations made against him. Mr. Peña specifically took issue with the anti-Semitic statements attributed to him, noting that he has done a significant amount of work in support of Israel, the Jewish faith, and the Jewish community. Thus, he claims he would never use anti-Semitic language, including a term such as “Jew b*tch.”

During his deposition, Mr. Peña was asked if Mr. Klepper was dishonest or a liar. Mr. Peña declined to call Mr. Klepper dishonest or a liar. (Peña Depo. 64:9–20.) On the other hand, Mr. Peña called Mr. Klepper an “exaggerator.” (Peña Depo. 64:10–11.) He also declined to describe Mr. Klepper as “credible” or “trustworthy.” (Peña Depo. 64:2–8.) Similarly, Mr. Peña declined to describe Mr. Urdaneta as trustworthy, because he only met him one time during the trip to Mexico. (Peña Depo. 64:2–5.) Mr. Peña stated he believed Mr. Willis to be more trustworthy than Mr. Klepper because he knew Mr. Willis longer. (Peña Depo. 66:4–6.)

D. Greg Klepper

Mr. Klepper refused to sit for an interview with Ashcroft, so the following is drawn from prior written statements, an interview with other attorneys, and a deposition Mr. Klepper gave that touched upon the allegations that are the focus of our investigation. Because of our inability to interview Mr. Klepper and fully probe with him the topics of significance to this investigation, Mr. Klepper’s story, drawn from the information available to us, is organized below chronologically as best as possible.

General Background for Mr. Klepper

Mr. Klepper is a graduate of Connally High School in Waco, Texas and holds both Master and Electrical Contracting Licenses in Texas. He is married and has two daughters. Mr. Klepper has spent his professional life in the electrical business, at times running his own company in Hewitt, Texas, Energy and Automation, Inc. (E&A), just south of Waco, Texas and approximately ten miles from Baylor.

Mr. Klepper and his wife are involved in their local community. At one point, Mr. Klepper served on the Board of Directors of the Live Oak Classical School in Waco, Texas. Mr. Klepper has also done charitable work with the Salvation Army and the Red Cross. Currently, Mr. Klepper serves on the Board of the C.A.S.T. for Kids Foundation, a charity joining volunteers who love to fish with disabled and disadvantaged children for a day of fishing in the outdoors.

Mr. Klepper’s involvement with Baylor and meeting Baylor officials

Around 2006, Mr. Klepper wanted to become involved with Baylor University as a prospective way for his family to have regular family activities to enjoy together. (Klepper Depo. 16:9–12.) Mr. Klepper looked in the phone book for the number for Baylor University. He called the number for Baylor that was in the phone book. (Klepper Depo. 19:13–15.)

Mr. Klepper's call to Baylor was routed to the Baylor Bear Foundation, which Mr. Klepper ultimately joined. By joining the Baylor Bear Foundation, Mr. Klepper had the ability to purchase season tickets to Baylor's sports teams. Mr. Klepper enjoyed football, among other sports, and eventually leased a portion of a skybox for the football season. Having access to a skybox permitted his daughter to attend the games so that the entire Klepper family could attend.¹⁰ Thus, for the 2006 football season, Mr. Klepper and his family enjoyed part of a skybox for the football season. (Klepper Depo. 143:2–6.)

By virtue of the skybox experience, Mr. Klepper began meeting senior university officials, including the athletic director and members of the Board of Regents. Among those that Mr. Klepper met was Ramiro Peña, Pastor of Christ the King church in Waco, Texas. (Klepper Depo. 30:9–16.) The following football season, in 2007, Mr. Klepper and his family re-leased their skybox.

Over time, Mr. Peña and Mr. Klepper's families became acquainted through interaction at Baylor football games, usually spending time in the skybox that Mr. Klepper was leasing. (Klepper Depo. 30:24–31:4.) And as their interactions increased, Mr. Klepper began to develop a close relationship with Mr. Peña. According to Mr. Klepper, he described his relationship with Mr. Peña as "very good." (Klepper Depo. 131:8.) "Mr. Peña was always very polite. He was always courteous. He was always caring about our daughter. He was always wanting to -- if we had additional tickets and other things that we would -- tickets, and if I had additional tickets I would give them to him and his family." (Klepper Depo. 131:10–15.) Occasionally, Mr. Klepper and Mr. Peña also spent time together hunting. (Klepper Depo. 176:7–21.)

As Mr. Klepper and Mr. Peña's relationship continued, Mr. Klepper also performed services for Mr. Peña's church. According to Mr. Klepper, "I did support that. He -- We had LED lighting, and he wanted to put LED lighting. He was remodeling and -- But I supported a lot of churches. I do a lot of stuff for churches. ... And we didn't have a problem supporting him. We did his lighting in his church, we helped him with the playground, he built a community garden and I furnished labor to go out there and do the community garden for Mr. Peña at his church. ... We funded the children's playground that they wanted to put up for children. We helped him with charitable donations at his church to do good with." (Klepper Depo. 44:4–19.)

Mr. Klepper testified that he and Mr. Peña did not have business dealings together. (Klepper Depo. 131:16–132:2.) According to Mr. Klepper, his relationship with Mr. Peña was personal, not professional. Mr. Klepper performed non-charitable electrical work for Mr. Peña regarding a sandwich shop, WiseGuys, that Mr. Peña was starting. (Klepper Depo. 156:1–4.) Mr. Klepper and Mr. Peña also went into business together flipping houses. (Klepper Depo. 170:22–171:10.) However, they only partnered together on one house. (Klepper Depo. 171:11–21.)

Additionally, from time-to-time, Mr. Peña introduced Mr. Klepper to various business prospects. (Klepper Depo. 132:7–12.) While Mr. Klepper denied asking Mr. Peña to help him develop business, he also acknowledged that he asked Mr. Peña to make introductions so he could get work from Baylor. (Klepper Depo. 132:7–12; 133:13–18.) Mr. Peña introduced Mr. Klepper

¹⁰ Shortly before initiating his outreach to Baylor in 2006, Mr. Klepper's younger daughter began experiencing significant medical hardships. Eventually, she was diagnosed with a rare mitochondrial disease. As a result of her condition, she required mobility assistance.

to several individuals with connections to Baylor. (Klepper Depo. 134:2–9.) When Mr. Klepper was around individuals associated with Baylor, “[he] would always at an opportunity jokingly say ‘If you-all have got any work, you-all call me and let me know.’” (Klepper Depo. 133:22–24.) At one point, Mr. Klepper was directed by Mr. Peña to contact Brian Nicholson, Baylor University’s Vice President for Operations and Facilities, for work. Mr. Klepper followed that advice and directly contacted Mr. Nicholson, had some lunches with him, and asked for work from Baylor. (Klepper Depo. 135:2–4; 153:15–154:1; 160:23–25.)

Mr. Klepper makes in-kind gifts to Baylor

As the relationship between Mr. Klepper and Baylor grew, Mr. Klepper performed complimentary or “in kind” services to the University. He described the work as, “[j]ust simple electric work, and we -- like they would have baseball games, and the TV station would have to have a generator, and we would go down and like rent the generator and hook the generator up und all of that stuff so the TV trucks and stuff like that could televise the baseball game, let’s say.” (Klepper Depo. 28:16–29:1.) “Or if like -- if there was a lighting broke and if I could go over there and fix it in three or four days, we’d go over there and fix it and buy the parts and fix it and stuff, you know.” (Klepper Depo. 29:3–6.) At one point, Mr. Klepper also did lighting repairs for tennis courts at the University. (Klepper Depo. 145:15–18.) Mr. Klepper described these services as “gifts.” (Klepper Depo. 29:11.) Mr. Klepper estimated that he donated approximately 255 hours of “in kind” gifts to Baylor. (Klepper Depo. 271:11–14.)

In addition to “simple electric work,” Mr. Klepper occasionally helped the University with transportation. “We had a plane. And when I say ‘We had a plane,’ we had a charter, a business partner we had a plane with, and it was kept here in Waco.” (Klepper Depo. 29:20–22; 146:6–25.) The plane was a Lear 35 and, for a five-year period, Mr. Klepper leased a hanger for the plane from Baylor. (Klepper Depo. 146:22–147:11.) At one point, Mr. Peña approached Mr. Klepper to see if Baylor could use the plane to which Mr. Klepper had access. (Klepper Depo. 30:3–7.)

Mr. Klepper agreed to permit Baylor to utilize the aircraft. In his words, “there was times that Baylor Bear Foundation asked to use it to take Art Briles to fund-raisers if they could use it, which we let them use it. There was times that they would ask if President Starr could use it at times.” (Klepper Depo. 31:19–23.)

According to Mr. Klepper, Judge Starr and his wife, Alice, used the plane approximately three times, once for a trip to California. When Mr. Klepper was asked if Judge and Alice Starr could use the plane to go to California, Mr. Klepper said “‘Well, I tell you what I’ll do. No charge. I want to take my family to Disneyland, and I’ll just -- we’ll all go together and fly out there. I’ll drop-you off, and I’m going to stay a week or so, and you figure out how to get back,’ and they said ‘Okay.’ . . . And another time [Mr. Peña] approached that Baylor wanted to give Rev. Billy Graham ... this is shortly before his passing ... some kind of -- I don’t know -- some kind of award to Rev. Billy Graham and wanted to know if they could use it. And I said ‘Yeah, sure.’ I loved Billy Graham.” (Klepper Depo. 32:3–17.) “And there was other things they did. We went to Colorado to the basketball games where they won the championship one year, and [Mr. Peña’s] family flew with us.” (Klepper Depo. 32:19–21.)

Mr. Klepper characterized the use of the airplane by Baylor officials as “gifts.” (Klepper Depo. 48:8.) “There was no strings attached.” (Klepper Depo. 48:12; 153:10–14.) Overall, Mr.

Klepper estimated that he made “in kind” gifts to Baylor of approximately \$250,000.00 to \$1,000,000.00. (Klepper Depo. 152:21–153:9.)

Baylor’s records of contacts with Mr. Klepper indicate that Mr. Klepper had direct contact with both Coach Briles and Judge Starr. As to Coach Briles, Baylor’s records confirm that, between 2007 and 2010, Mr. Klepper rode on the Baylor football team plane to away games on several occasions, attended a private function with Coach Briles, had lunch with Coach Briles, attended national signing day with Coach Briles, and had a discussion with Coach Briles about a possible “gift” to the football stadium. However, Baylor’s records do not reflect that Coach Briles, or any Baylor coaches, ever used Mr. Klepper’s plane.

As to the Starrs, Baylor’s records confirm that Mr. Klepper’s Lear jet was used by or at the request of Judge Ken Starr on approximately four occasions between March 2011 and April 2012.

An incident between Mr. Klepper and Alice Starr at 2012 National Championship game

At some point during the 2011–2012 basketball season, Mr. Klepper’s daughter’s medical condition became known to Head Coach Kim Mulkey and the Baylor Lady Bears basketball team. According to Mr. Klepper, “Coach Mulkey, to my understanding, reached out to Tom Hill and wanted to know who the Klepper family was and what they were going through. Tom told them the story.” (Klepper Depo. 102:17–20.) The Lady Bears “adopted” his daughter as part of their team. (Klepper Depo. 103:17–19.) They regularly welcomed his daughters to practices and games, and even provided them with their own spaces in the Lady Bears’ locker room. On April 3, 2012, Mr. Klepper and his family attended the national championship game of the NCAA Women’s Final Four in Denver, Colorado. The Kleppers and Peñas flew to Denver for that game on the private jet to which Mr. Klepper had access.

The Lady Bears won the game. At some point during the post-game celebration, some of the Lady Bears came into the stands to get Mr. Klepper’s daughters to join them on the floor for the post-game celebration.¹¹ Mr. Klepper said that, “Two Baylor basketball ladies, the girls ... and you-all will have to forgive me, I don’t remember their name ... they came up into the stand, and they got Hannah and Haley. Haley, of course, at that time was ill; so I walked down to the floor, and Alice -- Ms. Starr said ‘You can’t come on the floor. It violates NCAA rules.’ And I said ‘Okay. And I just stood to the edge of the floor.’ But I was just keeping an eye on Haley. That’s all. There was not -- it wasn’t a disaster.” (Klepper Depo. 149:15–150:2.)

When asked if he ever expressed that he was upset with Mrs. Starr for not letting him go onto the court with his sick daughter, Mr. Klepper said, “It’s possible that I could have said something. I will say yes, maybe. The only person it would have been would have been Ramiro [Peña], but Ms. -- it wasn’t anger. It would have been Ms. Starr told me I couldn’t go on the basketball court.” (Klepper Depo. 150:6–10; 151:6–23.) When asked whether he expressed frustration or anger at Mrs. Starr to Mr. Peña, Mr. Klepper said, “I would say frustration. I would not say anger.” (Klepper Depo. 150:13.) Later, Mr. Klepper said that, “Now, it hurt my feelings more than frustration, let’s say. Can I say that? And secondly, I didn’t know I was violating NCAA rules.” (Klepper Depo. 151:21–23.)

¹¹ You can see both girls in this video (<https://www.youtube.com/watch?v=fSqTWA0JE9g>) with the Lady Bears beginning at about the 3:52 mark and appearing at various points thereafter.

Mr. Klepper is bought out of a company he co-founded

During the 2011–2012 basketball season, Mr. Klepper owned a company named LED Illumination. (Klepper Depo. 128:24–129:3.) Mr. Klepper “told Mr. Peña that we were looking for investors to possibly grow the company.” (Klepper Depo. 161:12–13.) Mr. Klepper also asked Mr. Peña for help with introductions with those that were expressing interest in investing in LED Illumination. (Klepper Depo. 162:1–25.)

At some point, Mr. Peña introduced Mr. Klepper to a gentleman named Bill Robbins. He was specifically interested in investing in LED Illumination. (Klepper Depo. 164:20–165:12.) Mr. Klepper later met with Mr. Robbins in Houston, Texas, at which time Mr. Robbins made an offer to purchase or invest in LED Illumination. Mr. Klepper declined the offer. (Klepper Depo. 165:12–15.)

Ultimately, connections and introductions resulted in Mr. Klepper going into business with several people connected to Baylor. Specifically, an investment group composed of individuals associated or affiliated with Baylor approached Mr. Klepper to purchase LED Illumination. (Klepper Depo. 128:11–129:25.) Mr. Klepper reached out to Mr. Peña to consult with him about the offer made to him. (Klepper Depo. 130:14–18.)

Mr. Klepper agreed to the terms proposed by the investment group. The result was that an LED lighting company, PRUF Group (a.k.a., PRUF Energy Solutions), bought LED Illumination. Following the purchase of LED Illumination, Mr. Klepper received a 41–43% interest in PRUF. (Klepper Depo. 128:24–129:25.) Mr. Klepper was not part of the company’s management or executive team but did serve as the Chairman of the Board. (Klepper Depo. 130:2–9.) PRUF owned a manufacturing facility near Baylor. (Klepper Depo. 35:12–17.) Chris Sadler was appointed the President and CEO of PRUF. (Klepper Depo. 130:6.)

