

## INVESTIGATION REPORT

Concerning Mark B. Rosenberg

Investigator: Eric D. Isicoff, Esq.

Prepared for: Florida International University Board of Trustees

March 1, 2022

### I. Scope of Investigation

On Wednesday, December 15, 2021, the Investigator was contacted by Carlos Castillo, General Counsel of Florida International University (FIU) and was engaged to investigate allegations of inappropriate conduct on the part of then FIU President Mark B. Rosenberg (referred to herein as “the President” or “President Rosenberg”). The alleged inappropriate conduct related to a female employee of FIU (hereinafter referred to as “Female Employee”).<sup>1</sup> The Investigator was advised that, earlier that day, President Rosenberg had contacted Dean Colson, Chair of FIU’s Board of Trustees, and requested that Mr. Colson meet with him in person that day. Such meeting took place. In their meeting, President Rosenberg self-reported that he had revealed to the Female Employee that he had feelings for her and, in so doing, had made her uncomfortable. The Investigator was tasked with conducting an independent investigation, determining the nature and extent of any alleged inappropriate conduct on the part of President Rosenberg and advising FIU as to the findings made and recommendations, if any, for further action.

### II. Investigation Protocol

The Investigator was advised that time was of the essence and, accordingly, interviews of the Female Employee, her direct supervisor (hereinafter referred to as “Supervisor”),<sup>2</sup> President

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<sup>1</sup> The Female Employee has requested that she remain anonymous and that the confidentiality of her identity be maintained. To accommodate the request for confidentiality, her name is not revealed in this Investigation Report.

<sup>2</sup> This witness’s name also is not included in the Investigation Report so as to protect the anonymity of the Female Employee.

Rosenberg and Javier Marques, the President's Chief of Staff, were scheduled to take place on Monday, December 20, 2021. Unfortunately, the Female Employee advised that she was not available for an interview as scheduled and, ultimately, she did not make herself available to be interviewed for several weeks. While the Investigator would have preferred to interview the Female Employee at the outset of the investigation, the interviews of the Supervisor, Mr. Marques and President Rosenberg, nevertheless, proceeded on December 20, 2021, as scheduled. The Female Employee was interviewed on January 19, 2021 and Dean Colson was interviewed on February 23, 2022. President Rosenberg was interviewed a second time on February 28, 2022 to provide him the opportunity to respond to information that had been provided by other witnesses.

No representative of FIU was present during any of the interviews conducted by the Investigator. Present at each interview were Eric D. Isicoff and Teresa Ragatz of the law firm of Isicoff & Ragatz, PLLC and the witness. Also present at the two interviews of President Rosenberg was the President's personal attorney. Similarly, present at the interview of the Female Employee was the employee's personal attorney.

In addition to considering information gleaned through witness interviews, the Investigator reviewed all text messages between the President and the Female Employee during the relevant time period, the President's e-mails with the Female Employee during the same period and the personnel files of both the President and the Female Employee. In the interest of ensuring that the investigation was thorough, the FIU Foundation auditor also reviewed the President's expenditures from FIU Foundation funds during the relevant time period.

While no representative of FIU had any input into the questions asked during the various interviews, the evidence compiled, the conclusions reached or the recommendations made, FIU's General Counsel and Chair of the Board of Trustees were kept apprised of the investigative process as it proceeded. All members of the Board of Trustees also were provided with updates at various times. The Investigator was permitted to conduct, and did conduct, a wholly independent investigation without suggestion, input or influence.

### **III. Background Facts**

On a professional level, since 1976, except for the time period between 2005 and 2009, when he served as the Chancellor of the Florida State University System, President Rosenberg has worked at FIU. He served at FIU in a variety of roles, including Assistant Professor of Political Science, Acting Dean, Interim Provost and Acting President. As Provost and Executive Vice-President for Academic Affairs between 1998 and 2005, President Rosenberg spearheaded the establishment of the College of Law in 2002 and the Herbert Wertheim College of Medicine in 2006. He assumed the role of President of FIU in 2009. Under President Rosenberg's leadership, FIU has increased student enrollment, improved graduation and retention rates, grown FIU's budget and increased student internships. Under his tenure, FIU has been named as a Carnegie Engaged institution.

