IN THE COURT OF COMMON PLEAS
CENTRE COUNTY, PENNSYLVANIA

GRAHAM B. SPANIER, Plaintiff, v. THE PENNSYLVANIA STATE UNIVERSITY, Defendant.	)	CIVIL DIVISION Docket No. 2016-0571

REPLY MEMORANDUM IN FURTHER SUPPORT OF THE PENNSYLVANIA STATE UNIVERSITY'S PRELIMINARY OBJECTIONS PURSUANT TO RULE 1028(a)(4)

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I. INTRODUCTION

Dr. Spanier's brief effectively concedes that none of the allegedly disparaging statements made by Penn State or its Trustees – as distinct from statements made by Judge Freeh – were false. In addition, Dr. Spanier has abandoned the claim made throughout the Complaint that "any" negative statement made by Penn State or its Trustees about Dr. Spanier would be in violation of the Separation Agreement.

But Dr. Spanier has nevertheless chosen to stand on the Complaint as filed rather than attempt to cure its deficiencies by amendment.[1] In doing so, Dr. Spanier relies on an "agency" argument that has no legal merit and on tortured and untenable distortions of the language of the non-disparagement clause which the Court can, and should, reject.

As set forth below, and in Penn State's opening brief, neither the allegations of fact set forth in the Complaint nor any reasonable inferences which could be drawn from such facts state any viable cause of action for breach of contract, and Penn State's Preliminary Objections should therefore be granted.

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[1] The Court's Scheduling Order of April 8, 2016 provided that any such Amended Complaint was due, pursuant to Rule 1028(c)(1), within 20 days of service of Penn State's Preliminary Objections, *i.e.*, by April 20, 2016.

II. ARGUMENT

A. Dr. Spanier's "Agency" Theory Has No Legal Merit, and Count I Should Be Dismissed.

Dr. Spanier's argument that Penn State can be held liable for breach of the non-disparagement clause in the Separation Agreement ("SA") by virtue of the allegedly disparaging content of the Freeh Report is belied by the plain language of the SA.[2] It is axiomatic that the Court "must construe the contract only as written and may not modify the plain meaning under the guise of interpretation." *Neyvas v. Morgan*, 921 A.2d 8, 15 (Pa. Super. Ct. 2007) (quoted case omitted). As written, the non-disparagement clause in Paragraph 13 of the SA covers only negative statements made by "[t]he University" itself. To accept the notion that the words of Judge Freeh should be treated as the words of the University would require the Court to expand the scope of the non-disparagement provision to cover negative statements made not only by "[t]he University," but also by third parties including "agents" or "attorneys" of the University. It is, of course, not the role of

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[2] Dr. Spanier devotes two pages of his brief to asserting that the Complaint does allege that statements in the Freeh Report are false, characterizing Penn State's supposed argument to the contrary as "baffling." Plaintiff's Brief in Opposition to Preliminary Objections ("Pl. Br.") at 14-15. What is truly baffling, however, is Dr. Spanier's argument on that score. Penn State has never argued that the Complaint fails to allege that the Freeh Report contains false statements. Whether it does or does not may be germane to the *Spanier v. Freeh* defamation case, but it is simply irrelevant to the adjudication of the claims of breach of contract in this case since the University is not liable to Dr. Spanier for whatever statements a third party such as Judge Freeh and his law firm may have made in the Freeh Report.

the Court to rewrite the contractual language but instead to enforce the provision as written.

The parties were precise in their word choice as to third parties in the SA. Notably, Paragraph 13 even distinguishes between "[t]he University" and "the members of the Board of Trustees," imposing a duty on the University itself not to make certain negative statements, but leaving the Trustees free to make such statements subject only to the University's duty to "use reasonable efforts" to cause the Trustees not to make such statements. Elsewhere in the SA the parties expressly enumerated third parties, including "trustees," "agents" and "attorneys," where inclusion of such parties was intended. *See* SA ¶ 7 ("Dr. Spanier does ... remise, release and forever discharge The Pennsylvania State University ... and [its] agents, attorneys ...."). While the parties also could have easily included "agents" or "attorneys" in the non-disparagement clause, they did not do so. The absence of either term reflects the parties' unambiguously expressed intention that the non-disparagement provision cover only negative statements by "[t]he University" itself and not by everyone who might be characterized as an "agent" of the University.