Following the formation of PRUF, Mr. Sadler hired the Ben Barnes Group, a consulting and marketing firm founded and led by former Texas Lieutenant Governor and Speaker of the House, Ben Barnes. (Klepper Depo. 177:19–178:9.) Among others, the Ben Barnes Group connected Mr. Klepper with Buddy Jones, Chairman of the Baylor Board of Regents from 2011–2012. (Klepper Depo. 20:22–21:4; 103:8–11; 134:2–9; 178:19–179:22.)

Additionally, according to Mr. Klepper, Mr. Peña actively made efforts to raise the company’s profile and entice more investors. For example, Mr. Peña communicated with the offices of Congressman Bill Flores about getting the Congressman to the manufacturing facility for a tour and photo opportunity. (Klepper Depo. 172:15–173:20.) Mr. Peña also communicated with Drayton McLane, a billionaire, Chairman of the McLane Group, and the namesake of Baylor’s McLane Stadium. Specifically, Mr. Peña was trying to get Mr. McLane to the manufacturing facility of PRUF around May 2012. (Klepper Depo. 173:22–174:19.) According to Mr. Klepper, Mr. Peña was actively working to make these connections out of “goodwill.” (Klepper Depo. 173:8–15.) When asked if he ever told Mr. Peña to stop his goodwill efforts, Mr. Klepper said, “I wish I would have.” (Klepper Depo. 175:1–2.)

According to Mr. Klepper, things with PRUF were not going well—the company was not making money. As a result of the money problems, PRUF had to cancel its relationship with the Ben Barnes Group. (Klepper Depo. 204:9–14.) When the other investors refused to alter the

company's dealings, Mr. Klepper wanted a way out of the company.

At some point, Richard Willis and Mr. Klepper crossed paths. According to Mr. Klepper, he first met Mr. Willis at the manufacturing facility of PRUF for about two hours one day following a meeting of the Regents of the University. (Klepper Depo. 45:18–46:4.) That day, “Ramiro Peña called [Mr. Klepper] and said ‘Mr. Willis would like to come over and view at the site visit.’ I said ‘Sure, I’ll meet you-all over there. Come and take a site visit.’ I showed him the equipment, the line, the business. That’s all there was.” (Klepper Depo. 37:6–7; 137:14–18.)

Mr. Klepper claimed that he did not know why Mr. Willis was taking a tour, or who invited him to do so. (Klepper Depo. 154:9–24.) “It could have been multiple reasons. There were several other members that he knew.” (Klepper Depo. 136:6–9.) Mr. Klepper stated that he did not ask Mr. Peña why Mr. Willis wanted to tour the facility and did not care why Mr. Willis was there because he was planning to exit the business. (Klepper Depo. 136:11–19.) “[T]he company was not, in my eyes, operating and moving in the direction that I wanted to see it move in, and it was not profitable.” (Klepper Depo. 37:25–38:2.) “There was a lot of money going out, and there was no money coming in. ... And I had no control over any of that. I was just like the other investors.” (Klepper Depo. 38:4–8.) According to Mr. Klepper, he “[c]ould care less” why Mr. Willis was there that evening. (Klepper Depo. 137:19–23.)

During the tour of the facility, Mr. Klepper said that he told Mr. Willis that he “was unhappy with the current situation, and I was looking to exit out of PRUF.” (Klepper Depo. 135:13–17.) This was in response to questioning by Mr. Willis. Mr. Willis “asked ‘How are things going?’ And I said ‘Well, I’m not happy how things are going. I don’t think it’s going as well as it should.’ And I just said that ‘to be quite honest with you, I’m probably going to be exiting here very soon.’” (Klepper Depo. 136:1–5.)

According to Mr. Klepper, the impasse between the investors all came to a head at a meeting on the Baylor campus at a home the University provided to Mr. Willis at that time as the Chair of the Board of Regents. “So during the process of this, Ramiro Peña brokered a deal to go to Richard Willis’ home that he had on Baylor campus. The board members met there, and we had a discussion, and he listened to the discussion while we were in this house that he was providing.” (Klepper Depo. 39:10–14.) According to Mr. Klepper, this meeting occurred at some point during 2012.

According to Mr. Klepper, Mr. Willis was not an investor in the LED lighting company and Mr. Klepper did not know why Mr. Willis was hosting a meeting regarding the dispute between the investors. (Klepper Depo. 137:24–138:10.) PRUF had a boardroom at the manufacturing facility at which the board members could meet at any time. (Klepper Depo. 46:10–14.) Mr. Klepper “didn’t care” why Mr. Willis was there. Though Mr. Willis was hosting the meeting in his home, Mr. Klepper said that Mr. Willis did not participate in the meeting. “He just sat and listened.” (Klepper Depo. 138:17–18.)

Later in his deposition, Mr. Klepper acknowledged that Mr. Willis did participate in the meeting, first expressing to just Mr. Klepper that PRUF “was being run horrible by the executive-team,” (Klepper Depo. 138:25–139:3), and later expressing to the meeting participants “he thought the executive board -- the executive team was running the company horrible.” (Klepper Depo. 139:6–9.) According to Mr. Klepper, Mr. Willis and others at the meeting all expressed criticism

of Mr. Klepper himself. Mr. Klepper stated that, “Well, I think everybody in that room had criticism of me because I was not a happy camper.” (Klepper Depo. 139:10–13.) Mr. Klepper, however, viewed Mr. Willis to be “very neutral.” (Klepper Depo. 140:2–4.) Mr. Klepper estimated the meeting at Mr. Willis’ home to be about four hours. (Klepper Depo. 140:5–14.) Beyond intermittent encounters at football games, the tour of the PRUF Group facility and the meeting at Mr. Willis’ home, there were no other substantive encounters between Mr. Klepper and Mr. Willis before the trip to Querétaro, Mexico. (Klepper Depo. 141:21–142:11.)

At some point following the meeting at Mr. Willis’ home, the board of PRUF came to Mr. Klepper’s office to make him an offer to buy him out. Mr. Klepper accepted the offer. (Klepper Depo. 141:12–17.) In the end, Mr. Klepper called his buyout an “amicable separation” or “happy split.” (Klepper Depo. 37:9–15; 42:25–43:2.) The buyout also involved what Mr. Klepper characterized as a “non-disparity agreement,” which prevented him from speaking negatively about his former partners. (Klepper Depo. 37:9–13.) However, according to Mr. Klepper, “There was some bad blood in there, I’m sure, but I mean sometimes business has bad blood. I mean but it wasn’t a bad blood to where we weren’t getting along.” (Klepper Depo. 40:9–12.)

Following Mr. Klepper’s buyout, in 2015, PRUF, under Mr. Sadler’s leadership, won the Business Innovator award from the Greater Waco Chamber of Commerce.¹²

Mr. Klepper’s company performs work on the new Baylor football stadium (McLane Stadium) that results in a dispute over payment

On or about July 2, 2013, Mr. Klepper’s company, E&A, entered into a contract with a subcontractor, Parsons Electric, LLC, to do work on the building of Baylor’s new football stadium (McLane Stadium). (Klepper Depo. 114:2–23.) Specifically, Mr. Klepper’s company was “solely responsible for installation of materials,” including cable. (Klepper Depo. 114:12–14.) “We were taking the audiovisual, the television broadcast portion of the -- the video broadcast, in other words, the video to the screens, the video and then the truck and the connections, to where when Baylor had a game they could televise it.” (Klepper Depo. 117:15–19.) In “installing this cable, you have to pull it, take it from Point A to Point B, separate it, divide it, terminate it and land it and be completed and then tested.” (Klepper Depo. 117:4–7.) According to Mr. Klepper, “It was going to be a beautiful stadium. We were very proud to be part of it. It was something that we wanted to be part of.” (Klepper Depo. 115:20–23.)

E&A’s experience in the McLane Stadium project did not go according to plan. As far as the electrical work in which E&A was involved, disputes arose among subcontractors, including E&A. According to Mr. Klepper, “Parsons did not get their cabling orders in line, and they only run these cables on scheduled runs.” (Klepper Depo. 116:10–12.) In other words, according to Mr. Klepper, Parsons was not doing its job on delivering to the work site the materials necessary for E&A to do its work. At one point, Mr. Klepper estimated that the project lacked approximately 87,000 feet of the cable that needed to be run by E&A. (Klepper Depo. 117:23–118:3.)

As the problems ensued, Mr. Klepper began reaching out to various Baylor officials for help, including Mr. Peña. (Klepper Depo. 118:19–23; 182:25–185:9.) At first, Mr. Klepper feared

¹² See, e.g., https://www.wacotrib.com/business/waco-business-partnership-honored-for-innovation/article_09b059e9-24e3-59e4-b37e-ca87bd4049ad.html.

he was going to lose approximately \$200,000.00 because of the problems. (Klepper Depo. 181:19–182:7.) According to Mr. Klepper, Baylor responded, holding meetings and taking other action to get the materials on site. (Klepper Depo. 192:9–13.) In the end, the materials were delivered and the necessary work on the stadium was completed. (Klepper Depo. 192:19–22.) However, according to Mr. Klepper, E&A still suffered significant financial losses. (Klepper Depo. 124:3–7.) Mr. Klepper estimated E&A’s financial losses to be approximately \$750,000.00 to more than \$1,000,000.00. (Klepper Depo. 186:25–187:5.)

That the materials were ultimately delivered, and work completed, did not fully alleviate the dispute between E&A and Parsons. On July 17, 2014, Parsons gave E&A a formal, written notice of deficiencies. (Klepper Depo. 190:9–193:6.) E&A later filed a lawsuit against both Baylor University and Parsons Electric to secure the compensation it claimed. Though Baylor was clearly identified as a Defendant in E&A’s lawsuit, Mr. Klepper said he did not remember filing a lawsuit against Baylor. He acknowledged that he authorized the lawsuit itself. (Klepper Depo. 182:25–183:1; 187:10–189:19.) E&A was unsuccessful in its litigation efforts and a Final Judgment that E&A take nothing was entered by the court.

Mr. Klepper starts a new business and focuses on business opportunities in Mexico

Following his work on McLane Stadium with E&A, Mr. Klepper went back into the LED lighting business, this time with a new company named Optik. (Klepper Depo. 205:3–4.) However, Mr. Klepper did not own Optik outright. Mr. Klepper partnered with Ben Barnes, each of them owning a 50% interest in Optik. Though Mr. Klepper worked with the Ben Barnes Group when he was Chairman of the Board for PRUF, and was 50/50 partners with Mr. Barnes in Optik, he claims that he did not know that Mr. Barnes previously served as both Speaker of the House and Lieutenant Governor of Texas. (Klepper Depo. 56:9–12.) Mr. Klepper claims that he only knew that Mr. Barnes was a “Texas guy. And cultivates relationships or whatever.” (Klepper Depo. 55:17–18.) Online records from the Texas Secretary of State reflect that Optik was incorporated on or about July 2, 2014.

In working with and through the Ben Barnes Group, Mr. Klepper encountered Alejandro “Alex” Montaña Urdaneta. “Alejandro is -- he worked as a helper or -- which I don’t know what his term or what it’s called, an internship at the Ben Barnes Group.” (Klepper Depo. 53:14–16.) Mr. Urdaneta was a graduate of the University of Mexico and obtained a master’s degree from the University of Glasgow in Scotland. (Klepper Depo. 54:14–15.) At some point, Mr. Urdaneta’s visa, permitting him to be in the United States, expired. (Klepper Depo. 53:16–18.) Thus, Mr. Urdaneta returned to Mexico and was living with his father. (Klepper Depo. 53:20–21.)

Mr. Klepper’s business opportunities through the Ben Barnes Group eventually took him to Mexico. According to Mr. Klepper, in around 2014, “we had been looking into selling LED products throughout Mexico there to several different people.” In one instance, Mr. Klepper’s business was quoting work to a businessman in Guadalajara, Mexico named Pepe. (Klepper Depo. 209:3–22.) According to Mr. Klepper, “Pepe built a hospital much like St. Jude’s in Guadalajara that provides free cancer treatment for children, and at this time Joe Allison was working with Baylor, who was the CEO of Baylor Medicine, and Ramiro [Peña] said that he would like to take Pepe along with Richard Willis to introduce to Joe Allison with Baylor Medicine and the great work that Pepe was doing for the cancer hospital.” (Klepper Depo. 207:23–208:5.) According to Mr. Klepper, connecting Pepe to Baylor Medicine would be good because, “I think they were

wanting to see about getting doctors to come down and work with the children in the cancer thing.” (Klepper Depo. 210:5–7.) “I would like someone [at Baylor] to see what [Pepe]’s done for possibly if there was some kind of conjunction they could do for those kids down there.” (Klepper Depo. 218:3–6.) Mr. Klepper specifically hoped that Mr. Willis would meet with Pepe to that end. (Klepper Depo. 218:23–219:3.)

The trip to Querétaro, Mexico is planned

Querétaro, Mexico became a specific object of Mr. Klepper’s business interests at the behest of Mr. Urdaneta’s father. According to Mr. Klepper, “Alejandro’s father produced some names that we think that we should get in touch with. There was a long laundry list of people, Carlos Slim down to several different people that his father was in contact with about possible ... whatever.” (Klepper Depo. 56:17–21.) Carlos Slim was “[j]ust some wealthy guy in Mexico City.” (Klepper Depo. 56:23–24.) Mr. Klepper and Mr. Urdaneta ultimately arranged a trip to Querétaro. “We were visiting with a few families that had large real estate and other businesses about possibly selling LED lighting to them. ... It was all about lighting. That’s what it was all about.” (Klepper Depo. 52:20–25.) Querétaro is in the “[c]enter of the country, kind of, I guess, thereabouts.” (Klepper Depo. 51:19–20.)

For the trip to Querétaro, Mr. Klepper and Mr. Urdaneta discussed whether it may be appropriate to take the Lear, the private plane of the Ben Barnes Group. In the end, however, Mr. Urdaneta told Mr. Klepper that, “I certainly think that taking the private plane will be a big cost to the company at this point, since we have not been able to make a sale yet.” (Klepper Depo. 214:17–21; Ex. 19.) However, Mr. Klepper testified that the reason they did not take the plane was “just really security reasons.” (Klepper Depo. 214:24–215:2.) According to Mr. Klepper, Mr. Urdaneta’s email explanation about concerns over financial costs was not actually true. “[W]e just put it that way, in case this got forwarded on to somebody or something, you know, in Mexico.” (Klepper Depo. 215:4–6.)

During casual conversations and various interactions, Mr. Klepper told Mr. Peña about the trip to Querétaro. (Klepper Depo. 193:16–194:3.) After Mr. Klepper told Mr. Peña about this forthcoming trip to Querétaro, Mr. Peña expressed interest in accompanying Mr. Klepper on the trip. (Klepper Depo. 51:5–10; 60:1–8.) Mr. Peña wanted to see Querétaro and, according to Mr. Klepper, he asked to serve as an interpreter for Mr. Klepper. (Klepper Depo. 60:12–17; 195:1–3.) So, Mr. Klepper invited Mr. Peña to accompany him. (Klepper Depo. 194:25–195:8.)