On a personal note, President Rosenberg has been married to his wife Rosalie since 1974. They have two children, a son and a daughter. President Rosenberg's wife suffers from a debilitating physical illness as well as from dementia and she has been unable to care for herself since approximately 2010. Throughout her illness and until December 2021, when he hired a live-in caregiver, President Rosenberg has served as his wife's sole nighttime caregiver.

Following the conduct of various interviews and a review of President Rosenberg's personnel file, the Investigator has confirmed that there exists no evidence that President Rosenberg ever has engaged, or been accused of engaging, in inappropriate conduct of any kind during his almost 50-year tenure at FIU. On the contrary, all witnesses interviewed confirmed that they never have heard or witnessed President Rosenberg say or do anything inappropriate or disrespectful toward any female. In the instant case, there is no allegation of inappropriate physical contact with the Female Employee. As discussed below, while there are a few inconsistencies between the statements of the principal witnesses (the Female Employee and President Rosenberg), most of the salient facts and timelines reported by both are consistent.

#### **IV. Witnesses Interviewed by Investigator**

**Supervisor.** The Supervisor was the first witness interviewed on Monday, December 20, 2021 at 10:00 a.m. She has both a bachelor's degree and a master's degree and has worked with President Rosenberg since 2014. The Supervisor was instrumental in recruiting the Female Employee and interviewed her for her position, along with President Rosenberg and the President's Chief of Staff, Javier Marques. The Female Employee began working under the supervision of the Supervisor in July 2019. While the two were casually acquainted prior to that time, they became friends when they began working together.

The Supervisor's office was located next to the office of the Female Employee, separated by a frosted glass sliding door. The Supervisor was in a position to see if anyone was in the Female Employee's office and to hear what was transpiring. Similarly, the office was set up so that the Supervisor would be aware if the Female Employee was in President Rosenberg's office. The Supervisor stated that she never has seen the Female Employee and President Rosenberg alone or whispering and that she never has observed any interaction between the two that she would consider suspicious or which would cause concern. Someone from the President's office often accompanies the President to events such as lunches, meetings, athletic events and the like. The Supervisor stated that the Female Employee liked to accompany President Rosenberg to events and usually volunteered to do so. From the time she commenced working in 2019 and up until November 2021, the Female Employee never said that anything the President did or said made her uncomfortable. In fact, the Supervisor stated that, in all her years working with President Rosenberg, she never has seen him do or say anything inappropriate or which would cause any concern.

In mid-October 2021, President Rosenberg told both the Supervisor and the Female Employee that he wished to discuss something with them and that he wanted to separately take them to breakfast or lunch. In response to this request, the Female Employee and Supervisor suggested that the meeting be conducted with all three together. The President, according to the Supervisor, rejected that suggestion and insisted upon separate meetings. On Saturday, October 16, 2021, President Rosenberg took the Supervisor to breakfast. At that breakfast, President Rosenberg discussed his wife's illness and related that his wife no longer could remember him. He told her that, even though he would continue to be his wife's caretaker, he was going to obtain a Jewish divorce (referred to as a "get") and that he wanted to find a "companion" - - someone with whom he could communicate and travel. The Supervisor understood President Rosenberg's use of the term "companion" to mean someone with whom he could connect on an emotional level, not on a physical level. The next day, October 17, 2021, President Rosenberg took the Female Employee to lunch. The Female Employee never related to the Supervisor what

President Rosenberg told her at that lunch but, according to the Supervisor, the Female Employee seemed completely unfazed by whatever had occurred.