In addition to contravening the plain language of the non-disparagement provision, the fallacy of Dr. Spanier's "agency" argument is readily apparent from the fact that he fails to cite a single case in which a client has been held liable for

the allegedly disparaging statements of its lawyer. Instead, Dr. Spanier relies on two legal encyclopedias for the unremarkable proposition that a principal cannot do through an agent an act which the principal cannot do directly. *See* Pl. Br. at 16-17 (citing 2A C.J.S. Agency § 141 (2016) and 3 Am. Jur. 2d Agency § 64 (2016)). In support of that proposition, both secondary sources cite an Oklahoma case, *Surety Bail Bondsmen of Oklahoma, Inc. v. Ins. Comm'r*, 243 P.3d 1177 (Okl. 2010), which involved the relationship between a professional bondsman and surety bondsman.[3] *See* 2A C.J.S. Agency § 141 (2016) at n.7; 3 Am. Jur. 2d Agency § 64 at n.3. That case has nothing to do with the attorney-client relationship at issue between the University and Judge Freeh and his law firm and has no bearing on whether a client can be held contractually liable for the words of its attorney under Pennsylvania law. Indeed, a different section of American Jurisprudence (one of the encyclopedias cited by Dr. Spanier) acknowledges that "[a]lthough attorneys at law ... may, in some respects, be regarded as agents, they are *distinguishable from general agents* because their authority is of a special and limited character in most respects." 3 Am. Jur. 2d Agency § 3 "Other Relationships Distinguished" (2016) (emphasis added). Therefore, neither source cited by Dr. Spanier supports his position. The only case Dr. Spanier was able to

[3] The *Surety* court concluded that a professional bondsman could not circumvent a statutory limitation on the number of yearly bonds he could write on defendants by employing a surety bondsman to act on his behalf. *Surety*, 243 P.3d at 1185.

muster, *Reutzel v. Douglas*, 870 A.2d 787 (Pa. 2005), is inapposite. *Reutzel* acknowledges the well-recognized proposition that "an attorney must have express authority in order to bind a client to a settlement agreement." 870 A.2d at 789-90. It has no bearing here.

While it is true that attorneys may be agents of their clients for some purposes, they are also independent contractors with respect to the performance of their duties. *See McCarthy v. Recordex Serv., Inc.*, 80 F.3d 842, 853 (3d Cir. 1996) (applying Pennsylvania law and noting that attorneys exercise "exclusive control of the manner of performing" their work). Indeed, "Pennsylvania recognizes the importance of an attorney's independence in handling [a matter] on behalf of his or her client." *Ingersoll-Rand Equip. Corp. v. Transp. Ins. Co.*, 963 F. Supp. 452, 455 (M.D. Pa. 1997) (citing *Commonwealth v. Nagel*, 371 A.2d 983, 985 (Pa. Super Ct. 1977)). "Under Pennsylvania law, an attorney in private practice who is retained to handle particular matters acts on behalf of his client in the capacity of an independent contractor and not an employee" and, as such, the client cannot be held responsible for the attorney's conduct. *Sanders v. State Farm*, 47 Pa. D. & C.4th 129, 146 (Pa. Com. Pl. 2000) (concluding that client was not liable for the conduct of its outside counsel who allegedly directed his investigator to insinuate to witnesses that the plaintiff was involved in the theft of his own car). Here, the Engagement Letter between the Special Investigative Task

Force of the Board of Trustees and Judge Freeh's law firm, which is incorporated into the Complaint and appended to Dr. Spanier's brief, could not more clearly establish that Judge Freeh's work was akin to that of an "independent contractor" and not subject to the control of his client in its performance and execution. It clearly states that Judge Freeh's law firm was "engaged to serve as independent, external legal counsel ... to perform an independent, full and complete investigation" into the University's awareness and handling of Sandusky's conduct and to recommend improvements in policies and procedures. Ex. A to Pl. Br. at 1. Judge Freeh's independence in the performance of his investigation, and the reporting of his findings, was further emphasized in the provision that "neither the Trustees nor the Task Force will interfere with FSS's reporting of evidence of criminality ... discovered through the course of FSS's independent investigation." *Id.* at 2. As a matter of law, Penn State cannot be held vicariously liable for the words of Judge Freeh on the theory that he was the University's "agent."