Around June 2014, as plans for Querétaro were being made, Mr. Peña engaged Mr. Willis about joining Mr. Klepper and Mr. Peña in Querétaro. (Klepper Depo. 195:24–197:4.) According to Mr. Klepper, after Mr. Peña agreed to go on the trip, Mr. Peña “said that Mr. Willis had a company down there, and ‘would you care if he met up with us down there?’ I said ‘I don’t have a problem with that.’” (Klepper Depo. 50:16–19; 195:9–17.) Later, in his deposition, Mr. Klepper denied knowing of Mr. Willis’ business in Querétaro when travel plans were being made. Mr. Klepper stated that he only learned of Mr. Willis’ business in Querétaro right before the trip occurred. (Klepper Depo. 197:5–198:4.) According to Mr. Klepper, he didn’t know why Mr. Peña was reaching out to Mr. Willis in June 2014 and did not know that Mr. Willis had a company in Querétaro. (Klepper Depo. 196:2–197:22.) When asked what Mr. Klepper thought about Mr. Willis’ involvement in the trip, Mr. Klepper responded that, “I didn’t care.” (Klepper Depo. 197:22.)

For the trip to Querétaro, Mr. Urdaneta developed an itinerary. (Klepper Depo. 53:6–9; Ex. 1.) He later expanded the itinerary. (Klepper Depo. Ex. 2.) And though Mr. Klepper claimed he had no knowledge that Mr. Willis was coming to Querétaro until just before the trip, Mr. Urdaneta included Mr. Willis on his itineraries, (Klepper Depo. Exs.1 & 2), and in his July 1, 2014 email to Mr. Klepper. (Klepper Depo. Ex. 19.)

The trip to Querétaro, Mexico takes place at the end of July 2014

On July 29, 2014, Mr. Klepper and Mr. Peña drove together from Waco to the Dallas/Ft. Worth Airport, where they took American Airlines flight 3347 to Querétaro, Mexico. The flight was scheduled to land in Querétaro at 12:40 p.m.

Upon arrival in Querétaro, Mr. Klepper and Mr. Peña checked into their rooms, on the same floor, at the Grand Fiesta Americana at 76160 Santiago de Querétaro, State Querétaro, Mexico. Mr. Klepper characterized his hotel room as a “large suite.” (Klepper Depo. 58:3; 67:1; 69:17.) The suite had multiple couches, a large table, and a concierge area containing complimentary food and drinks exclusive to the area of the hotel where Mr. Klepper’s suite was located. (Klepper Depo. 66:24–67:2; 242:8–15.)¹³

After arriving in Querétaro, Mr. Klepper, Mr. Peña, and Mr. Urdaneta, along with their driver, went to a late lunch at El Caserío, a restaurant in Querétaro. The receipt from El Caserío shows that four persons dined. (Klepper Depo. Ex. 22.) The receipt from El Caserío also shows that, during the lunch, the group had three beers and paid two uncorking fees for two bottles of wine.¹⁴ (*Id.*) The receipt does not show a charge for the wine bottles themselves, from which we conclude that the group brought two bottles of wine with them. According to Mr. Klepper, everyone, including the driver, was drinking except for him. (Klepper Depo. 225:10.)

Later that evening on July 29, 2014, after 8:00 p.m., a receipt shows that room service at the hotel delivered six beers, two bottles of wine, and two soft drinks to Mr. Klepper’s suite. (Klepper Depo. Ex. 23.) Mr. Klepper also testified that Mr. Peña opened a scotch bottle in his suite. (Klepper Depo. 71:4–10; 227:18–23.) After opening the scotch bottle, Mr. Klepper testified that Mr. Peña commented that, “This is the nastiest tasting sh*t I’ve ever had in my life.” (Klepper Depo. 71:4–8; 260:15–20.) In a document created and produced by Mr. Klepper, he identified Mr. Peña as stating, “This Scotch sucks. (Hotel Room).” (Klepper Depo. Ex. 26.) However, Mr. Klepper later testified that Mr. Peña may have opened the scotch bottle on the evening of July 30, 2014.

While Mr. Klepper was able to produce receipts for the beer and wine, he was unable to produce a receipt for the scotch bottle he alleged was opened by Mr. Peña. Mr. Klepper believes he may have lost that receipt. (Klepper Depo. 228:14–18.) Though Mr. Klepper alleged that Mr. Peña opened a scotch bottle in his suite, Mr. Klepper later testified that Mr. Peña did not drink

¹³ Initially, Mr. Klepper testified that Mr. Willis also arrived in Querétaro on the evening of the first day, July 29, 2014, at which time Mr. Klepper secured a room for Mr. Willis at the same hotel. Later in the deposition, Mr. Klepper acknowledged that Mr. Willis did not arrive in Querétaro until July 30, 2014. (Klepper Depo. 233:22–234:8.)

¹⁴ The restaurant receipt provided by Mr. Klepper contains the following entry: “2 DESCORCHE IMPORTADO 150.00 300.00.” (Ex. 22.) This represents two uncorking fees at 150.00 pesos each. The restaurant identifies itself as a BYOW (“Bring Your Own Wine”) establishment—“Traiga Su Propio Vino.” See <https://www.elcaserio.com.mx/queretaro/>.

alcohol in his suite. (Klepper Depo. 232:16–20.)

At some point, after arriving in his hotel suite on the evening of July 29, 2014, Mr. Klepper testified that he setup a GoPro recording device in his suite.¹⁵ According to Mr. Klepper, he would typically bring a GoPro when he traveled to Mexico, “because I wanted to know if people was coming back in my room,” and because “Mexico is a violent town.” (Klepper Depo. 95:22–25; 96:14.) Prior to the trip to Querétaro, Mr. Klepper traveled to Mexico six to seven times. (Klepper Depo. 96:2–3.) According to Mr. Klepper, “there’s a lot of crap that goes on in Mexico, and I don’t feel comfortable down there.” (Klepper Depo 96:16–17; 237:12–20.) Typically, Mr. Klepper’s practice was to setup the GoPro in the corner of his room and then turn on the GoPro “when [he would] leave the room.” When Mr. Klepper setup the GoPro in his hotel suite in Querétaro, he testified that he only turned it on to ensure that it was working. (Klepper Depo. 97:4–5.) However, he left it on.

Allegations of statements made in Mr. Klepper’s hotel suite

The next evening, on July 30, 2014, after Mr. Willis arrived in Querétaro, Mr. Klepper testified that Mr. Peña and he were socializing in Mr. Klepper’s suite. After approximately 11:00 p.m., another room service order was placed to Mr. Klepper’s suite. (Klepper Depo. Ex. 23.) In addition to food, this room service order included 12 beers and a bottle of wine. (Klepper Depo. Ex. 23.)

While Mr. Klepper and Mr. Peña were in Mr. Klepper’s suite, Mr. Peña called Mr. Willis and asked Mr. Willis to join Mr. Klepper and Mr. Peña in Mr. Klepper’s suite. (Klepper Depo. 66:13–15; 97:7–8.) According to Mr. Klepper, when Mr. Willis arrived at Mr. Klepper’s suite, Mr. Willis was wearing “a gray T-shirt with a green like a football, blue jean shorts, white socks and white tennis shoes.” (Klepper Depo. 66:20–22.) Mr. Klepper also recalls where everyone was sitting in the suite. (Klepper Depo. 66:24–67:1.) According to Mr. Klepper, Mr. Willis, Mr. Peña, and he all gathered in his suite for about an hour.

Mr. Klepper was insistent that neither Mr. Peña nor Mr. Willis drank alcohol in his suite. (Klepper Depo. 232:19–20.) Mr. Klepper did not remember who drank the alcohol that was ordered. (Klepper Depo. 232:19–233:7.) “Now, I may have ordered beer out of hospitality and had them put it in there, but I am not specific about buying a 12-pack of beer, and I am not trying to be sarcastic. I really don’t remember who bought 12 beers in a refrigerator in a motel room.” (Klepper Depo. 233:3–7.) Mr. Klepper acknowledged that he paid for the alcohol delivered to his suite, (Klepper Depo. 227:7–8), and later admitted in his deposition that he was drinking “because beers were opened.” (Klepper Depo. 259: 20–25.) As to how much he had to drink, Mr. Klepper stated, “Probably one.” (Klepper Depo. 260:1–2.) When pressed as to whether he had only one beer, Mr. Klepper insisted that he had only one, “as to the best of my recollection, yes.” (Klepper Depo. 260:7–14.)

According to Mr. Klepper, the gathering in Mr. Klepper’s hotel suite on the evening of July 30, 2014 was recorded by Mr. Klepper’s running GoPro. Neither Mr. Willis nor Mr. Peña knew the conversation was being recorded. (Klepper Depo. 238:6–15.) When asked why he was

¹⁵ A GoPro is generally known as a compact camera and video recording device, usually popular among sports enthusiasts. GoPro devices record digitally, saving images and videos onto an SD (Secure Digital) Card. SD Cards are very small, measuring approximately 1.2” x 1”.

recording the conversation, Mr. Klepper testified that he was recording the conversation “by accident.” (Klepper Depo. 96:20–23.) According to Mr. Klepper, “I knew it was being taped. ... But I was like I wasn’t expecting-- I wasn’t expecting any of the conversation that was said there to end up on this tape.” (Klepper Depo. 97:12–19.)

As Mr. Klepper, Mr. Peña, and Mr. Willis were talking in Mr. Klepper’s hotel suite, Mr. Klepper testified that he turned the conversation to football. Mr. Klepper testified that he commented that he was very thankful that Coach Art Briles did not leave Baylor and take the head coaching job at the University of Texas. (Klepper Depo. 67:7–10.) According to Mr. Klepper, Mr. Willis responded that, “If he so much as even thought about taking that job, I’d have fired his ass at the drop of a hat.” (Klepper Depo. 67:14–16.)

Mr. Klepper then turned the conversation to the Baylor Administration, commenting that he thought that Judge Ken Starr was doing a good job. (Klepper Depo. 68:12–15.) According to Mr. Klepper, Mr. Willis responded again, this time commenting that Baylor was preparing to part ways with Judge Starr and that “Jew b*tch” to whom he was married. (Klepper Depo. 68:18–19.) Mr. Klepper stated that Mr. Willis did not expound on why he was planning to get rid of the Starrs. (Klepper Depo. 104:1–8.) After those alleged exchanges, Mr. Klepper claims that he didn’t say much. (Klepper Depo. 68:20–25.)

However, according to Mr. Klepper, Mr. Peña then joined the conversation and explained to Mr. Klepper that, “If someone -- if Mr. Starr wants to get permission to do something at the university, he can go ask Richard.” (Klepper Depo. 69:7–10.) According to Mr. Klepper, Mr. Willis responded with a smile. (Klepper Depo. 69:13–15.) During his deposition, Mr. Klepper stated, “[T]hat’s all I remember him saying,” referring to Mr. Peña. (Klepper Depo. 69:12.)

In the view of Mr. Klepper, Mr. Peña was very much in agreement with all the alleged statements made by Mr. Willis. (Klepper Depo. 70:19–25.) That was the extent of the conversation that evening, as relayed by Mr. Klepper. According to Mr. Klepper, no one was drinking alcohol that evening. (Klepper Depo. 232:4–233:2.) However, as earlier noted, Mr. Klepper later admitted that he “probably” drank “one” beer that night. (Klepper Depo. 259:20–260:14.)

The following day, on July 31, 2014, Mr. Klepper claimed that Mr. Peña, Mr. Willis, and he connected with Mr. Urdaneta and were all together for two of Mr. Klepper’s business trips or visits within the Querétaro area. (Klepper Depo. 62:20–22.) According to Mr. Klepper, “life was normal that day, it was just business come and go, business come and go.” (Klepper Depo. 72:3–8.) Mr. Klepper recalls that the group later dropped Mr. Willis at a separate hotel—the Hilton Garden Inn—that was closer to Mr. Willis’ business in Querétaro. Thus, Mr. Willis only stayed in the same hotel as Mr. Klepper and Mr. Peña one evening.

Allegations of statements made during the July 31, 2014 dinner party

On the evening of Mr. Klepper’s third day in Querétaro—July 31, 2014—Messrs. Klepper, Peña, Urdaneta, and Willis attended an evening dinner appointment with a Mexican businessman, Jose Luis. According to Mr. Klepper, “He owns ostensibly my understanding is all of the buses and bus routes and everything in Mexico and has a lot to do with the leases of oil and gas leases throughout Mexico and several other large businesses that he was part of. And we were looking

at putting lighting in the bus stations for them.” (Klepper Depo. 75:8–14.) Mr. Klepper previously met Jose Luis and his son, Eduardo Luis, once before in Mexico City. And though Mr. Klepper was looking to do business with Jose Luis, he claimed the evening was to be a social event only. (Klepper Depo. 75:16–76:3.)

Upon arrival at the home of Jose Luis, Mr. Klepper said they all received a guided tour of the home. (Klepper Depo. 76:6–9.) Mr. Klepper remembered a wine cellar and cigar room. (Klepper Depo. 76:12–22.) Following the tour, the group was led outside where a dining area was setup around a large circular table. (Klepper Depo. 77:5–7.) According to Mr. Klepper, the gathering included Jose Luis, friends of Jose Luis, Eduardo Luis, friends of Eduardo Luis, along with Mr. Klepper, Mr. Peña, Mr. Urdaneta, and Mr. Willis.

Mr. Klepper did not recall how many guests were present but estimated approximately eight to ten. (Klepper Depo. 77:8–20.) Dinner consisted of tacos and other things, accompanied by both wine and port. (Klepper Depo. 78:20–79:1.) Mr. Klepper said that he “can’t stand wine,” and asked for a beer. (Klepper Depo. 79:15–17.) However, Mr. Klepper said he “set the beer on the table for courtesy. [He] didn’t drink beer.” (Klepper Depo. 79:18–19.)

During the evening, according to Mr. Klepper, Mr. Willis was very talkative about his position of power with Baylor, an island he claimed to own in Hawaii, and various businesses he owned. (Klepper Depo. 79:23–80:11.) According to Mr. Klepper, Mr. Peña was not immune from bragging either and talked a lot about his ministry and that he was on television. (Klepper Depo. 81:24–82:2.) Mr. Klepper described the evening as one where there was a lot of drinking and a lot of conversation about who does what, who owns what, etc. Mr. Klepper characterized the conversation as “a pissing contest.” (Klepper Depo. 81:18–22.)

While Mr. Klepper had no opinion on whether Mr. Willis or Mr. Peña had too much to drink, Mr. Klepper claimed that “their personalities absolutely changed” as the evening wore on. (Klepper Depo. 82:12–15.) According to Mr. Klepper, “the party drug on longer than it should have.” (Klepper Depo. 81:5–6.) At some point, Mr. Klepper recalled Eduardo Luis approaching him and stating, “We’ve enjoyed the evening. I think you guys need to be going home,” and that “I think it’s a good – this is a good time to end the evening.” (Klepper Depo. 81:8–14.) Mr. Klepper testified that he does not know exactly why they were asked to leave, but he guessed that their guests got tired of hearing about Mr. Willis and Mr. Peña bragging about their lives and accomplishments. (Klepper Depo. 81:8–82:3.) Mr. Klepper then approached Mr. Urdaneta to let him know that they should leave. Mr. Klepper told him, “Alejandro, Eduardo wants us to leave. He’s not mad, but he has asked us ‘the evening’s gone on.’” (Klepper Depo. 83:17–19.)