On Monday, November 8, 2021, the Female Employee told the Supervisor she wanted to talk and the two went to lunch. At that lunch, the Female Employee told the Supervisor that President Rosenberg was acting “weird,” that he could not handle what was going on in his life and that she wanted to transfer out of the office to another position. She stated that she was going to talk to the President. The next day, November 9, 2021, President Rosenberg told the Supervisor that, during his October 17, 2021 lunch with the Female Employee, he had discussed his situation with his wife as he had with her on October 16, 2021 and described it as a “positive conversation” with the Female Employee. He further advised that he thought he may have made her feel uncomfortable and that he was going to apologize. The Supervisor did not discuss the matter with anyone and, after that, according to the Supervisor, everything seemed okay, up until the week before her interview with the Investigator on December 20, 2021.

On Tuesday, December 14, 2021, the Female Employee called the Supervisor and stated that she would be in by noon as she was attending an out-of-office children’s event. When she got to the office, the Female Employee told the Supervisor that President Rosenberg had “creeped her out.” She related that the President had told her that he had feelings for her, that he wanted her to consider being his companion (which she interpreted as being a travel, not physical companion) and had invited her on a trip to New Orleans. The Female Employee stated that the President had written down a list of places to which that they could travel and she showed the Supervisor the list. The Female Employee never asked the Supervisor to report the situation and, in fact, she stated that she did not want to report it. That same day, according to the Supervisor, the President told the Supervisor that he had misread the situation, he had “messed up” and now the Female Employee was uncomfortable. President Rosenberg explained that, after all the time he and the Female Employee had spent together with everything appearing to be okay, he thought he should readdress the subject of her becoming his companion.

The Supervisor advised the President that she had learned the previous day that the Female Employee had told someone in the office that she was interviewing for a position outside FIU. The President stated that, if the Female Employee wanted a transfer, then they needed to find her a good job and, if she wanted to move to another employer, they should recommend her for the job.

After the Female Employee left the office, President Rosenberg told Javier Marques what had occurred and Mr. Marques called the Supervisor into the meeting. The Supervisor discussed the conflict that had been created and expressed that the Female Employee and the President could not continue to work together. She stated that President Rosenberg agreed.

The Supervisor related during her interview that it is her perception that President Rosenberg was naïve and totally misread the situation. She explained that part of their job is to care about the President and his needs and she believes that the President perceived that as the Female Employee having an interest in him.

**Javier Marques.** Javier Marques was interviewed on December 20, 2021 at 3:00 p.m. He has worked at FIU for 13½ years. His position is Vice President for Operations and Safety and Chief of Staff. He has been President Rosenberg’s Chief of Staff since President Rosenberg became FIU’s President and has known President Rosenberg since he was Dean and Mr.

Marques was a student in the mid-1990s. Mr. Marques considers President Rosenberg to be his friend (although they do not socialize outside of work events) and his mentor.

As to his perceptions of the Supervisor and the Female Employee, Mr. Marques stated that he has known the Supervisor since she started working in the President's office and thinks she is very impressive. She gets along with everyone, is dependable and detail oriented and is good at building relationships. Mr. Marques stated that he never has heard a negative comment about her. Mr. Marques first met the Female Employee when she interviewed in July 2019 and she appeared to be very ambitious and a hard worker. There have, however, been complaints from vice presidents about her forcefulness, her not being a team player and her throwing her weight around because she works in the President's office. Mr. Marques stated that he has addressed the issue with the President, the Supervisor and the Female Employee.

Mr. Marques related that the President told him that the Female Employee had approached him regarding a promotion. Another member of the staff was leaving and the President expressed that he was concerned that, if the Female Employee did not get the promotion and salary increase she wanted, she also would leave. Mr. Marques stated that he pushed back because the Female Employee already had received a salary increase in December 2020 or January 2021. According to Mr. Marques, Human Resources also pushed back because the Female Employee did not meet the criteria for the title she was requesting. The Female Employee received a new title and a raise in November 2021 but it was not the raise and promotion she wanted. Mr. Marques related that the Supervisor told him that the Female Employee stated that the President should have pushed harder for her to get promoted.

