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Irene Kao
City Attorney, City of Saint Paul
Saint Paul City Hall
15 Kellogg Blvd. West
Saint Paul, MN 55102
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Via Email

Re: *Chief Axel Henry/Mayor Kaohly Her*

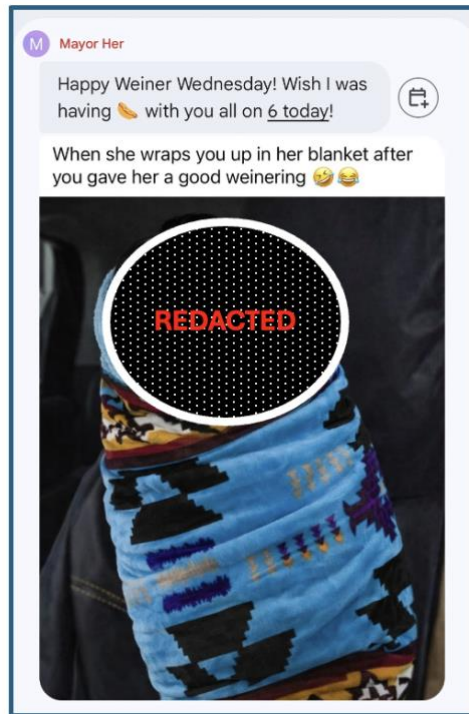
Dear Ms. Kao—

Thank you for our conversation with Chief Henry on March 30, 2026. I would like to address two issues relating to that call.

First, Minnesota law recognizes “that the spoliation of evidence is the ‘failure to preserve property for another’s use as evidence in pending or future litigation.’” *Miller v. Lankow*, 801 N.W.2d 120, 127-28 (Minn. 2011) (quoting *Federated Mut. Ins. Co. v. Litchfield Precision Components, Inc.*, 456 N.W.2d 434, 436 (Minn. 1990) (internal citation omitted)). “The duty to preserve evidence exists not only after the formal commencement of litigation, but whenever a party knows or should know that litigation is reasonably foreseeable.” *Id.* at 127-28; *see also id.* at 128 (“Here, we specifically reaffirm our rule that custodial parties have a duty to preserve relevant evidence for use in litigation. We also reaffirm our previously stated rule that, even when a breach of the duty to preserve evidence is not done in bad faith, the district court must attempt to remedy any prejudice that occurs as a result of the destruction of the evidence.”) (citation omitted); *Baer v. J.D. Donovan*, No. 73-C6-06-0044152007, Minn. Dist. LEXIS 183, *25-26 (Stearns Cnty. 7th Jud. Dist. Ct. Sept. 18, 2007) (“Sanctions are appropriately levied against a party responsible for causing prejudice when the party knew or should have known that the destroyed documents were relevant to pending or potential litigation. This tenet is particularly applicable when a party is on notice that documents in its possession are relevant to existing or future litigation, but still abrogates its duty of preservation.” (quoting *Capellupo v. FMC Corp.*, 126 F.R.D. 545 (D. Minn. 1989))); *Wajda v. Kingsbury*, 652 N.W.2d 856, 862 (Minn. App. 2002) (“The law in Minnesota is that spoliation of evidence need not be intentional to warrant sanctions.”). And “[e]ntrusting the evidence to a third party does not relieve one of the duty to preserve evidence.” *Bren Rd., LLC v. Talon OP, L.P.*, No. 27-CV-19-12830, 2021 Minn. Dist. LEXIS 11770, *16 (Hennepin Cnty. 4th Jud. Dist. Ct. Oct. 4, 2021); *see also Wajda*, 652 N.W.2d at 861 (“Additionally, the doctrine of spoliation applies where the party responsible for the evidence’s destruction had exclusive control and possession of the evidence.”) (citation omitted).

In the instant matter, and as I stated during our call, the City is on notice that Mayor Her

has engaged in illegal conduct towards City employees. Litigation is “reasonably foreseeable.” *Miller*, 801 N.W.2d at 128. You are also aware that Mayor Her has used one or more mobile phones to communicate inappropriate, and, indeed, unlawful text messages. For example, Mayor Her sent the following text message to a City employee:



Accordingly, we hereby demand that the City immediately take all steps necessary to perform a full filesystem extraction of each of Mayor Her’s mobile phones.¹

Second, during our call, you asked Chief Henry if he desired to be a formal complainant against Mayor Her regarding her misconduct. You further indicated that the City had determined to investigate Mayor Her’s conduct regardless of whether Chief Henry filed a formal complaint against Mayor Her.

Chief Henry asked me to convey his sincere appreciation of your offer to give him the space and autonomy to decide whether to proceed as a formal complainant. That respect for his judgment allowed him to make a thoughtful, deliberate decision.

Please accept this correspondence as Chief Henry’s decision to designate himself as a formal complainant against Mayor Her for illegal employment practices against City employees,

¹ As you may know, a full filesystem extraction is a technique used in mobile forensics to acquire data from a mobile device. It works by copying the entire file system of the device, which includes all the files and folders present on it. This encompasses user data like documents, photos, videos, contacts, emails, and messages across numerous applications. It also captures application data such as app settings, cached data, and potentially deleted information within apps. Additionally, system files like operating system files and configuration settings are included in the extraction.

including himself. Chief Henry has reached this decision to step forward as a formal complainant against the Mayor after becoming aware that the Mayor's conduct has extended beyond isolated incidents and has included sexual harassment of subordinate City employees, including members of the Saint Paul Police Department. Recognizing both the seriousness of that misconduct and the vulnerability of those directly affected, he is concerned that, absent a formal complaint, the behavior will continue unchecked and may expose others to retaliation for speaking out. In choosing to act, Chief Henry is not only seeking to address the wrongdoing but also to create a measure of protection for his team, signaling that such conduct will not be tolerated. His decision reflects a willingness to lead by example—accepting personal and professional risk in order to uphold workplace standards and encourage accountability. We expect, of course, that the City shall conduct a thorough and independent investigation, and to that end, Chief Henry will provide all relevant facts to the investigator(s).

Thank you for your attention to the above matters. If you have any questions, comments, or concerns, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'C. W. Madel', written in a cursive style.

Christopher W. Madel