Mr. Klepper then testified that Mr. Urdaneta, Mr. Willis, and he began to leave the table. However, Mr. Willis was still talking, “going a hundred miles an hour,” according to Mr. Klepper. (Klepper Depo. 83:23–84:1.) Mr. Klepper testified that he then tried to change the subject. As he did in his suite the previous night, Mr. Klepper brought up football and said, “It looks like Baylor’s going to have a pretty good football team.” (Klepper Depo. 84:1–4.) Then, according to Mr. Klepper, Mr. Willis exclaimed, “You’re damn right. We got the best n**ger football players because we’ve got the prettiest blonde-haired, blue-eyed p**sy in the state.” (Klepper Depo. 84:4–7.) After that, Mr. Klepper, Mr. Urdaneta, and Mr. Willis went back to the vehicle to leave. (Klepper Depo. 84:9.) According to Mr. Klepper, Mr. Peña was accompanied back to the vehicle by several individuals: “[T]hey bring -- and when I say ‘they’, I don’t know who they are -- bring

Ramiro [Peña] down to the car.” (Klepper Depo. 84:12–14.) Mr. Klepper testified that he did not know why Mr. Peña was escorted back to the vehicle. (Klepper Depo. 84:15–17.)

Allegations of statements made during the ride back to Mr. Willis’ hotel

As their ride made its way from the home of Jose Luis to the Hilton Garden Inn (where Mr. Willis was staying), Mr. Klepper sat in the front passenger’s seat while Mr. Peña, Mr. Willis, and Mr. Urdaneta sat in the back seat in that order (from right to left). (Klepper Depo. 86:1–8.) Mr. Klepper remembered that Mr. Peña was leaning his head against the vehicle’s window, while Mr. Urdaneta was visibly frustrated. Later, Mr. Klepper learned that Mr. Urdaneta was frustrated that they were asked to leave, which Mr. Urdaneta explained to him is not a good thing within the Mexican culture. (Klepper Depo. 86:2–87:1.)

Mr. Willis, however, continued to talk, in the same manner that he was allegedly talking at the home of Jose Luis. In the words of Mr. Klepper, it was, “just a bunch of him, ‘him’ being Richard Willis, just talking, talking and talking and talking.” (Klepper Depo. 85:21–23.) And then, according to Mr. Klepper, from “out of the blue,” Mr. Willis exclaimed, “I may have a little dick, but I have a huge company.” (Klepper Depo. 87:4–7.) Mr. Willis, however, did not say that just once; he kept repeating it and found it very entertaining. (Klepper Depo. 87:9–12.) Mr. Klepper responded, stating, “Well, Richard, I could see where that could be a problem.” (Klepper Depo. 87:14–15.) Mr. Willis found Mr. Klepper’s statement funny. (Klepper Depo. 87:17.)

Later during the ride, according to Mr. Klepper, Mr. Willis made another unprompted exclamation, this time stating that, “I have always wanted to have a threesome with my wife and my sister.” (Klepper Depo. 87:20–22.) Again, as with his prior comment about the size of his company, Mr. Klepper claimed that Mr. Willis repeated the statement about his wife and sister multiple times. (Klepper Depo. 88:5.) While Mr. Klepper made this specific allegation during his deposition, he did not specifically mention this comment in his affidavit. (Klepper Depo. Ex. 3.)

At this point during the ride back to Mr. Willis’ hotel, Mr. Klepper testified that he was getting angry. (Klepper Depo. 88:14.) However, as before, Mr. Klepper responded jokingly to Mr. Willis. This time, Mr. Klepper said, “Richard, what are you going to do if your wife likes your sister better than you and she runs off with her?” (Klepper Depo. 88:16–18.) Mr. Willis found Mr. Klepper’s retort entertaining. (Klepper Depo. 88:18–19.)

As Mr. Klepper recalled, Mr. Willis did not only converse with him during the ride back to Mr. Willis’ hotel, but he also conversed with Mr. Urdaneta. However, according to Mr. Klepper, the conversation between Mr. Willis and Mr. Urdaneta was not pleasant. At some point, Mr. Klepper claimed that Mr. Willis said something derogatory about French women, which supposedly upset Mr. Urdaneta because his girlfriend was French. In the words of Mr. Klepper, “[Mr. Willis] and Alex [Urdaneta] locked horns, not physically but verbally.” (Klepper Depo. 89:1–3.) At some point, Mr. Urdaneta exclaimed to Mr. Willis that, “You’ve got to be the stupidest son-of-a-b*tch I’ve ever been around in my life.” (Klepper Depo. 89:6–8.)¹⁶ Later, Mr. Urdaneta told Mr. Klepper that he came very close to physically assaulting Mr. Willis for the things he was

¹⁶ During his deposition, Mr. Klepper later attributed this statement to Mr. Peña. (Klepper Depo. 263:9) (“Ramiro said that after the dinner.”) Mr. Klepper then reversed himself again, reattributing the statement to Mr. Urdaneta. (Klepper Depo. 263:10–13.)

saying. (Klepper Depo. 89:6–22.)

After arriving at the Hilton Garden Inn, Mr. Willis got out of the vehicle to go inside. According to Mr. Klepper, Mr. Peña escorted Mr. Willis into the hotel and then returned to the vehicle. (Klepper Depo. 90:1–4.) Mr. Klepper, Mr. Peña, and Mr. Urdaneta then returned to the Grand Fiesta Americana. (Klepper Depo. 90:1–8.) After arriving at the Grand Fiesta Americana, Mr. Klepper said that Mr. Peña came to his suite to express regret about Mr. Willis' behavior that evening, specifically telling him that, "I cannot believe Richard behaved that way." (Klepper Depo. 91:5–15.) Mr. Klepper responded, "I don't want to talk about it anymore. I'm very frustrated." (Klepper Depo. 91:16–17.) Mr. Klepper testified that was the end of the evening.

The final day of the trip and the travel back to Texas

The fourth day, on August 1, 2014, Mr. Klepper testified that he had additional business trips in Querétaro, this time unaccompanied by Mr. Willis. On that day, Mr. Willis attended to his own business with a company that he was involved with in Querétaro. Thus, only Mr. Klepper, Mr. Peña, and Mr. Urdaneta rode on those trips together.

At approximately 1:44 p.m. that day, Mr. Urdaneta sent an email to Mr. Peña, with a carbon copy to Mr. Klepper, stating, "Ramiro, It was very nice spending these days with you and Greg in queretaro. I hope you guys have a safe trip back home. This is Jose Luis' email: jl****@gmail.com.¹⁷ Hope to see you again soon." (Klepper Depo. Ex. 24.) Mr. Peña responded, "Thank you! Looking forward to a bright future!!!" (Klepper Depo. Ex. 24.) Mr. Urdaneta replied, "Likewise!" (Klepper Depo. Ex. 24.) Because of the behavior that Mr. Klepper and Mr. Urdaneta witnessed the prior evening, Mr. Klepper believed that Mr. Urdaneta was just being polite in these emails. (Klepper Depo. 236:12–237:5.)

Later that afternoon, on August 1, 2014, it was time for Mr. Klepper, Mr. Peña, and Mr. Willis to return to Texas. Mr. Klepper and Mr. Peña rode from their hotel to the airport together. Mr. Willis found his own way to the airport from his hotel. However, according to Mr. Klepper, the three of them were all on the same plane back to Texas and saw each other at the airport. They all took American Airlines flight 2686 from Querétaro to the Dallas/Ft. Worth airport, departing at 4:05 p.m. (Klepper Depo. 216:10.)

According to Mr. Klepper, things were uncomfortable at the Querétaro airport. Mr. Klepper testified that he noticed Mr. Willis sitting in a chair waiting, so he sat next to him and extended a greeting. Mr. Willis was courteous to Mr. Klepper. However, Mr. Klepper then, "watched Peña and Willis go over to a cooler, and they messed around at this cooler, and both of them turned around and eyeballed me out of that cooler. ... And I knew right then that something wasn't right." (Klepper Depo. 92:14–20.)

They later boarded the plane. Mr. Klepper got on the plane before Mr. Willis and took his assigned seat. When Mr. Willis boarded and reached the place where Mr. Klepper was sitting, he said to Mr. Klepper in a joking manner, "So you're the guy that got my seat. ... I usually sit in that seat on this plane." (Klepper Depo. 93:12–15; 94:16–17.) Mr. Klepper responded, "I'm sorry,

¹⁷ Ashcroft sent emails to the email address that supposedly belongs to Jose Luis, but never received a reply. Ashcroft also tried variations of the email address provided in the event there was a misspelling in the email address provided but received a notice that the attempted variations were not viable email addresses.

I didn't know you usually sit here.” (Klepper Depo. 94:17–18.) Mr. Willis then went on to his seat on the plane. According to Mr. Klepper, “[Mr. Willis] did not mean any ill will, he did not mean anything mean by it, he did not mean any threatening manner that I had got this airplane seat.” (Klepper Depo. 94:20–23.)

After they returned to Texas, Mr. Klepper and Mr. Willis did not speak again. (Klepper Depo. 95:5–7.) During the entire time that they were together in Mexico, Mr. Klepper said that his problems associated with McLane Stadium were never a topic of conversation with Mr. Willis. (Klepper Depo. 198:9–21.)

The recording of statements allegedly made in the hotel suite is destroyed by Mr. Klepper

According to Mr. Klepper, he brought his GoPro camera and the SD Card upon which the recording of the discussion in Mr. Klepper's hotel suite was saved back to Texas with him. After returning home, Mr. Klepper testified that he destroyed the SD Card because, “I was embarrassed of what was on it.” (Klepper Depo. 98:2–4.) Mr. Klepper cut the SD Card into at least 23 pieces but did not discard the SD Card itself. (Klepper Depo. Ex. 28.) After destroying the SD Card, Mr. Klepper stuck it in laminate. (Klepper Depo. 244:6–7.)

When asked why Mr. Klepper kept the pieces of the SD Card, Mr. Klepper said, “I guess that's sheer stupidity on my part. ... I mean I do not have a reason, and I wish to God I would have never had the thing. ... It served no good for no one. ... Let me make that very clear. That served no good for no one.” (Klepper Depo. 98:5–17.)

Before destroying the SD Card, Mr. Klepper testified that he never reviewed or listened to its contents. (Klepper Depo. 100:2–4; 244:17–24.) According to Mr. Klepper, “It served no purpose to me.” (Klepper Depo. 100:6.) Mr. Klepper testified that nothing on the recording was embarrassing to him. (Klepper Depo. 254:8–18.) However, Mr. Klepper later acknowledged that the recording may have captured discussions about going to “chicheros or strip clubs,” but testified that he was not the one that made those comments. (Klepper Depo. 256:2–20.) This account is consistent with Mr. Peña's memory that “chicheros” were discussed during the trip, though Mr. Peña attributes the chichero remarks to Mr. Klepper.

Though Mr. Klepper, “was embarrassed of what was on [the SD Card],” and he never showed the contents to the SD Card to anyone, he testified that he “immediately” told others about what allegedly happened in Querétaro. Specifically, Mr. Klepper testified that he told his attorney,¹⁸ his wife, and his pastor. (Klepper Depo. 98:25–99:13.) Mr. Klepper said that he told his wife because he wanted his family to reconsider their relationship with Baylor because of the things that Mr. Willis and Mr. Peña did and said. (Klepper Depo. 100:7–23.) However, Mr. Klepper did not tell his wife about the recording. (Klepper Depo. 251:21–25.)

Mr. Klepper believes that he told Mr. Ker about what happened in Mexico anywhere from two days to two weeks following his return from Querétaro. (Klepper Depo. 243:9–12.) However, when Mr. Klepper told Mr. Ker about the recording, he had already destroyed the SD Card and preserved the pieces of the card in laminate. (Klepper Depo. 243:24–244:12.) Mr. Klepper testified that he told Mr. Ker about recording conversations and later destroying the SD Card

¹⁸ At the time, Mr. Jon R. Ker represented Mr. Klepper in his company's pending lawsuit against Baylor over Mr. Klepper's alleged financial losses pertaining to his contracted work on McLane Stadium.

because he was concerned that he may have done something wrong. In his words, Mr. Klepper, “didn’t want to get in trouble for something I shouldn’t have done.” (Klepper Depo. 99:14–100:1.) “Well, I just thought possibly I did something wrong, and I didn’t want to do anything wrong, and I didn’t want to show it to anybody, I didn’t want anybody to see it, and I just didn’t -- I wasn’t proud of any of that, what was on there, and I didn’t -- I didn’t want it. I didn’t -- I just destroyed it.” (Klepper Depo. 253:1–11.)

After telling Mr. Ker about the recording and the pieces of the SD Card in laminate, Mr. Klepper testified that Mr. Ker instructed him to bring the laminate to Mr. Ker. (Klepper Depo. 244:5–10.) Mr. Klepper complied, making Mr. Ker the custodian of the destroyed SD Card within approximately two weeks of Mr. Klepper’s return from Querétaro. (Klepper Depo. 244:11–15.)

Mr. Klepper subsequently reduced his interactions with Baylor

As part of reconsidering their relationship with Baylor, the Kleppers reduced the frequency of their interactions with the University. (Klepper Depo. 100:25–101:2; 105:2–10.) This included no longer attending Baylor sporting events. (Klepper Depo. 106:25–107:3.) However, the Kleppers did not quit attending sporting and related events entirely because of what transpired in Querétaro. At that time, Mr. Klepper’s daughter’s physical condition was worsening and making it more difficult for them to take her places. (Klepper Depo. 107:3–7.) However, what transpired in Querétaro did play a role. (*Id.*)

In response, Mr. Klepper testified that some individuals associated with Baylor asked Mr. Klepper why he and his family were not coming around very much anymore. (Klepper Depo. 100:25–101:2; 105:2–10.) Of those that asked, Mr. Klepper would generally tell them that he had been busy. (Klepper Depo. 101:2.) One of the individuals that asked Mr. Klepper was his friend, Tom Hill, an Assistant Athletic Director for Baylor University.

Mr. Hill and Mr. Klepper were friends whose relationship preceded Mr. Klepper’s relationship with Baylor. As Mr. Klepper described, “I’ve known Tom Hill for a long time. I served on the school board at Live Oak [Classical School in Waco] with him.” (Klepper Depo. 101:7–8.) When Mr. Hill asked Mr. Klepper why he wasn’t coming around anymore, Mr. Klepper told Tom Hill about what occurred in Querétaro. (Klepper Depo. 105:8–24.) Moreover, Mr. Klepper said, “Tom, I just -- Brenda and I are going to reconsider what we are going to be doing around here, and I just don’t think we’re going to be doing a lot with charitable giving anymore. It’s going to slow down a little bit.” (Klepper Depo. 106:14–18.)

Mr. Klepper, however, claimed that that he continued to give money to Baylor, particularly for “things that help students” and “[i]f it’s for a cause that’s for good.” (Klepper Depo. 106:22–24.) As recently as 2019, Mr. Klepper testified under oath that he continues to “give money to the school in small portions.” (Klepper Depo. 108:2–3.)

No business contracts for Mr. Klepper’s company resulted from the trip to Querétaro. According to Mr. Klepper, “We lost all of that business.” (Klepper Depo. 104:23–105:1.) Notwithstanding the loss of business opportunities in Querétaro, Mr. Klepper said, “I don’t have an axe to grind.” (Klepper Depo. 108:2.)