On Tuesday, December 14, 2021, at about 4:30 or 5:00 p.m., Mr. Marques went to talk to President Rosenberg about a COVID related issue. President Rosenberg told Mr. Marques that he wanted to let him know that the Female Employee wanted reassignment and had an interview outside FIU. The President told Mr. Marques that he had had personal conversations with the Female Employee regarding their potential companionship post-Presidency and those conversations may have been misinterpreted. President Rosenberg told Mr. Marques that he had made a mistake by asking the Female Employee to go with him to the war museum in New Orleans. He stated that he had had a lapse of judgment and that he may have misinterpreted the situation. The President stated that there had been no intimacy. He explained that he was going through the process of obtaining a Jewish divorce. Mr. Marques stated that the President previously had told him in November about obtaining a Jewish divorce and that he had spoken to his children about it, who were supportive.

Mr. Marques called the Supervisor into his December 14, 2021 meeting with the President and told her that he needed to understand what was going on with respect to the Female Employee. He told the Supervisor that she needed to contact the Female Employee and confirm and document that she was okay. On December 15, 2021, Mr. Marques met with the Supervisor. The Supervisor related that the Female Employee felt "weird" and that the President had apologized. The Supervisor told Mr. Marques about the October 2021 meetings President Rosenberg had had with her and with the Female Employee and about the paper with the list of potential travel cities that the President had given to the Female Employee.

Mr. Marques then met with the President and expressed his concerns, particularly about the President's interactions with the Female Employee. The President told Mr. Marques that he had feelings for the Female Employee. Mr. Marques advised President Rosenberg to call the

Board Chair to discuss the situation, which he did. Mr. Marques suggested that the Female Employee be placed on paid administrative leave and be allowed to take as much time as she needed without using any of her sick/vacation time.

Mr. Marques expressed the view that he felt that the Female Employee had taken advantage of the President. In context, this was understood to mean that the President was dealing with serious personal issues, work related pressures and was open with and supportive of others, almost to a fault.

**Mark B. Rosenberg.** President Rosenberg was interviewed on December 20, 2021 at 4:30 p.m. His attorney was present. The President initially discussed his personal life, his wife's illness and the fact that he has started to become very depressed about his life. He stated that his wife's endocrinologist told him that her mother had dementia and that the kids told their father that he needed to get out. Others told the President that he needed to get out and get a life. He stated that he started the process of obtaining a Jewish divorce in about June 2021, that he had discussed the situation with his two siblings and his two children and that everyone was very supportive. He stated that about 1½ months earlier, he had started the process of locating psychological help and that, about three weeks earlier, he had started counseling. He stated that, at the time of his interview, he had had three counseling sessions.

The President related that, in October 2021, he had been approached by a headhunter to interview for the position of president of Auburn University. He told both the Supervisor and the Female Employee about the interview and both said that, if he took the job, they would go with him. He stated that the Female Employee sent him the URL for Auburn's PhD program in Public Administration, which interested her.

President Rosenberg stated that he had discussed his decision to obtain a Jewish divorce with several people at FIU, including the Supervisor, the Female Employee and Mr. Marques. He advised that he met with the Supervisor in mid to late October 2021 because he wanted her to understand about the Jewish divorce. He also met at about that same time with the Female Employee. President Rosenberg stated that, during that meeting, he told the Female Employee that he would like her to consider being his companion once he stepped down as President. He told her to just let him know if this made her uncomfortable and she responded that it did not make her uncomfortable. President Rosenberg stated that, during their October meeting, he asked the Female Employee if companionship was of interest to her and she said "Yes." When asked during the interview what he meant by "companion," President Rosenberg stated that it was open. He explained that he and the Female Employee shared many interests. He stated that she loves to travel, is passionate about exercise and loves music. The two also discussed writing a book together. The President stated that they never talked about sex but that companionship, according to the President, might include sex.