Dr. Spanier cannot circumvent this result by resort to conclusory, unsupported allegations that Penn State somehow "directed" Judge Freeh to disparage Dr. Spanier and "provided material support, encouragement, and facilitation of Freeh's action towards Dr. Spanier." Compl. ¶¶ 160, 180. Dr. Spanier claims that the retention of Freeh and his law firm "specifically contemplated" that they would prepare a written report and that it would be

disseminated to the public. Pl. Br. at 17. That is certainly true, but contrary to Dr. Spanier's unsupported insinuations otherwise, nothing in the Engagement Letter or elsewhere "directs" Judge Freeh to disparage Dr. Spanier or otherwise dictates to Judge Freeh how his investigation should proceed or what conclusions he should reach. *See* Compl. ¶ 127; Ex. A to Pl. Br. Moreover and importantly, and as discussed at length in Penn State's opening brief, Dr. Spanier wholly fails to identify any particularized facts in his Complaint to support his outlandish theory that Judge Freeh simply parroted what the University told him to say and write under a fraudulent cloak of supposed independence. Defendants' Memorandum of Law in Support of Preliminary Objections ("PSU Br.") at 10-14. His "blind suspicions and unsupported accusations" do not state a claim under Pennsylvania law. *See, e.g.*, *Feingold v Hill*, 521 A.2d 33, 38 (Pa. Super. Ct. 1987); Pa. R. Civ. P. 1019(a); Pa R. Civ. P. 1019(b). Dr. Spanier could have amended his Complaint to try to plead specific facts to support his theory. He chose not to even try to do so. That is because there are no such facts. Count I should therefore be dismissed.

B. Penn State's Posting of the Freeh Report on Its Website Did Not Violate the SA, and Count II Should Be Dismissed.

In continuing to press the point that Penn State was contractually prohibited from posting or otherwise disclosing the contents of the Freeh Report unless it was first scrubbed to delete anything "negative" about him, Dr. Spanier does not even attempt to address the fact that any such deal between Penn State and Dr. Spanier

would have been void as contrary to public policy. *See* PSU Br. at 10, 14. A contractual promise to conceal matters of such public import as the response of the President of Penn State to any knowledge of Sandusky's conduct with young boys, even if the parties had agreed to it, would certainly be unenforceable. Indeed, it is ironic that where Dr. Spanier and others have been criminally charged in connection with Sandusky's crimes, Dr. Spanier would seriously argue that Penn State was contractually bound to do its best to cover up any alleged wrongdoing by Dr. Spanier himself. In any event, the SA, by fully preserving Penn State's freedom to "provide truthful information in connection with ongoing or forthcoming investigations," imposed no contractual obligation to conceal from the public the findings of any such investigations, including the Freeh investigation.

Dr. Spanier offers a potpourri of arguments as to why Penn State's truthful disclosure of the results of the Freeh investigation constituted a breach of the SA, but none of his arguments have any merit.

First, Dr. Spanier argues that Judge Freeh's work was not an "ongoing or forthcoming investigation" under the SA. The Complaint, however, repeatedly uses the term "investigation" to describe the work Judge Freeh's group was retained to accomplish. *See, e.g.*, Complaint ¶¶ 9, 14, 70, 77, 78, 82, 83. Changing course, Dr. Spanier now contends that Judge Freeh's investigation was not an "investigation" because only "criminal investigations" qualify as "investigations"

under the SA. Pl. Br. at 21. The SA is, however, not so limited. At the time the SA was signed, the "forthcoming" investigations included not just the Freeh investigation but also an NCAA investigation, a United States Department of Education Clery Act civil investigation, as well as potential victim investigations and civil claims. The SA was negotiated against that background and with the knowledge that additional investigations – civil or criminal – might follow. If the parties had intended to limit the word "investigations" to "criminal investigations," they could have inserted the word "criminal" into the SA. There is no basis for the Court to now rewrite the contract to conform to Dr. Spanier's wishes. *See Neyvas*, 921 A.2d at 15. The plain meaning of the broad and unambiguous phrase "ongoing or forthcoming investigations" can only be read to include the Freeh investigation, as well as other non-criminal investigations.