However, the meeting that Mr. Klepper was hoping would occur between Baylor Medicine and Pepe Perez regarding the children’s hospital in Guadalajara did occur in Dallas, Texas,

sometime following Mr. Klepper's trip to Querétaro. (Klepper Depo. 219:7–9.) According to Mr. Klepper, Mr. Peña, "said that they met, and it went wonderful and everything was good." (Klepper Depo. 293:3–4.) Mr. Klepper's description of the meeting, as provided by Mr. Peña, varies from how Mr. Peña described it.

Mr. Klepper sent a letter to Judge Ken Starr regarding his lawsuit against Baylor for financial losses alleged by E&A for the work done on McLane Stadium

On or about February 9, 2016, Mr. Klepper typed a letter to the President of Baylor at the time, Judge Ken Starr. (Klepper Depo. Ex. 27.) Mr. Klepper believed he mailed the letter to Judge Starr. (Klepper Depo. 268:1–9.)

Among other things, the letter warned Judge Starr of "litigation that is fast approaching in Austin, Texas," referencing the pending litigation against Baylor by Mr. Klepper's company, E&A. (Klepper Depo. 268:10–17.) In the letter, Mr. Klepper expressed, "concerns of lost income which fell to deaf ears and had no response from the prime contractor or Baylor[.]" (Klepper Depo. Ex. 27.) Among those with "deaf ears" were Mr. Willis, Mr. Peña, and Mr. Nicholson. (Klepper Depo. 272:2–20.) The letter ended by expressing that Mr. Klepper was "saddened by the way we have been treated and lied to by staff and the way the events have unfolded. Mr. Richard Willis and Romero [sic] Peña are aware of our issues and we only seek fair treatment in this matter." (Klepper Depo. Ex. 27.)

Mr. Klepper testified that he sent this letter to Judge Starr even though Baylor, "didn't have anything to do with it." (Klepper Depo. 268:18–20.) Mr. Klepper said that, "I was just letting him know that I was embarrassed about all of this and everything that was going on." (Klepper Depo. 270:17–19.) Though Baylor, "didn't have anything to do with it," Mr. Klepper acknowledged that he asked people at Baylor, "I wish somebody would pay me my million dollars." (Klepper Depo. 270:25–271:1.)

During his deposition, Tom Hill described allegations by Mr. Klepper regarding Querétaro

On August 20, 2018, Tom Hill was deposed in the Title IX litigation against Baylor. Within that deposition, Mr. Hill relayed what Mr. Klepper told him about Querétaro, shortly after Mr. Klepper's trip to Querétaro. (Hill Depo. 71:15–74:15.) And while Mr. Hill testified that he learned about Mr. Klepper's version of events in Querétaro shortly after the trip, Mr. Klepper testified that he did not remember when his conversation occurred, or whether it was closer to the trip to Querétaro in 2014 or Mr. Hill's deposition in 2018. (Klepper Depo. 110:4–10.) From a timing standpoint, Mr. Klepper said, "I have no idea." (Klepper Depo. 110:10.)

According to Mr. Hill, Mr. Klepper said that Mr. Peña, Mr. Willis, and he attended a dinner at the home of "Dan [sic] Javier," a friend of Carlos Slim. (Hill Depo. 72:17–19.)¹⁹ According to Mr. Hill, Mr. Klepper said they were having dinner at Mr. Javier's home, "to forge business relationships in the lighting business." (Hill Depo. 72:19–20.) In his deposition, Mr. Hill testified that Mr. Klepper claimed, "that Romero [sic] Peña and Richard Willis got so drunk that the guests asked them to leave." (Hill Depo. 73:1–2). This conflicts with Mr. Klepper's testimony that he did not know if anyone had too much to drink or why they were asked to leave. (Klepper Depo.

¹⁹ Mr. Hill referred to a "Dan [sic] Javier" in his deposition but based on the alleged statements and the dinner party setting, we believe that he is speaking about the dinner party host referred to as Mr. "Jose Luis" in this report.

81:8–82:14.)

According to Mr. Hill’s testimony, after leaving the home of Mr. Javier, Mr. Klepper, Mr. Peña, and Mr. Willis all went back to Mr. Klepper’s hotel suite together and, “[t]hat while they were there statements were made that were racist in nature while they were lounging in their Baylor football apparel.” (Hill Depo. 73:4–13.) According to Mr. Hill, both Mr. Peña and Mr. Willis, “referred to Judge Starr’s wife as a Jew b*tch.” (Hill Depo. 73:21–74:4.) Mr. Hill also testified that, “[t]here was a statement that was made to the effect that the reason Baylor has good n**ger football players is because they have the best blonde-haired, blue-eyed p**sy in Texas.” (Hill Depo. 74:6–9.)

According to Mr. Hill, Mr. Klepper told him that he was “distracted” and “that was the last time he was donating money to Baylor ever again after that weekend.” (Hill Depo. 74:10–15.) Mr. Klepper told him, “Tom Hill, you-all have issues at Baylor University.” (Hill Depo. 74:23–24.) Mr. Klepper also told Mr. Hill that there was a tape or recording of the statements made by Mr. Peña and Mr. Willis. (Hill Depo. 75:25–76:1.)

Mr. Hill testified that he never reported what Mr. Klepper said to the Athletic Director of Baylor University or any other university official. (Hill Depo. 76:16–18.) When asked why he never reported the conversation to anyone, Mr. Hill asked, “Why would I -- why would that be something for me to report?” (Hill Depo. 76:21–22.) While Mr. Klepper testified that he told Mr. Hill that he made a recording and destroyed it, (Klepper Depo. 251:9–20), Mr. Hill never mentioned anything about the destruction of the alleged recording during his deposition.

Mr. Klepper and Mr. Urdaneta were interviewed by lawyers representing Baylor

Following Mr. Hill’s deposition on August 20, 2018, Mr. Klepper was contacted by attorneys for Baylor, including Chris Holmes, General Counsel for Baylor, and Julie Springer of the Weisbart Springer Hayes, LLP law firm in Austin, Texas. Ms. Springer is one of the attorneys that represents Baylor University in the Title IX litigation against Baylor.

Mr. Klepper agreed to meet and later hosted at his offices a meeting with Ms. Springer and Sara Janes, another attorney with Weisbart Springer Hayes, LLP. (Klepper Depo. 110:4–111:21.) Also present were Mr. Klepper’s lawyers, Jon Ker and Don Riddle. The meeting lasted approximately thirty minutes during which Mr. Klepper relayed to Ms. Springer and Ms. Janes some of what happened in Querétaro. Ms. Springer asked Mr. Klepper if he could identify who was present at the dinner, and Mr. Klepper said he would have to check to make sure. She also asked him for any information to corroborate the statements he alleged. He never did provide any contact information to Ms. Springer for the persons present at the dinner. Further, Mr. Klepper did not mention during this meeting that he recorded the alleged discussions in his hotel suite. (Klepper Depo. 246:10–13.)

At some point during the interview, both Mr. Ker and Mr. Riddle asked Ms. Springer if she was going to talk to Mr. Klepper about his claim against Baylor. Ms. Springer responded that she was not aware of any claim Mr. Klepper had against Baylor. Both lawyers told her that Mr. Klepper had a claim for approximately \$3.1 million against Baylor arising from his company’s work on McLane Stadium. Ms. Springer responded that she was not previously aware of the claim and was not prepared or authorized by Baylor to discuss such a claim. She asked if Mr. Klepper

was still willing to discuss his allegations against Mr. Willis and Mr. Peña, and he said he was. After the interview, and upon further research, Ms. Springer learned that the claim referenced by Mr. Ker and Mr. Riddle was the same claim Mr. Klepper brought in litigation against Baylor and Parsons Electric and which resulted in a take nothing judgment against Mr. Klepper's company.

Less than one month after the interview, on September 25, 2018, Ms. Springer and Mr. Riddle had multiple phone conversations. The following day, Ms. Springer and Mr. Riddle exchanged emails regarding the substance of those phone calls. From the emails, it is clear that Mr. Riddle advised Ms. Springer during a phone call that there was a recording of the alleged incidents in Mexico. Ms. Springer asked Mr. Riddle to please provide the recording or a copy of it to Baylor. Mr. Riddle responded that he had not been able to speak with Mr. Klepper about the recording, but that he did speak with Mr. Ker. Mr. Riddle again raised with Ms. Springer the claims Mr. Klepper had against the University, characterizing them as "sizable," and then said that he could not release the recording because it was part of the file relating to Mr. Klepper's claim against Baylor.

Following his meeting with Ms. Springer and Ms. Janes, Mr. Klepper contacted Mr. Urdaneta. (Klepper Depo. 285:13–286:23.) Mr. Klepper shared with Mr. Urdaneta what he told Ms. Springer and Ms. Janes. (Klepper Depo. 286:20–23.) According to Mr. Klepper, Mr. Urdaneta refreshed his memory about some things he forgot about from Querétaro. (Klepper Depo. 287:14–16.) Significantly, Mr. Urdaneta supposedly reminded Mr. Klepper, "That Mr. Peña had been drinking quite a bit and that -- the incident in the back seat where they were arguing, between him and Willis." (Klepper Depo. 287:17–20.) Moreover, Mr. Klepper said that Mr. Urdaneta, "just confirmed that he felt as though [Mr. Peña] was inebriated." (Klepper Depo. 287:21–25.) Mr. Klepper testified that Mr. Urdaneta also confirmed for him that Mr. Willis made offensive comments at the dinner on the evening of July 31, 2014. (Klepper Depo. 288:21–25.)

Mr. Klepper's attorneys represented that a recording of some of the alleged statements exists

On September 25, 2018, an attorney for Baylor in the Title IX litigation, Ms. Springer, spoke with another one of Mr. Klepper's attorneys, Don Riddle. (Klepper Depo. Ex. 25.)²⁰ During that conversation, Mr. Riddle stated to Ms. Springer that Mr. Klepper advised him that there was a "tape of the incident." (Klepper Depo. Ex. 25.) Ms. Springer requested that she be provided the tape. (*Id.*) Specifically, Ms. Springer relayed that, "It is important for Baylor to see the tape, regardless of whose story it confirms. Please let me know if your client will release the tape to me." (*Id.*) On September 26, 2018, Mr. Riddle sent an email to Ms. Springer stating, "Hello Julie: My client Mr. Klepper told me he is not inclined to release the recording to you." (*Id.*)

When Mr. Klepper was asked about these transactions between attorneys, Mr. Klepper testified that Mr. Riddle's statement to Ms. Springer that Mr. Klepper was "not inclined to release the recording" was not a true statement. (Klepper Depo. 248:11–16.) When asked if he knew why Mr. Riddle would make such a statement if not true, Mr. Klepper testified that he did not know. (Klepper Depo. 248:17–21.)

Ms. Springer and Mr. Riddle continued to communicate. Ms. Springer responded, "Hi

²⁰ According to Mr. Klepper, his attorney-client relationship with Mr. Riddle began when Mr. Riddle called him after Mr. Hill's deposition, wanted to talk to him, and offered to be his attorney. (Klepper Depo. 250:9–12.) Mr. Riddle also represented Tom Hill in the Title IX litigation against Baylor. (Klepper Depo. 250:4–6.)

Don, if Mr. Klepper will not release a copy of the tape to me, will he allow us to at least listen to the tape? We are willing to drive to Hewitt tomorrow if necessary. As I mentioned several times, this issue is of the utmost importance to Baylor.” (Klepper Depo. Ex. 25.) Mr. Riddle replied, “Hello Julie. Mr. Klepper has just informed me that he does not see any reason to allow your request.” (*Id.*) According to Mr. Klepper, “I didn’t know that Ms. Julie had asked Don that, and Mr. Don never called or asked me, and I had no idea. I don’t know when this was going back, but I never got a phone call from anybody, from Mr. Riddle asking me to produce anything about the tape.” (Klepper Depo. 249:16–21.)

As mentioned, Mr. Klepper said he destroyed the recording because, “That served no good for no one.” (Klepper Depo. 98:14.) And though a video of what allegedly occurred in his hotel suite “served no good for no one,” Mr. Klepper later documented the alleged inappropriate statements made in his hotel suite by Mr. Willis and Mr. Peña with a writing he created on his computer. (Klepper Depo. Ex. 26.) When asked why he created the document, Mr. Klepper testified that he, “Just typed them up to remember the date.” (Klepper Depo. 267:5–9.) However, the date on the document, “8/21/2014,” is not the correct date. Mr. Klepper later deleted the document from his computer, “Just to get rid of it.” (Klepper Depo. 281:4–6.) But he also saved a hard copy of it. (Klepper Depo. 281:25–282:2.) When asked about the computer on which the document was created, Mr. Klepper stated that the computer was a “stand-alone computer,” unconnected to a network, whose hard drive failed, “probably.” (Klepper Depo. 282:11–18.)

E. Alejandro “Alex” Montano Urdaneta

Mr. Urdaneta refused to sit for an interview with Ashcroft. He also refused to sit for a deposition in the Title IX litigation against Baylor. (Mr. Urdaneta initially agreed to sit for a deposition, and the litigants agreed to split the cost of a plane ticket for him to fly from France to the United States for the deposition, but he failed to show up for the flight or the deposition.) Mr. Urdaneta previously gave an interview to Ms. Springer and Ms. Janes and executed a declaration that was filed in the Title IX litigation against Baylor. We describe the relevant details of his interview with the Baylor attorneys and his declaration below.

Interview of Mr. Urdaneta

On September 18, 2018, Mr. Urdaneta voluntarily sat with Ms. Springer and Ms. Janes for an interview. The interview was arranged after Mr. Hill’s deposition in the Title IX litigation against Baylor, wherein Mr. Hill relayed the allegations made by Mr. Klepper of racist, sexist, and anti-Semitic comments by Mr. Willis and Mr. Peña during the trip to Mexico.

Ms. Springer emailed Mr. Urdaneta to set up the interview. After many emails, Mr. Urdaneta agreed to meet with Ms. Springer in France. The weekend before the interview, September 15–16, 2018, Mr. Urdaneta told Ms. Springer that his lawyers, Don Riddle and Jon Ker, would participate in the interview by phone and wanted to record the interview. Ms. Springer did not agree to record the interview but adjusted the time of the interview so Messrs. Riddle and Ker could participate via phone. Ms. Springer and Ms. Janes met with Mr. Urdaneta at a café in France and sat outside in a courtyard area. No one else was physically present. Mr. Urdaneta called Messrs. Riddle and Ker so they could listen to the interview. They confirmed they were not recording the interview.

Mr. Urdaneta was born in Mexico City, Mexico. He obtained a degree from the University of Texas at San Antonio, then earned his masters at the University of Glasgow in Scotland. He worked for Ben Barnes for a few years, subsequently moved to Mexico, and then later moved to France.

With respect to his work with Mr. Klepper, Mr. Urdaneta told Ms. Springer and Ms. Janes that his job was to develop leads for Mr. Klepper's lighting business, Optik. According to Mr. Urdaneta, it was his idea to make a business trip to Querétaro, Mexico and he set up meetings with "friends of friends" of his father.