The President acknowledged that there is a big age difference between him and the Female Employee but he explained that he is used to being around young people. He stated that the Female Employee is beyond her years in many ways and that he thinks she is great at her job. He stated that the Female Employee is very outspoken and that, if she doesn't like something, she will say so.

On November 11, 2021, in a conversation between the President and the Female Employee, the Female Employee expressed that she was unhappy with her job. She wanted more

money and wanted to supervise other people. The President explained in his interview that they had just lost another employee to another job that paid \$30,000 more a year and he did not want to lose the Female Employee. He stated that he and Mr. Marques got the Female Employee's salary increased, but not as high as she wanted. The Female Employee also did not get the title she wanted and she continued to express dissatisfaction. The President also revealed that the Female Employee told the Supervisor and the Supervisor, in turn, told Mr. Marques, that she thought the President could have done more for her.

President Rosenberg related during his interview that, after the November 11, 2021 conversation, he and the Female Employee had a "great, warm, positive" relationship. By way of example, he related that the Female Employee told him she needed new running shoes and he bought her some. When they did not fit, she asked him to get her a different size. The Female Employee told him that she needed new air pods and he gave her his own pair. The President's daughter went out shopping with the Female Employee and bought her shoes. Mr. Marques and the President were invited to a lobster dinner at Ocean Reef and the Female Employee said that she would like to go. The Female Employee invited the President to lecture in her class. The President had been working at Reagan House and the Female Employee told him that she wanted to work there too. The President and the Female Employee went together to a Miami Heat game and the Female Employee told him to feel free to drink as she would drive him home. From the foregoing, the President interpreted the Female Employee's conduct as her caring for him. In addition, on the Sunday after Thanksgiving, the Female Employee went to the President's house to drop off a file and stayed for approximately 2 ½ hours to talk. He stated: "So how could she feel uncomfortable with me?"

In December 2021, President Rosenberg stated that he and the Female Employee talked about the December break. The Female Employee stated that she usually travels during the break but was not going anywhere that year. The President told the Female Employee that he was going to go to a museum in Palm Beach and he asked her if she wanted to go. She said "Yes." The President also asked the Female Employee to go with him on a one-day trip to New Orleans to go to the war museum. She stated that she would think about it.

On Tuesday, December 14, 2021, President Rosenberg received his Jewish divorce. That day, the Female Employee came in and told the President that they had to talk. The Female Employee told him that she could not work with him anymore, that he was too emotional. He asked her to give him another chance. The President seemed confused by her reaction because that prior Sunday, after graduation, they had gone together to BJ's, a sports bar, and everything seemed fine.

**Female Employee.** The Female Employee was interviewed on January 19, 2022. Her attorney was present. She related that she was recruited by the Supervisor to work in President Rosenberg's office in July 2019. She was acquainted with the Supervisor because there was a short overlap when both were students at FIU and both were in the same sorority. She met President Rosenberg when she was a student. As part of her job, she often went off-campus with the President for dinners, games, etc. and, in addition, she has had personal dinners with the President.

The Female Employee stated that her relationship with President Rosenberg started becoming uncomfortable as early as May 2021, following the South Beach Wine and Food Festival. The President invited the Supervisor along with her husband and the Female Employee

along with her boyfriend to an event at the festival. A few weeks later, the President started to make comments about how her boyfriend was not right or good enough for her.

In October 2021, the President went to Las Vegas with his son. The Female Employee was on vacation in Salt Lake City and was going from there to Las Vegas. There was no planned overlap between their time in Las Vegas. She stated that the President texted and called her repeatedly while she was in Salt Lake City. Even though the Female Employee already had prepaid her hotel, she stated that the President insisted that she stay in a particular Las Vegas hotel and that he wanted their Las Vegas visits to overlap. Although she did not go to Las Vegas earlier than planned (and, thus, there was no overlap), the President either paid for or had the other hotel comped for her. The day she returned to work from her vacation, she stated that, even though President Rosenberg had that day off, he came into the office anyway to bring her tacos.