Second, Dr. Spanier argues that the Freeh investigation was not within the scope of the exception in the non-disparagement clause because it was "initiated" by Penn State itself and was "not in the contemplation of the parties at the time of contracting." Pl. Br. at 20. There is, of course, no exclusion in the SA for investigations "initiated" by Penn State any more than there is an exclusion for non-criminal investigations. In any case, Dr. Spanier's assertion that a Penn State-initiated investigation was not contemplated at the time the SA was executed on November 15 is a "fact" not even asserted in the Complaint and apparently

invented for the sole purpose of opposing Penn State's Preliminary Objections. As Dr. Spanier fully knows, the truth is that on November 8, 2011, a full week before the SA was executed and while Dr. Spanier was still serving as Penn State's President, Penn State's Board of Trustees announced that it would commission a "full and complete investigation of the circumstances that gave rise" to the indictment of Sandusky, Curley, and Schultz, with "independent counsel and investigative teams" and a "complete report" to be made public.[4] The Freeh investigation, including the commitment to public disclosure of its findings, is precisely what the parties contemplated at the time the SA was negotiated and executed.

Third, Dr. Spanier argues that Penn State's disclosure of the results of the Freeh investigation is actionable because Penn State was not "required" to conduct or commission any investigation and was not "required" to disclose the results of any such investigation. Pl. Br. at 21-22. This argument is built on a gross distortion of the language of the SA. The SA plainly permits "negative" statements to be made by Penn State (and its Trustees) without violating the contract in three distinct circumstances. First, any statements "required by law"

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[4] *See* Penn State Press Release dated November 8, 2011, attached hereto as Exhibit A. While such factual information would normally not be considered by the Court, where, as here, Dr. Spanier has inserted into his brief a blatantly false allegation which is itself nowhere contained in the Complaint, the Court should, at a minimum, disregard Dr. Spanier's "outside the Complaint" assertion.

are not actionable. Second, statements made "to comply with legal obligations" are not actionable. Third, statements made "to provide truthful information in connection with ongoing or forthcoming investigations" are also not actionable. Each of these exceptions is separated by the word "or" or "and/or," clearly showing that they are independent bases authorizing the making of negative statements, at least as long as they are not false.

Dr. Spanier's argument that each of these three exceptions is limited by the word "required" contravenes one of the most basic tenets of contract interpretation, *i.e.*, that all the words of a contract be given meaning. *See Randal v. Jersey Mortg. Inv. Co.*, 158 A. 865, 866 (Pa. 1932) (noting the "unbending rule that all the words of a contract are to be given an appropriate meaning and none are to be treated as surplusage, unless no other course is reasonably possible."); *Jennison v. Jennison*, 499 A.2d 302, 305 (Pa. Super. Ct. 1985) ("Contracts must be construed in a way which gives meaning and effect to all their terms."). If "truthful information in connection with ongoing or forthcoming investigations" covered only statements which Penn State or its Trustees were "required" to make, that entire clause would be rendered meaningless surplusage, given that statements "required by law" and statements made "to comply with legal obligations" are already permitted. What conceivably would be the source of the "requirement," if not "law" or "legal obligations?"

The use of the word "truthful" in reference to statements made "in connection with ongoing or forthcoming investigations" also negates Dr. Spanier's strained contractual interpretation. A false statement would never be "required by law" and would never be necessary "to comply with legal obligations." There was thus no need to explicitly provide that statements falling under either of those two exceptions would have to be "truthful." The inclusion of the word "truthful" in the third exception, however, makes sense only because it encompasses statements that are neither "required by law" or by any other legal compulsion.

Penn State does not claim that it was required to commission an investigation into Sandusky's conduct and the response of University administrators to such conduct. But the SA unquestionably contemplated and permitted the University to cause such an investigation to be made and in clear and explicit language authorized the University to provide truthful information "in connection with" any such investigation without violating the SA.

Dr. Spanier's final argument for imposing contractual liability on Penn State for posting the Freeh Report on its website is equally bogus. He notes that by the time the Freeh "Report" was issued the Freeh "investigation" had already ended. He argues that any dissemination of the Report therefore cannot be considered to have been "in connection with" any "ongoing and forthcoming investigation." Pl. Br. at 22-23. The SA, however, was plainly referring to investigations which were

"ongoing or forthcoming" at the time the SA was signed. As discussed above, a Penn State initiated investigation by outside counsel was clearly contemplated at that time. There is no rational basis for interpreting the SA to bar Penn State from honest and forthright distribution of the results of an investigation just because of the inevitable fact that the investigation work would be concluded before the investigation report could be finalized or publicly released. Indeed, the phrase "in connection with" is broad and not tied to any timing limitation.