Mr. Urdaneta did not know Mr. Peña or Mr. Willis before the trip to Querétaro, Mexico. Mr. Urdaneta told Ms. Springer and Ms. Janes that Mr. Willis flew down to Querétaro with the rest of the group. (Based on the flight records made available to us, Mr. Urdaneta is mistaken about Mr. Willis being on the same plane as Mr. Klepper and Mr. Peña from Dallas/Ft. Worth to Querétaro.) Mr. Urdaneta made no mention of the group spending any time in a suite at the hotel.

Mr. Urdaneta relayed to Ms. Springer and Ms. Janes that following the first full day of the trip, July 30, 2014, they had dinner at the house of a local businessman, Jose Luis. (Again, based on the records and information available to us, Mr. Urdaneta's recollection is mistaken, as Mr. Willis did not arrive in Querétaro until late on July 30, 2014.) Mr. Urdaneta stated that he has a friend who is married to the daughter of Jose Luis. According to Mr. Urdaneta, in attendance at the dinner were Mr. Peña, Mr. Willis, Mr. Klepper, Jose Luis, the son of Jose Luis, the friend of Mr. Urdaneta who is married to Jose Luis' daughter, and Mr. Urdaneta himself. Mr. Urdaneta recalled them all sitting at one round table.

Mr. Urdaneta told Ms. Springer and Ms. Janes that Mr. Willis made racist comments during the dinner. He specifically stated that Mr. Willis made the comments alleged by Mr. Klepper regarding, "Jew b*tch," "n**gers," and "blonde hair blue eyed p**sy out there" during the dinner. (Urdaneta Decl. ¶ 4.) He also recalled Mr. Willis making a comment about wanting to have sex with his wife's sister. (This differed from Mr. Klepper's allegation that Mr. Willis "wanted to have a threesome with [his] wife and [his] sister," not his wife's sister.) Mr. Urdaneta stated that Mr. Willis talked of his house in Hawaii.

Mr. Urdaneta did not tell Ms. Springer and Ms. Janes that the group was asked to leave the dinner. When they did leave, Mr. Urdaneta claimed they traveled back to the hotel by Uber. (Mr. Urdaneta is the only member of the group to claim that transportation was provided by Uber. All others describe a private driver.)²¹ He stated that they all went back to the same hotel. He noted that Mr. Peña was falling asleep by that time.

Mr. Urdaneta said that he and Mr. Klepper flew home together but did not fly with Mr. Peña or Mr. Willis. This conflicts with Mr. Klepper's testimony during his deposition, wherein he described talking to Willis on the plane as they were boarding the plane.

Other than the dinner at the home of Jose Luis, Mr. Urdaneta said he had no other

²¹ Notably, our investigation revealed that Uber did not begin operations in Querétaro until approximately June 2015—nearly a year after the alleged events occurred. *See, e.g.*, <https://www.eleconomista.com.mx/estados/Uber-y-el-gobierno-de-Queretaro-inician-proceso-de-regularizacion-20200206-0084.html>; <https://www.milenio.com/estados/declaran-pirata-a-uber-en-queretaro>.

interactions in Querétaro with Mr. Klepper and Mr. Peña together.

Mr. Urdaneta confirmed that he spoke with Mr. Klepper before speaking to any attorneys about the case. He spoke with Mr. Klepper before he spoke with Steve McConnico, counsel for Mr. Willis, or Ms. Springer, counsel for Baylor. He said that Mr. Klepper told him to tell the truth. Mr. Urdaneta also stated that he and Mr. Klepper spoke several times about the statements allegedly made by Mr. Willis and Mr. Peña because they found them to be shocking. Mr. Urdaneta stated that Mr. Klepper uses foul language but does not make racist or lewd statements.

When the interview was concluded, and after Mr. Riddle and Mr. Ker hung up, Mr. Urdaneta asked Ms. Springer why this was all so important. Ms. Springer told Mr. Urdaneta that she could not answer without his lawyers present by phone. According to Ms. Springer, Mr. Urdaneta then said that he has nothing against Baylor and just wants to “stay on the sidelines.”

Mr. Urdaneta’s Declaration

Mr. Urdaneta’s declaration is generally similar to what he told Ms. Springer and Ms. Janes during the interview in France. In the declaration, Mr. Urdaneta provided specific quotes of what he alleged Mr. Willis said. He alleged that Mr. Peña expressed agreement with those statements but did not directly attribute any specific statements or quotes to Mr. Peña.

Mr. Urdaneta did not allege in his declaration that they were “kicked out” of the dinner, nor did he allege that anyone was drunk. Mr. Urdaneta’s declaration differs from what he told Ms. Springer and Ms. Janes in France in that the declaration did not mention that the “event” where the alleged statements took place was at the home of his friend’s father-in-law.

Mr. Urdaneta’s relationship with Optik

When we began our investigation in February 2019, Mr. Urdaneta was listed on the Optik LED website as a member of the “Executive Team.” Specifically, Mr. Urdaneta was listed as an “International Sales Consultant.” If he was receiving any financial benefit from Optik LED at the time he executed his declaration, or when he was interviewed by Ms. Springer, this would be an obvious source of bias in favor of Mr. Klepper. We note that, as of February 6, 2020, Mr. Urdaneta is no longer listed on the Optik LED website.

F. Marco Polo Resendiz Diaz

Mr. Resendiz Diaz’s name (“Marco Polo”) arose in multiple places during our investigation. From the information available to us, it is clear to us that Marco Polo was involved in the trip to Querétaro.

First, “Marco Polo” is mentioned in a July 1, 2014 pre-trip email from Mr. Urdaneta to Mr. Klepper. In that email, Mr. Urdaneta says, “Marco Polo and Jose Luis are planning on getting the 10 cobra heads to 10 municipalities as soon as possible, so that they can set-up meetings with Mayors in case we decide to make the trip from July 29th until August 1st. Marco Polo thinks it will be a good idea to take the Chinese to Colon, and have the meetings with the municipalities and other potential clients.” (Klepper Depo. Ex. 19.) From this email, we deduce that Mr. Resendiz Diaz is involved in Mr. Klepper and Mr. Urdaneta’s business activities in Mexico. Additionally, Mr. Resendiz Diaz appears to be advising Mr. Klepper and Mr. Urdaneta.

In addition to the pre-trip email, Mr. Resendiz Diaz is mentioned during Mr. Klepper's deposition. During his deposition, Mr. Klepper identifies Mr. Resendiz Diaz as, "just a logistics person. Marco Polo is like a shipping and receiving guy." (Klepper Depo. 213:4–5.) According to Mr. Klepper, Mr. Resendiz Diaz works for Jose Luis—the person that both Mr. Klepper and Mr. Urdaneta identify as the host of the dinner party on July 31, 2014. (Klepper Depo. 213:7.)

Additionally, on the itineraries for the trip to Querétaro, "Marco Polo" is identified as a driver. (Klepper Depo. Exs. 1 & 2.) During his deposition, Mr. Klepper testified that Mr. Resendiz Diaz may have been the driver that was part of the late lunch at El Caserío in Querétaro. If Mr. Resendiz Diaz was part of this late lunch, Mr. Klepper testified that Mr. Resendiz Diaz was drinking alcohol even though he was driving the group around. (Klepper Depo. 225:10.)

Lastly, Mr. Resendiz Diaz's name appears on the room service receipts for Mr. Klepper's suite in Querétaro. (Klepper Depo. Ex. 23.) In fact, it appears as if Mr. Klepper's suite was in Mr. Resendiz Diaz's name.

It appears Mr. Resendiz Diaz was able to observe the behavior of some or all of those involved. Also, if Mr. Resendiz Diaz was functioning as the driver for the group on July 31, 2014, he would be a witness to the allegations about what happened in the vehicle after the dinner party.

Interview of Mr. Resendiz Diaz

In documents produced by Mr. Klepper in the Title IX litigation against Baylor, Mr. Resendiz Diaz is identified as a "Buyer" on several invoices (titled "Proforma Invoice") from Energy & Automation, Inc., Mr. Klepper's company. Among other things, the invoices contain both home and mobile phone numbers for Mr. Resendiz Diaz.

Mr. Sutton called both numbers. The home number was disconnected and no longer working. When Mr. Sutton called the mobile number, he was able to leave a voicemail message. A few days after leaving the voicemail message, Mr. Sutton received a return call from a man who identified himself as Mr. Resendiz Diaz, although the call did not come from the mobile number listed on the Proforma Invoice. Mr. Sutton explained who he was, the purpose of his call, and his need to speak with Mr. Resendiz Diaz about the allegations we were investigating. Mr. Resendiz Diaz's initial response was that he had no memory of four men named Klepper, Urdaneta, Peña and Willis making a trip to Querétaro or attending a dinner at the house of a man named Jose Luis.

As Mr. Sutton continued to interview Mr. Resendiz Diaz, Mr. Resendiz Diaz explained that he had a bad connection and could not speak with Mr. Sutton at that time. Mr. Sutton was able to hear Mr. Resendiz Diaz and communicate with him. However, Mr. Resendiz Diaz insisted that the connection was poor and that he could not talk at that time. Though Mr. Sutton insisted he could hear Mr. Resendiz Diaz and stressed the importance of needing to interview Mr. Resendiz Diaz, Mr. Resendiz Diaz ended the call promising to return Mr. Sutton's call later that afternoon.

Mr. Resendiz Diaz did not call back within the time promised. Mr. Sutton and Mr. Peele tried again to reach Mr. Resendiz Diaz at the cell phone number found on the invoice, as well as at the phone number Mr. Resendiz Diaz used to call Mr. Sutton the first time. They left a voicemail message and Mr. Sutton sent text messages to both numbers. Mr. Resendiz Diaz never called back.

VII. Analysis

We were asked to investigate and offer our judgment as to whether Mr. Willis and Mr. Peña made the alleged statements or were drunk during the trip to Querétaro. At the outset, it is important to acknowledge that we were hampered in our efforts by several factors. First, the passage of almost five years between the time of the alleged events and when we were asked to analyze the allegations makes investigation difficult. During this time, memories fade, and evidence is lost.

Second, the refusals of both Mr. Klepper and Mr. Urdaneta to participate in our investigation prevented us from asking them directly about multiple areas of clarification and interest beyond the information we were provided. While both Mr. Klepper and Mr. Urdaneta voluntarily cooperated with other attorneys by providing affidavits related to the Title IX litigation against Baylor, and Mr. Klepper also sat for an all-day deposition, we still had questions of our own that we wanted to ask them. Beyond gathering information, interviews afford us the ability to sit face-to-face and assess first-hand a witness' credibility. While we were afforded that opportunity with both Mr. Willis and Mr. Peña, we never had the opportunity to sit face-to-face with Mr. Klepper or Mr. Urdaneta.

Third, apart from Mr. Resendiz Diaz, we were unable to positively identify or contact any of the other individuals that were around, near, or involved in the trip to Mexico or the statements allegedly made in Querétaro. Through information and testimony provided by Mr. Klepper and/or Mr. Urdaneta in the Title IX litigation, the following third parties were named and/or identified, and they may have information germane to our investigation:

- “The Chinese,” or Da Jua, possibly a business partner of Mr. Klepper
- Trump Chow
- Don Javier, businessman in Mexico City
- Pepe Perez, businessman in Guadalajara
- Jose Luis Alvarado Tapia (homeowner)
- Friends of Jose Luis
- Eduardo Luis, son of Jose Luis
- Friends of Eduardo Luis
- “the Kid”
- Alejandra from Corregidora
- Mr. Urdaneta's father

It would be helpful to speak with the others who were present for the dinner in Querétaro, Mexico where some of the alleged statement were made. It would be helpful to speak with them about the allegations that Mr. Willis and/or Mr. Peña made such statements, were intoxicated, or were asked to leave the dinner on the evening of July 31, 2014. Because we were unable to speak with any of the above persons, and what the above persons allegedly know or said has only been transmitted to us as third and fourth-hand information, we gave information attributed to those listed above no evidentiary weight.

Fourth, and finally, because we are private attorneys and are not engaged in litigation with any of the relevant persons, we do not have the legal right to force anyone to cooperate with our

investigation. We rely upon the voluntary cooperation of others in our investigations. Mr. Willis and Mr. Peña both cooperated with our investigation. Mr. Klepper and Mr. Urdaneta did not.

We note that all the foregoing constraints on our investigation were created, or could have been ameliorated, by Mr. Klepper and/or Mr. Urdaneta. Mr. Klepper could have made his allegations earlier, when memories were fresher. Second, he and/or Mr. Urdaneta could have participated in an interview with us.

Third, though they were trying to do business with some, or all the others present for the dinner, neither Mr. Klepper nor Mr. Urdaneta provided contact information for them (beyond the information we found for Mr. Diaz). As the designer of the itinerary for Querétaro, we believe that Mr. Urdaneta knows how to contact many of those listed above (or perhaps all of them). This is especially true regarding Jose Luis, the host of the dinner party in Querétaro, because Mr. Urdaneta arranged that dinner and his friend is the son-in-law of Jose Luis.

Despite the foregoing limitations under which we operated, we are confident in our conclusion. We reached this conclusion based upon the following reasons:

1. There is no corroborating evidence of the alleged statements.

There is no corroborating evidence of the allegations. Such evidence could take the form of video or audio recordings of the alleged statements, or testimony of a disinterested third party. If we had audio or video recordings of the alleged statements, we would place great weight upon what we saw or heard in those recordings. Similarly, if we were able to interview other witnesses present when the statements were alleged to have been made – such as Mr. Resendiz Diaz or the dinner guests – we would give weight to what they said. Unfortunately, Mr. Resendiz Diaz told us he did not remember the trip at all and did not call Mr. Sutton back even though he said he would. Moreover, immediately following the trip to Querétaro, Mr. Klepper claimed that he shared what happened with his wife, his attorney, and his pastor. All three conversations are privileged, and we could not interview Mrs. Klepper, Mr. Klepper’s attorney, or Mr. Klepper’s pastor without Mr. Klepper’s consent. Without corroborating evidence, we are left to assess the accuracy and credibility of each of the five persons from whom we have some form of contact or statement: Messrs. Klepper, Urdaneta, Willis, Peña, and Resendiz Diaz.

2. Mr. Willis and Mr. Peña deny the alleged statements were made.

Messrs. Willis and Peña consistently deny the alleged statements were made. Mr. Peña did so under oath in a deposition. Mr. Willis was not deposed but did deny the alleged statements in an affidavit filed in the Title IX litigation against Baylor, as well as other public statements. All his statements are consistent.

3. Mr. Willis and Mr. Peña cooperated with our investigation.

Both Messrs. Willis and Peña voluntarily met with us to be interviewed. They provided whatever documentation we requested. They answered all our questions. We found them to be credible and their stories to be consistent with respect to Mr. Klepper’s allegations.

4. Mr. Klepper and Mr. Urdaneta did not cooperate with our investigation.

We contacted attorneys for Mr. Klepper and Mr. Urdaneta and explained our need to hear their side of the story. Both men refused to meet with us. As for Mr. Resendiz Diaz, he only answered one question (stating that he did not remember the trip at all) and then quickly got off the phone with a promise to call back—a promise he never fulfilled. As a general matter, when witnesses refuse to meet or speak with us, we consider that a strike against the credibility of their allegations. If someone is telling the truth, there should be no problem in telling it again to a new audience.