On Friday, October 14, 2021, Olga at the Reagan House retired and a party was held for her. President Rosenberg told the Supervisor and the Female Employee at that party that he wanted to meet with each of them separately for a "life update." The Female Employee stated that she was concerned that the update involved him retiring. The Supervisor had breakfast with the President on Saturday, October 15, 2021 and the Female Employee met with him on Sunday, October 16, 2021. At their meeting, the President asked the Female Employee where she saw herself in five years. She stated that he became personal with his questions, told her he was getting a divorce and proposed that she become his "lover" and companion. When asked by the Investigator for clarification of exactly what words were used, she reiterated that he used the term "lover." The President told her to think it over and get back to him. The Female Employee did not tell anyone about the conversation.

The following Monday, the Female Employee stated that she acted as if the conversation had never happened. The President, however, continued to ask her if she had thought about it. He began to comment on her clothing and asked her if she had dressed so nicely for him. The President would not leave the office at the end of the day until she did.

The Female Employee related that, sometime between her October 16, 2021 meeting with President Rosenberg and November 5, 2021, the President invited her to lunch at the Reagan House and told her that he was in love with her and wanted to marry her. According to the Female Employee, the President told her she would be taken care of, financially and professionally. The Female Employee did not tell anyone about that conversation at that time.

On the night of Friday, November 5, 2021, the Female Employee went to a soccer game with two friends. She stated that she was upset about what was occurring with respect to the President and, following the game, while sitting in the back seat of her friend's car, she started to cry. Her friends asked her what was wrong and she shared with her two friends what had occurred with respect to President Rosenberg. Her friends told her that her work environment was toxic and she needed to get out. The Female Employee also confided in her mother that night about what was going on. Her mother, too, told her that she needed to get out of that work environment. The following Monday, she called the Supervisor, told her that they needed to talk and the two went to lunch. The Female Employee told the Supervisor that she was going to ask for a transfer but provided no details. She explained that she did so because she knew that, by leaving, a lot of her work would fall on the Supervisor and she wanted to give her the heads up.



In early November 2021, the Female Employee went to dinner with President Rosenberg at Graziano's. The President stated that he noticed she appeared stressed out and had been crying. The Female Employee stated that she told the President that she was not interested in a relationship with him and wanted a transfer. The President stated that he wanted her to stay on the job and assured her that he would stop any "advances." According to the Female Employee, the President assured her that he would not let his feelings for her affect her job or his objectivity. Therefore, she tried to move forward as if nothing had happened.

The Female Employee stated that the office was understaffed as they had lost an employee and that the President, the Supervisor and the Female Employee got together in mid-November 2021 to discuss office structure. She stated that she thought things were back on track but the President continued with inappropriate behavior. She stated that the President started to call her "Princess" and would not leave the office until she did. He would not have lunch without her and started hugging her occasionally during greetings. One day, President Rosenberg brought his lunch into a room where she was taking a French class remotely. Uncomfortable, she went outside to continue her class. The President followed her outside and took pictures of her.

The Female Employee stated that she received a raise and a promotion on November 21, 2021. She acknowledged that she was unhappy with the amount of her increase and her new title as it was not what she had requested.

The President told the Female Employee that his son wanted an apartment in Coral Gables. She responded that she loved Coral Gables and would move there if she could afford it. The Female Employee related that the President then started looking for apartments for her in Coral Gables. It was her perception that the President was offering to find her an apartment in Coral Gables and pay for it.

Both the President and the Female Employee shared a love of music and often traded and shared music lists. She stated that the President started to send her romantic songs. She stated that, while she liked the music, she felt that, because of the romantic lyrics, the President was sending a message in the context of their relationship. She also said that President Rosenberg asked her to go on a one-day trip during winter break to visit museums. She said the President made a list of places they could go and the weather in each. The following day, she told the Supervisor that she was going to ask for a transfer.