At bottom, Dr. Spanier's contractual "interpretation" arguments appear all to be designed to create enough of a smokescreen to enable the Complaint to survive Preliminary Objections. But a plaintiff alleging breach of contract cannot defeat a demurrer merely by coming up with a series of nonsensical arguments as to the alleged meaning of the contract. In adjudicating a demurrer in a breach of contract case, the Court can and should apply the language of the contract as written. Unambiguous contracts are to be interpreted by the Court as a matter of law. *See Lenau v. Co-Exprise, Inc.*, 102 A.3d 423, 429-32 (Pa. Super. Ct. 2014) (rejecting plaintiff's "selective reading" of the contract at issue and affirming order sustaining preliminary objections); *cf. Williams v. Nationwide Mutual Ins. Co.*, 750 A.2d 881, 884-86 (Pa. Super Ct. 2000) (affirming order sustaining preliminary objections to breach of contract claim where plaintiffs "neither pled sufficient material facts nor cited to pertinent contractual language" to support their theory,

noting that the court cannot "rewrite an insurance contract or construe the language of a clear insurance contract provision to mean something not established by the plain meaning of the words used"). Where, as here, the contract is not ambiguous and the facts as pled do not state a claim of breach of that contract, the claim should be dismissed. Count II should therefore be dismissed.

C. The Allegedly Disparaging Statements Made By Certain Trustees Are Not Actionable, and Counts III, IV, and V Should Be Dismissed.

As noted above, Dr. Spanier's brief does not deny that the Complaint fails to plead that any allegedly negative statement by any Trustee was false and therefore outside the "truthful information" exception. Rather, Dr. Spanier argues that the Trustees' statements are nevertheless actionable because Judge Freeh was Penn State's agent; because the Trustees were not "required" to make those statements; or because the Freeh investigation had concluded before some of the Trustee statements were made, such that the Freeh investigation was not "ongoing or forthcoming" at the time of the statements. Pl. Br. at 23-27. Each of these arguments lacks merit for the reasons already discussed above with respect to Counts I and II, *i.e.*, Judge Freeh's statements do not become Penn State's (or the Trustees') statements on an "agency" theory; the word "required" does not constrict the "truthful information" exception; and "ongoing or forthcoming investigations" is a reference to that which was ongoing or forthcoming at the time

the SA was executed, not at some indeterminate future time. Counts III, IV, and V should all therefore be dismissed.

D. Dr. Spanier Has No Post-Indictment Entitlement to Administrative Support, and Count VI Should Be Dismissed.

In claiming a post-indictment entitlement to "administrative support," Dr. Spanier argues that the terms of his Employment Agreement that deny him all such entitlement following a felony indictment were entirely superseded and negated by the SA. But that is not the case.

Dr. Spanier's Employment Agreement clearly provides that in the event of his indictment on any felony charge "he [would] not be entitled to any further compensation or benefits as President ... nor shall he be entitled to continuing employment as a member of the University faculty, including the Post-Presidency Faculty Position set forth in Section E.6 of this Agreement." Ex. D to PSU Br. at p. 12.

Dr. Spanier nevertheless argues that such provision was no longer in effect at the time he was indicted, in November 2012, because it was superseded by the SA. For that proposition, he cites only Paragraph 2 of the SA, which says that "*except as otherwise provided below*, Dr. Spanier's Employment Agreement was terminated as of November 9, 2011." SA ¶ 2 (emphasis added).

Dr. Spanier's position is hopelessly inconsistent and self-contradictory. His claim to administrative support is derived from Section E.6 of the Employment

Agreement (as incorporated into Paragraph 4(d) of the SA) but that is precisely the provision rendered null and void in the event of an indictment.

The SA did not effect a wholesale negation of the terms and conditions of the Employment Agreement. Rather, the Employment Agreement was terminated "except as otherwise provided below." Dr. Spanier cannot have it both ways. He cannot invoke the benefits of the Employment Agreement while simultaneously excluding himself from the very provisions of that Agreement which specifically refer to, and restrict, his entitlement to those benefits.

Because Penn State had no contractual duty to provide administrative support to Dr. Spanier following his November 2012 indictment, Count VI does not state any viable claim for breach of contract and it should be dismissed.

E. Dr. Spanier Does Not Adequately Allege Breach of Contract for Failure to Pay Legal Expenses, and Count VII Should Be Dismissed.