5. Mr. Urdaneta refused to be deposed in the Title IX litigation against Baylor.

After giving a personal interview to Ms. Springer and Ms. Janes in France, Mr. Urdaneta expressed his desire to “stay on the sidelines.” However, Mr. Urdaneta later agreed to be deposed in the Title IX litigation against Baylor. The University and counsel for the plaintiffs in that litigation agreed to split the significant cost of a plane ticket from France to Texas so that Mr. Urdaneta could be deposed in Texas. But Mr. Urdaneta did not get on the plane and he did not appear for his deposition. We understand that Mr. Urdaneta did not provide an explanation for his actions and has made no subsequent effort to honor his commitment to be deposed. Again, when someone fails to answer questions regarding their allegations, it is a reasonable inference that perhaps their allegations are not wholly accurate or true.

6. Mr. Klepper admits he has a poor memory.

On multiple occasions throughout his July 1, 2019 deposition, Mr. Klepper acknowledged that his memory is not what it used to be. Mr. Klepper demonstrates his lack of precision in his memory repeatedly throughout his deposition, constantly stating, “I don’t know,” “I cannot remember,” and like statements.

For example, Mr. Klepper constantly varied his assessment of the amount of money he claims Baylor owes him. At one point, Mr. Klepper estimated his projected losses on the project at approximately \$200,000. He later sued Baylor for over \$400,000. While initially claiming during his deposition that he did not sue Baylor, Mr. Klepper admitted that he both did authorize the lawsuit against Baylor and contacted Baylor directly for help regarding his claims for payment. Later during Mr. Klepper’s deposition, he estimated his financial losses on the stadium project to range from \$750,000 to over \$1 million, though there’s no evidence in the record presented to us to substantiate losses more than doubling what Mr. Klepper claimed in his lawsuit. Notably, during his interview with Ms. Springer, which occurred in the presence of Mr. Klepper’s attorneys, the amount Mr. Klepper claimed he was owed ballooned to \$3.1 million.

Though he struggled with precision and details throughout his deposition, Mr. Klepper curiously claimed a vivid and definitive memory of aspects of Querétaro, especially when it came to the behavior of Mr. Willis and Mr. Peña. For example, Mr. Klepper described, in detail, what Mr. Willis was supposedly wearing the evening that he arrived in Querétaro. Mr. Klepper claimed, with precision, what Mr. Willis and Mr. Peña allegedly said that evening in his hotel suite. But when it came to other important

details, *e.g.*, whether anyone was drunk or drank too much, Mr. Klepper could not remember.

While he was adamant that neither Mr. Willis nor Mr. Peña consumed alcohol in his hotel suite, Mr. Klepper could not recall why he had room service deliver twelve beers and a bottle of wine to his suite that evening. Nor could he remember who drank the beer and wine. Indeed, as it pertained to alcohol consumption during the trip to Querétaro, while there is substantial evidence of the constant presence of alcohol (including alcohol delivered to Mr. Klepper's hotel suite), Mr. Klepper largely insisted that he was not drinking and could not account for the consumption of the volume of alcohol that was present.

This pattern of partial memory continued for Mr. Klepper regarding the evening at the residence of Jose Luis. On many levels, Mr. Klepper's account of the dinner at Jose Luis' home is also troubling. As with the prior evening, Mr. Klepper recalled with precision what was said in the vehicle—things inappropriate and embarrassing to Mr. Willis—after leaving the home of Jose Luis. However, in his deposition, he could not remember why he and his companions were asked to leave. Yet, in his affidavit, Mr. Klepper was clear that they were asked to leave because of the behavior of Mr. Willis and Mr. Peña.

Moreover, in his deposition, Mr. Klepper could not recall whether Mr. Willis drinks or had anything to drink the night of July 31, 2014. Then, after twice discounting himself as an expert on whether anyone has had too much to drink, Mr. Klepper testified that, "I would say as a layman, that alcohol did encourage some of these statements." Mr. Klepper's deposition testimony in this regard also contrasted with what Mr. Hill testified to in his deposition—that Mr. Klepper told him that Mr. Willis and Mr. Peña became so drunk that they were asked to leave the party.

Mr. Klepper discounted Mr. Peña's involvement in the trip to Querétaro as Mr. Peña's idea, and claimed that Mr. Peña wanted to see Querétaro and that he also volunteered to serve as a translator for Mr. Klepper. Later in his deposition, Mr. Klepper could not remember how it came about that Mr. Peña accompanied him to Mexico ("I don't remember if he volunteered"). Thus, within his own deposition, Mr. Klepper went from knowing with certainty how it came about that Mr. Peña accompanied him to Querétaro to not knowing at all. That Mr. Klepper would know something and then not know it, or not know something and then know it later, was a pattern in his deposition on multiple topics.

7. Mr. Klepper made statements that are very difficult to believe.

In the course of his deposition, Mr. Klepper made statements that are highly unlikely and impair his credibility. For example:

- a. Mr. Klepper stated during his deposition that even after the alleged incidents in Querétaro, he continued to give gifts, financial and otherwise, to Baylor. Mr. Klepper claimed that he was still giving money to Baylor—five years after the alleged incidents in Querétaro. However, Baylor's own records of giving, by both

the Klepper family and Mr. Klepper's businesses, show no gifts past 2012, nearly two years before the trip to Querétaro, Mexico. Thus, not only does Mr. Klepper's record of giving to Baylor stop nearly two years before the alleged incidents in Querétaro, but it contradicts Mr. Klepper's testimony on July 1, 2019 that "we still give money to Baylor." We believe that Mr. Klepper claimed he was still giving money to show that he has no ill will towards Baylor and, thus, no motive to make false allegations. When pressed during his deposition as to whether he harbored negative feelings towards the University, Mr. Klepper stated, "Well, I don't have an axe to grind, I still give money to the school in small portions, and what I'm telling is the absolute truth."

- b. While Mr. Klepper was Chairman of the Board for PRUF, the company hired the Ben Barnes Group to work with them. Following his involvement with PRUF, Mr. Klepper became equal business partners with Ben Barnes in his new company. Yet, when asked, Mr. Klepper testified that he had no idea that Ben Barnes is a former Speaker of the House and former Lt. Governor for Texas. Mr. Klepper says he only knew that Mr. Barnes was "a Texas guy." Yet, the primary reason people do business with Mr. Barnes is because of his background in Texas politics. Mr. Klepper was involved with Mr. Barnes through PRUF and as a business partner in Optik, and it is simply not believable that Mr. Klepper knew nothing about the political background of the business partner with whom Mr. Klepper owned an equal stake.
- c. Mr. Klepper claimed he does not like to drink, but he admitted that during their stay at the hotel in Mexico, a total of 20 beers and multiple bottles of wine were delivered to his suite. He claimed to not have any idea who ordered them or who drank them, and at one point he specifically said that he, Mr. Peña, and Mr. Willis did not drink in the suite.
- d. As part of our investigation, we contacted the attorneys representing Mr. Klepper and Mr. Urdaneta, stating that, "It is important that we interview the witnesses involved in the events. We would also like to speak to the witnesses present at the Querétaro dinner and various car rides in Mexico. We ask that you put us in touch with Mr. Urdaneta as soon as possible so we can interview him and collect whatever information he has regarding the potential witnesses in Mexico." At no time did we receive any cooperation providing contact information for witnesses or other sources of information in Mexico. This is despite Mr. Klepper's testimony that he met with Jose Luis and his son Eduardo before in Mexico City and even though Mr. Urdaneta is from Mexico, set up the meetings listed on the itinerary for the trip to Mexico, and Mr. Urdaneta's claim that his friend is married to Jose Luis' daughter. It is notable that, apart from Mr. Resendiz Diaz's phone number located on documents produced by Mr. Klepper in the Title IX litigation, neither Mr. Klepper nor Mr. Urdaneta provided contact information for witnesses in Mexico who could potentially corroborate the allegations. Even if Mr. Klepper no longer had Jose Luis' contact information, we believe that Mr. Klepper knows who to call or email in order to be able to contact Mr. Luis.
- e. When it came to the evening at the home of Jose Luis on July 31, 2014, though he

was never specifically asked, Mr. Klepper made it a point to tell attorneys during his deposition that, “[t]he only person allowed in the home was me to -- he would let me go in the home to use the restroom. Everybody else had to use the restroom at the pool house.” Not only is this statement remarkable in and of itself, but it is contradicted by Mr. Willis and does not comport with any cultural norms for Mexico or Latin America of which we are aware. In his supplemental statement of February 25, 2019—over four months before Mr. Klepper’s deposition—Mr. Willis relayed his account of the evening’s events, including a description of the inside of the home that he was allegedly not allowed to enter. Mr. Willis specifically described the home as “an older home that had been remodeled” and had at least two stories, excluding the cellar. Mr. Willis described the inside of the home as largely “white” with “large brown wood beams on the ceiling.” According to Mr. Willis, “[t]he dinner participants spent most of their time outside, but then went inside for at least an hour or more after sunset.”

- f. During his deposition, Mr. Klepper was adamant that, on July 31, 2014, while at the home of Jose Luis, he didn’t drink wine because he “can’t stand wine.” Yet, receipts and documentary evidence from the trip show that lots of wine was uncorked at a restaurant, poured at the home of Jose Luis, and even delivered to Mr. Klepper’s hotel suite. In fact, wine was involved in all three evenings that Mr. Klepper was in Querétaro. It is clear to us that somebody was drinking wine, though Mr. Klepper is unable to say who that may have been.
- g. Regarding his own drinking, Mr. Klepper was difficult to pin down. At one point in his deposition, Mr. Klepper stated, “I’m not a drinker.” Indeed, after arriving in Querétaro, though the group had three beers and two bottles of wine at the El Caserío restaurant, supposedly everyone was drinking except Mr. Klepper. That same evening, six beers and two bottles of wine were delivered to Mr. Klepper’s suite. The next evening, 12 beers and a bottle of wine were again delivered to Mr. Klepper’s hotel suite. Mr. Klepper was asked, “who was drinking the beer?” Mr. Klepper responded, “Hmm ... I don’t know.” When it came to the evening of July 31, 2014 at the home of Jose Luis, Mr. Klepper’s testimony, taken at face value, leads one to believe that he did not drink at all that evening. Clearly, Mr. Klepper had alcohol in front of him all evening, but he claims that he did not partake. According to Mr. Klepper, “Well, I was getting poured [wine]. I asked for a beer. I set the beer on the table for courtesy. I didn’t drink beer. And Ramiro [Peña] was drinking my port.” In short, for the entire trip, alcohol appeared to be everywhere Mr. Klepper was, including the multiple deliveries of alcohol to Mr. Klepper’s hotel suite. And yet, according to Mr. Klepper, he barely had a beer the entire time. He said he wasn’t drinking at the El Caserío restaurant and he claimed to not like wine. He claimed he had one, and only one, beer the evening of July 30, 2014. And at Jose Luis’ home, Mr. Peña was drinking his port and he merely set his beer on the table “for courtesy.”

Regarding the scotch bottle, Mr. Klepper’s written document of statements made in Querétaro attributes only, “This Scotch sucks,” to Mr. Peña. In his deposition, Mr. Klepper testified that Mr. Peña said, “This is the nastiest tasting sh*t I’ve ever

had in my life.” This transformation of Mr. Klepper’s characterizations during his deposition occurs frequently. For example, during his deposition, Mr. Klepper’s claim against Baylor increased from over \$400,000 to prospectively more than \$1 million.

Regarding Mr. Willis, Mr. Klepper was dismissive of the instances where they interacted. Though Mr. Willis was touring his lighting company’s manufacturing facility, Mr. Klepper dismissed his presence. Though Mr. Willis was hosting the investor meeting that ultimately led to Mr. Klepper’s buyout, Mr. Klepper claimed to have no knowledge as to why Mr. Willis was hosting the meeting or present for the meeting. In Mr. Klepper’s affidavit, he said he knew Mr. Willis only “casually.” As to Querétaro, Mr. Klepper claimed he had no idea that Mr. Willis was going to join them, or that Mr. Willis had a business in Querétaro, until right before they left. Mr. Klepper maintained this claim even though itineraries and emails approximately a month before the trip included Mr. Willis. Mr. Klepper’s efforts to downplay his interactions with Mr. Willis are belied by both evidence and circumstances surrounding each interaction.

8. Mr. Klepper claimed that he destroyed a video recording of Mr. Willis and Mr. Peña making some of the alleged statements.

We would normally not treat the lack of a recording as a factor against someone’s credibility. Despite the proliferation of video and audio recordings captured with cell phones today, we do not fault someone for failing to record an unexpected statement by another person.

However, in this instance, Mr. Klepper alleged that he surreptitiously recorded the alleged statements by Mr. Willis and Mr. Peña in Mr. Klepper’s suite, but then subsequently destroyed the SD Card that supposedly stored the recording. We find this scenario damaging to Mr. Klepper’s credibility, especially in conjunction with his explanations for destroying the recording and his repeated inconsistencies associated with the alleged recording. For example, at the time that Mr. Klepper, Mr. Willis, and Mr. Peña all gathered at Mr. Klepper’s hotel suite, Mr. Klepper testified that he was recording the conversation “by accident.” However, Mr. Klepper also stated that he would only turn on his recording device “when I’d leave the room because I wanted to know if people was coming back in my room” because “Mexico is a violent town.” Yet, when Mr. Klepper turned on the recording device, he had no plans to leave the suite that evening and, in fact, was expecting the company of Mr. Peña and, perhaps, others.

Mr. Klepper wholly failed to mention the alleged video recording when he was interviewed by attorneys for Baylor in August 2018. Mr. Klepper also executed an affidavit dated September 13, 2018. However, in his affidavit (just as in his interview with the Baylor attorneys), Mr. Klepper did not mention that a recording of the alleged statements existed. If he had an actual recording, it would make sense to let both Baylor and the Court know about it. But, according to Mr. Klepper’s own testimony, he and his lawyers knew that an SD Card supposedly verifying some of the allegations against Mr. Willis and Mr. Peña had been destroyed for four years.

Then, for about a month after the existence of a possible recording came to light, both Mr. Klepper and his attorneys allowed the attorneys for Baylor in the Title IX litigation to labor under the false belief that there was an actual recording in existence. Mr. Klepper's attorneys told Ms. Springer that they would not release the recording to her because it was part of the file related to Mr. Klepper's claim against Baylor for losses incurred on his contract to provide cabling for McLane Stadium. This given reason implied that the recording existed at that time. It was not until October 17, 2018 that Mr. Klepper's attorneys produced a photo of an SD Card cut into at least 23 pieces and stored in laminate.

When confronted at his deposition regarding the SD Card, Mr. Klepper said he destroyed the recording because, "It served no good for no one" and "[he] didn't want anybody to see it." We find it notable that although he said he didn't want anyone to see the recording and it supposedly served no purpose, he provided the pieces of the SD Card to his lawyer, Jon Ker, who kept it in his files for four years. When asked why he kept the cut pieces of the SD Card, Mr. Klepper said, "I guess that's sheer stupidity on my part. ... I mean I do not have a reason, and I wish to God I would have never had the thing. ... It served no good for no one. ... Let me make that very clear. That served no good for no one."