On December 14, 2021, the Female Employee told the President that his behavior had continued to be inappropriate and she wanted a transfer. The President asked her to stay and she said "No." The Female Employee stated that the President had a pattern of retaliating against people. On that day, she told the Supervisor more detail about what had been going on with the President and that their meetings in October with the President had been very different. She told the Supervisor that the President told her that he loved her.

The Female Employee would not discuss in her interview how she wants this situation resolved but directed the Investigator to talk to her lawyer. She stated that she has not applied for any other jobs.

The Female Employee stated that she never observed the President acting or saying anything inappropriate regarding other women.

**Dean Colson.** Dean Colson was interviewed on February 23, 2022. Mr. Colson has been on FIU's Board of Trustees since 2017 and was appointed Chair in July of 2020 for a two-year term. During his tenure at FIU, Mr. Colson never has observed the President acting in any manner that could be characterized as inappropriate. On the contrary, Mr. Colson observed that President Rosenberg's conduct always was extraordinarily appropriate. Mr. Colson became aware of an issue with the President and a female employee on December 15, 2021. On that day, President Rosenberg called him and asked to meet with him. At the time of the call, Mr. Colson had no idea what the meeting was about, just that it was an issue with an employee.

At the meeting, President Rosenberg advised that a female employee had made a complaint about him. He related that he had expressed his feelings for her but did not do or say anything else that was inappropriate. He said that he had discussed the matter with Mr. Marques and Mr. Marques told him he should advise Mr. Colson. Mr. Colson asked the name of the employee and, when identified, did not know who she was. Mr. Colson asked if the employee reported to him, to which the President responded "Yes." Mr. Colson asked who knew about the situation, to which President Rosenberg responded that the Supervisor and Mr. Marques knew. Mr. Colson asked if the employee had received raises, to which the President responded that she had received two raises, both of which were deserved. Mr. Colson asked whether FIU's General Counsel was aware of the situation, to which the President responded "No." Mr. Colson then advised that there would be an investigation. His meeting with the President lasted less than ten minutes. The President seemed very sincere and very concerned. Mr. Colson stated that he has never been contacted by the Female Employee.

When he finished his next meeting on that same day, Mr. Colson called Roger Tovar, the Vice-Chair of the Board of Trustees. He gave Mr. Tovar a brief summary of what had occurred and advised that he planned to have an independent investigation conducted. He then called Carlos Castillo, FIU's General Counsel, and briefed him on the situation. Mr. Colson stated that he did not want the investigation to be internal given that it involved the President and the two agreed on the engagement of the law firm of Isicoff Ragatz to conduct the investigation.

Following the interview of the Female Employee on January 19, 2021, Mr. Colson was briefed during a telephone call with Eric Isicoff and FIU's General Counsel on what had transpired during the interview. When told of some of the allegations the Female Employee had related, Mr. Colson stated that he realized that the situation potentially was much more serious than he had initially believed. The next morning (Thursday, January 20, 2022), Mr. Colson participated in a Zoom meeting with Eric Isicoff, Carlos Castillo and another outside attorney to talk about next steps. The decision was made to brief each member of the Board of Trustees as to what had occurred. Mr. Colson then contacted the President by phone and advised him that he was going to brief the Board based on the interview of the Female Employee and that, based on her allegations, he did not see a way that his presidency could survive. Mr. Colson advised the President to have his attorney speak to Eric Isicoff. That evening, Mr. Colson was advised by Mr. Isicoff that President Rosenberg's attorney had advised him that the President was going to resign. The following morning, January 21, 2022, Mr. Colson learned that the President had decided to resign that day, which he did. Each member of the Board of Trustees was briefed about the resignation of the President, the reasons therefor and Mr. Colson's recommendation for interim President. Mr. Colson convened a Zoom meeting on Friday, January 21, 2022, with the Board to discuss the appointment of the interim President.