Dr. Spanier cannot save his claim for breach of contract for alleged failure to pay certain expenses. Each of his arguments is easily defeated. First, Dr. Spanier claims that the costs of hiring a public relations firm to "repair the egregious harm to his reputation" qualify as reimbursable expenses under the SA. Pl. Br. at 33. His self-serving declaration that such costs fit neatly within the relevant contractual language does not make it so. Nothing in Paragraphs 4(f) or 6 of the SA or Section

J of the Employment Agreement or the University's by-laws provides for reimbursement of public relations expenses.

Second, Dr. Spanier claims that the costs of filing a lawsuit against Penn State to obtain access to his emails – which he then quickly dismissed – are reimbursable because they "were incurred in relation to Dr. Spanier's termination or to alleged acts or omissions that occurred while Dr. Spanier was serving as President of Penn State." Pl. Br. at 34. While Dr. Spanier attempts to dismiss Penn State's argument that he unilaterally chose to incur these legal fees, the fact of the matter remains that there is no contractual basis for him to seek indemnification or reimbursement from Penn State for legal fees in a lawsuit he opted to pursue against Penn State. Moreover, the mere allegation that Penn State's legal counsel suggested he file the suit (Pl. Br. at 34; Compl. ¶173) does not in and of itself convert the legal fees into reimbursable expenses.

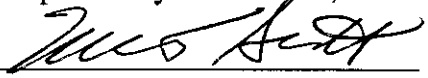
Lastly, Dr. Spanier trumpets that his bald allegation that Penn State "refused to reimburse" him for either of the above expenses is sufficient to state a claim for breach of monies owed. Penn State is not, as Dr. Spanier claims, "attempt[ing] to dispute the facts asserted in the Complaint." Pl. Br. at 35. Rather, Penn State bases its Preliminary Objections, in part, on Dr. Spanier's failure to even allege that he ever sent a bill to the University or made any demand on the University for reimbursement of these bills or even specified what amounts are allegedly owed.

In the absence of an allegation of a prior demand for monies due, Dr. Spanier cannot allege a breach of contract for a failure to make a payment. Count VII should therefore be dismissed.

III. CONCLUSION

For all the reasons set forth above and in Penn State's moving brief, Penn State respectfully requests that the Court sustain its preliminary objections to all Counts of the Complaint and dismiss the Complaint. Because Dr. Spanier did not attempt to cure the Complaint's deficiencies in accordance with the Court's Scheduling Order and has instead chosen to stand on his Complaint as filed, the dismissal should be with prejudice.

Respectfully submitted,



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Dated: June 3, 2016

EXHIBIT A

PennState

Statement by The Pennsylvania State University Board of Trustees

November 8, 2011

The Board of Trustees of The Pennsylvania State University is outraged by the horrifying details contained in the Grand Jury Report. As parents, alumni and members of the Penn State Community, our hearts go out to all of those impacted by these terrible events, especially the tragedies involving children and their families. We cannot begin to express the combination of sorrow and anger that we feel about the allegations surrounding Jerry Sandusky. We hear those of you who feel betrayed and we want to assure all of you that the Board will take swift, decisive action.

At its regular meeting on Friday, November 11, 2011, the Board will appoint a Special Committee, members of which are currently being identified, to undertake a full and complete investigation of the circumstances that gave rise to the Grand Jury Report. This Special Committee will be commissioned to determine what failures occurred, who is responsible and what measures are necessary to insure that this never happens at our University again and that those responsible are held fully accountable. The Special Committee will have whatever resources are necessary to thoroughly fulfill its charge, including independent counsel and investigative teams, and there will be no restrictions placed on its scope or activities. Upon the completion of this investigation, a complete report will be presented at a future public session of the Board of Trustees.

Penn State has always strived for honesty, integrity and the highest moral standards in all of its programs. We will not tolerate any violation of these principles. We educate over 95,000 students every year and we take this responsibility very seriously. We are dedicated to protecting those who are placed in our care. We promise you that we are committed to restoring public trust in the University.

Last Updated November 16, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply Memorandum in Support of The Pennsylvania State University's Preliminary Objections to the Complaint was served via e-mail and U. S. mail, postage prepaid, on June 3, 2016, addressed to the following:

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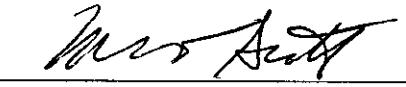

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