Despite Mr. Klepper's claims that the recording "served no good for no one," his lawyers apparently felt differently. Mr. Riddle said he could not release the recording to Ms. Springer because it related to Mr. Klepper's claims against Baylor. Similarly, Mr. Klepper apparently found the statements by Mr. Willis and Mr. Peña to be important enough that he later created a written document listing the alleged statements. Why would Mr. Klepper destroy the best evidence of what was discussed in the hotel suite in Mexico, but then sometime afterward create a document chronicling what was allegedly said?

This set of nonsensical actions and explanations indicates to us that the alleged recording (a) never existed at all, (b) did not have evidence of Mr. Willis or Mr. Peña making any of the alleged statements, (c) had evidence of statements or activity embarrassing to Mr. Klepper, and/or (d) some combination of these possibilities. Perhaps Mr. Klepper did not want anyone to hear the discussions about going to "chicheros or strip clubs," that Mr. Klepper acknowledged were discussed inside his hotel suite. (Mr. Peña remembered that both Mr. Klepper and Mr. Urdaneta spoke of visiting a "chichero.") That Mr. Klepper acknowledged discussions about "chicheros," and declined to attribute the comments to Mr. Willis or Mr. Peña leads us to conclude that Mr. Klepper and/or Mr. Urdaneta made the "chichero" statements.

Also, this series of events raises the possibility that Mr. Klepper attempted to use the threat of a recording to extract money from Baylor. Mr. Klepper's attorneys told Ms. Springer the recording could not be released because it was related to the claim against Baylor. They said this even though a final judgment had been entered against Mr. Klepper's company regarding that claim. Further, Mr. Klepper's lawyers led Ms. Springer to believe that there was a recording to view when, in fact, according to Mr. Klepper himself, the SD Card was destroyed more than four years prior with the pieces of the SD Card in Mr. Ker's possession. Mr. Ker confirmed Mr. Klepper's timeline of

events in this regard.

Thus, we find Mr. Klepper's claim that he had a recording of the alleged statements in his suite – but destroyed it and failed to mention it to anyone until after he was interviewed by Baylor attorneys – severely erodes the credibility of Mr. Klepper's allegations and gives rise to the possibility that Mr. Klepper's allegations are part of an attempt to extract money from Baylor.

9. Mr. Klepper may have bias against Baylor University and/or some of its current or past leadership.

While Mr. Klepper professed that he holds no ill will against Baylor, there is evidence permitting the inference that Mr. Klepper has a bias against Baylor and, in particular, Mr. Willis. That bias could be the product of one or more of the following circumstances:

- a. At the 2012 NCAA Women's Basketball National Championship game in Denver, Colorado, after the Lady Bears won the game, members of the team came into the stands to get Mr. Klepper's daughters and take them down on the floor for the post-game celebration. Mr. Klepper stated that he, concerned about his younger daughter because she cannot walk, followed them down to the floor to watch over the situation. When he got down to the floor, Mr. Klepper claimed Alice Starr, wife of then Baylor President Ken Starr, informed him that he could not be on the floor. He has told multiple people about that incident, including Mr. Peña who not only accompanied Mr. Klepper to the game on a private plane but was sitting with Mr. Klepper at that game, and how upset he was with Mrs. Starr.

Mr. Peña stated that Mr. Klepper referred to Mrs. Starr as a "Jew b*tch" because he was so upset about the incident. We also note that Baylor's records of giving by both the Klepper family and Mr. Klepper's business show his gifts to Baylor stopped that year with a final \$9,000 donation to the Bear Foundation on September 6, 2012, about five months after the incident.

- b. In 2012, Mr. Klepper was bought out of a company he helped found—PRUF. Although he was not an investor in the company, Mr. Willis was ultimately involved in the buyout process and hosted the final meeting where the buyout was initially negotiated. Although Mr. Klepper claimed he had no idea why Mr. Willis was involved, Mr. Willis told us that he was asked by some of the investors – primarily wealthy Baylor supporters – to evaluate the company. Mr. Klepper characterized Mr. Willis' involvement with PRUF as a "fly on the wall, tag-along only." According to Mr. Klepper, Mr. Willis "had zero interest in any of it."

However, Mr. Willis' involvement was more significant. After visiting the company's manufacturing facility and reviewing the company's financial records, Mr. Willis reported to the investors that he did not believe that the company was going to be successful. Mr. Willis believes that Mr. Klepper may not have been happy with Mr. Willis because his report may have precipitated the buyout of Mr. Klepper by the other investors. While Mr. Klepper claimed the buyout was an

amicable situation and he was already looking for a way to exit the company, Mr. Klepper was the odd man out. Moreover, following Mr. Klepper's buyout, the company has continued and been publicly recognized for its efforts in innovation.

It is possible that Mr. Klepper holds a grudge against Mr. Willis for the role he played in procuring Mr. Klepper's buyout. Indeed, the extent to which Mr. Klepper goes to discount *any and all* knowledge of why Mr. Willis was ever involved with the PRUF investors suggests the opposite conclusion—that Mr. Klepper cared a lot.

- c. Separate and apart from Mr. Willis' advice to PRUF investors to part ways with Mr. Klepper, Mr. Willis himself declined to invest in any of Mr. Klepper's business ventures. Though Mr. Klepper denied ever asking Mr. Willis to invest with him, Mr. Peña stated that Mr. Klepper wanted Mr. Willis to invest in his companies, particularly when it came to potential business ventures in Mexico, including Querétaro, where Mr. Willis was connected through his own business. The pre-trip email exchange between Mr. Klepper and Mr. Urdaneta regarding whether to use the Lear 35 for the trip revealed that at that time, Optik had no sales. This raises the inference that Mr. Klepper's company needed more investments or business than he admits. Mr. Klepper's need to secure business for Optik is corroborated by Mr. Peña's statements that Mr. Klepper was targeting Mr. Willis from a business standpoint. We know that Mr. Willis did not invest in Optik or otherwise go into business with Mr. Klepper. It is therefore possible that Mr. Klepper holds a grudge against Mr. Willis for this refusal to invest with him.
- d. In 2013, Mr. Klepper's lighting company, E&A, was hired to install cabling in the construction of Baylor's new football stadium. The contract did not go well. Mr. Klepper repeatedly reached out for help from the University as he felt the project was falling behind and costing him money. Mr. Klepper ultimately sued Baylor, claiming he was owed over \$400,000. He lost that claim.

When he was interviewed by Ms. Springer in August 2018 regarding his allegations against Mr. Willis and Mr. Peña, Mr. Klepper's lawyers asked Ms. Springer if she was going to discuss Mr. Klepper's "claim" against Baylor. They asserted that Mr. Klepper had a \$3.1 million claim against Baylor. But Mr. Klepper and his attorneys failed to disclose that this "claim" was the lawsuit that previously resulted in a Final Judgment against Mr. Klepper in 2016.

One month after the interview, Mr. Riddle explicitly linked the video recording allegedly made in Querétaro to the stadium construction claims, telling Ms. Springer that he could not release the recording because it was part of the file relating to the stadium construction claim. The fact that Mr. Klepper and his attorneys insisted that the alleged recording was somehow linked to Mr. Klepper's claim for money against Baylor raises the question as to whether Mr. Klepper was attempting to use his allegations against Mr. Willis and Mr. Peña to extract money from Baylor.

- e. Mr. Klepper is friends with former Baylor athletics employee Tom Hill, who lost his job in conjunction with the problems that overshadowed Baylor's football

program. The relationship between Mr. Klepper and Mr. Hill predates Mr. Klepper's association with the University. It was through Mr. Hill (Mr. Klepper's friend), that the allegations against Mr. Willis and Mr. Peña, first came to light.

- f. Mr. Klepper appears to be one of several disgruntled supporters of former Baylor football coach Art Briles—someone Mr. Klepper personally knew. Baylor's own records show that Mr. Klepper had direct contact with Coach Briles, from riding on the Baylor football team plane multiple times, to attending functions with Coach Briles, and even having lunch with Coach Briles. Mr. Klepper also claims that Coach Briles borrowed his aircraft.

It is no secret that supporters of Coach Briles, and other former athletic department employees, generally believe that the University's administration made Coach Briles and the football program a scapegoat for wider failures in University leadership. In fact, an association known as Bears for Leadership Reform was formed around allegations of leadership failure at Baylor following Coach Briles' departure. Mr. Klepper not only knows some of the individuals associated with Bears for Leadership Reform but was asked to join the organization.

Even after Coach Briles left Baylor, Mr. Klepper continued to support him. In 2019, Coach Briles was hired to coach the Mt. Vernon Tigers, a 3A Division I high school in East Texas. During Mt. Vernon's 2019 football season, Mr. Klepper appeared in online photographs and videos from a news station near Mt. Vernon, Texas. Mr. Klepper joined with other supporters of Coach Briles to back him in his new position.²²

Lastly, it is no secret that Mr. Willis was the Chair of the Baylor Board of Regents, who made the initial decision to suspend Coach Briles. For ardent supporters of Coach Briles, Mr. Willis and other Regents were problems. There is the possibility that Mr. Klepper, as a friend and supporter of Coach Briles, Mr. Hill, and others that suffered in the wake of Coach Briles' departure, saw the allegations about the trip to Querétaro to create headaches for Mr. Willis and Baylor.

10. We find no bias or motive for Mr. Willis to make the alleged comments.

Mr. Willis is a successful businessman. Mr. Willis knows the statements alleged by Mr. Klepper are highly offensive and would be detrimental to his reputation and career. We uncovered no history of Mr. Willis making racist, sexist, or anti-Semitic comments.

According to Mr. Willis, in 2014, before the allegations regarding sexual assault at Baylor turned into a national news story, things were going well for the University and Baylor athletics. People were generally pleased with the work of Judge Ken Starr and Coach Art Briles. From Mr. Willis' viewpoint, there was no reason for him to speak ill about Judge Starr, Judge Starr's wife, or Coach Briles. Further, Mr. Willis maintains that even when the issues within Baylor's football program became public, and

²² See <https://www.kwtx.com/content/news/Mt-Vernon-game-a-homecoming-for-Briles-and-his-BU-supporters-560543731.html>. Mr. Klepper is shown in a photo with other Baylor alumni who traveled to a Mt. Vernon High School football game to show support for Art Briles.

decisions were made that led to the departures of Judge Starr, Art Briles, and others from Baylor, he still would not and did not make the comments alleged.

11. Mr. Peña may have some bias against Judge Ken Starr, but we do not believe it rises to the level that would explain the alleged statements.

Mr. Peña denies having any bias against Judge Ken Starr. On the other hand, Mr. Willis stated that he believed there was some animosity between the two men, based on his understanding that Judge Starr did not accompany them on the trip to visit Billy Graham because Mr. Peña was involved. It also possible that Mr. Peña felt that Mr. Klepper was treated poorly in the incident alleged between Mr. Klepper and Alice Starr following the 2012 National Championship game in Denver, Colorado. Mr. Peña claims Mr. Klepper used the term “Jew B*tch” immediately after the alleged incident, not Mr. Peña. The allegation that Mr. Peña made an anti-Semitic remark about Mrs. Starr is belied by the extensive work he has done with the Jewish community and in support of the Jewish faith.

12. There is general consistency between Mr. Willis’ and Mr. Peña’s version of events.

Mr. Willis’ and Mr. Peña’s memories of Querétaro, while not perfectly aligned, were consistent with respect to the key facts. Mr. Willis and Mr. Peña did not agree on every detail of the trip. For example, at the July 31, 2014 dinner party, both claimed that they sat next to the host of the dinner party and that the other one sat on their other side. Moreover, their recollections of the shape of the dinner table(s) differs (several rectangular tables vs. one long table). However, they were both consistent, and emphatic, not only that they were not drunk, but that they did not make the statements alleged. Additionally, Mr. Willis and Mr. Peña are consistent in denying that the alleged statements were ever made, even by another.

13. Mr. Peña owes Mr. Willis \$35,000, and that could influence Mr. Peña’s story.

Both Mr. Willis and Mr. Peña agree that Mr. Willis loaned \$35,000 to Mr. Peña and he has not paid it back. It is possible that Mr. Peña, appreciative of the fact that Mr. Willis has not demanded repayment, does not want to anger Mr. Willis by contradicting Mr. Willis’ story. If so, that undercuts the weight given to the consistency of Mr. Willis’ and Mr. Peña’s stories. On the other hand, Mr. Willis seems to have little or no intent to collect on the loan, given his uncertainty about the status of the loan when interviewed. So, there may be less leverage than might normally be implied by a \$35,000 debt.

14. The stories of Mr. Klepper and Mr. Urdaneta differ in material ways.

With respect to the July 31, 2014 dinner party, Mr. Klepper claims in his affidavit that their group was asked to leave the party because of the drunken behavior of Mr. Willis and Mr. Peña. However, Mr. Urdaneta never mentions anyone being drunk in his declaration. Then, during his deposition, Mr. Klepper denied knowing whether Mr. Willis or Mr. Peña were drunk at the dinner, or whether Mr. Willis even consumed alcohol at the dinner. Given that one of the two core allegations by Mr. Klepper and Mr. Urdaneta is that Mr. Willis and Peña became so drunk at the dinner party they were

asked to leave, it is notable that their stories are not consistent on this point.

With respect to the travel back to Texas, in his meeting with attorneys for Baylor in the Title IX litigation, Mr. Urdaneta said that he and Mr. Klepper flew home together, but did not fly with Mr. Peña or Mr. Willis. Mr. Klepper, on the other hand, described in his deposition not only interacting with Mr. Willis at the airport before the flight back to Texas, but also described in detail an on-plane encounter between Mr. Klepper and Mr. Willis regarding Mr. Klepper sitting in the seat in which Mr. Willis normally sat.

VIII. Conclusion

- A. Did Richard Willis or Ramiro Peña make racist, sexist, or anti-Semitic remarks during a trip to Querétaro, Mexico in July 2014?

Based on our investigation, we conclude that Messrs. Willis and Peña did not make racist, sexist, or anti-Semitic remarks during a trip to Querétaro, Mexico in July 2014.

- B. Did Richard Willis or Ramiro Peña drink to the point of intoxication during a trip to Querétaro, Mexico in July 2014?

Based on our investigation, we do not believe Messrs. Willis or Peña drank to the point of intoxication during the trip to Querétaro, Mexico in July 2014.

As set forth above, without independent evidence in the form of third-party witnesses or recordings, we were left to evaluate the credibility of Messrs. Willis, Peña, Klepper, Urdaneta, and Resendiz Diaz. Mr. Willis and Mr. Peña voluntarily met with us to be interviewed, credibly denied the allegations, and their stories were generally consistent with each other, with facts such as travel dates, locations, etc., and on the important points of what was said and who was drinking.

On the other hand, Mr. Klepper and Mr. Urdaneta would not meet with us, and Mr. Resendiz Diaz claimed to have no memory of the trip and refused to call us back to speak further. Mr. Urdaneta intentionally failed to show up for his December 10, 2019 deposition in the Title IX litigation. Further, even though he gave a deposition, Mr. Klepper's story was internally inconsistent, and bordered on unbelievable in some respects.

We conclude, therefore, based on the foregoing investigation and our many years of experience evaluating accusations of wrongdoing that, in our opinion, Mr. Willis and Mr. Peña did not make the alleged statements or become intoxicated during the trip to Querétaro, Mexico.