In his interview, Mr. Colson revealed that, if President Rosenberg had not resigned, he believed that the Board would have had to proceed with a “for cause” termination as President and that he did not think that was in the best interest of FIU. Mr. Colson did not have enough information to brief the Board members as to the situation before he did as he only obtained sufficient information following the interview of the Female Employee on January 19, 2022. The Female Employee had expressed that she wanted confidentiality maintained and Mr. Colson did not want to escalate and make public the situation without sufficient information.

**Mark B. Rosenberg (follow-up).** A follow-up interview with President Rosenberg was conducted on February 28, 2022 from 2:00 to 4:30 p.m. to advise him of the information that had been provided by the Female Employee during her interview and allow him to respond and/or comment on same.

Before the follow-up interview process began, President Rosenberg expressed how very sorry he is about this situation. He stated that he deeply regrets what happened and its effect on FIU and the people who work there. The President appeared legitimately sincere and contrite.

As to the Female Employee’s statement about the President’s comments about her boyfriend following the event at the South Beach Wine and Food Festival, the President stated that he never made comments that were critical of the boyfriend. Rather, he stated to the Female Employee that her boyfriend did not appear to like him (the President) and commented on the boyfriend’s demeanor towards him.

After hearing the Female Employee’s comments about what had occurred during her vacation to Salt Lake City and Las Vegas, President Rosenberg stated that any telephone calls to the Female Employee while she was in Salt Lake City were to confirm that she actually was coming to Las Vegas so that he could get her room comped. He explained that he knew the General Manager of the hotel and he did not want to ask for her room to be comped without confirming she definitely would be there. The President referred to his arranging for a free room for her as an act of kindness. The President explained that he was only in Las Vegas with his son for two days and there never was any expectation that his trip to Las Vegas would overlap with the Female Employee’s trip. He categorically denies ever attempting to pressure her to shorten her trip to Salt Lake City so she could come to Las Vegas while he was there.

During the President’s October 16, 2021 meeting with the Female Employee, the President admits that he raised the possibility of the Female Employee becoming his companion post-Presidency. He flatly denies that he ever asked her to be his “lover.” He is emphatic that he never used the term “lover.”

As to why he wanted to meet with the Supervisor and the Female Employee separately in October 2021, President Rosenberg explained that, whenever he met with the Supervisor in his office, the Female Employee always came in and inserted herself into the meeting. This appeared to annoy the Supervisor. He stated that he was not comfortable with managing the dynamics of meeting with them together and believed separate meetings would be more appropriate.

As to what was occurring in October 2021, President Rosenberg reiterated again that, by that time, he was under extreme stress at work and, as a caregiver to his wife, was in burnout. He explained that he had been consulting with various Rabbis since June and had discussed the situation with his siblings and his children. Everyone told him to get a life and a Rabbi suggested

that a Jewish divorce, while not a legal divorce, would ethically allow him to socialize. He explained again that he had been contacted by a headhunter on behalf of Auburn University and he told both the Supervisor and the Female Employee that he had to make time in his schedule to interview. Both the Supervisor and the Female Employee indicated that if he got that job, they would go with him. He interviewed with Auburn on October 26, 2021 but, by November 5, 2021, decided that he could not take the job because of his wife's condition.

President Rosenberg explained that, in October 2021, he was extremely busy with a number of difficult situations at FIU. He started to work at Reagan House to have more uninterrupted time to work and, for that reason, he wanted to distance himself. But, wherever he went, the Female Employee wanted to go. He did not ask the Female Employee to move her workspace to Reagan House. She made that decision on her own because she wanted to work where he was.

The President also explained that he helps a lot of people and he routinely asks people where they want to be in five years and how he can help them get there. He stated that he was aware of the Female Employee's financial situation and any statement that he would take care of her professionally and financially was in the context of letting her know that if he left FIU for another position, he would make sure she could come and have a meaningful job.

In response to the Female Employee's statement that, during her lunch with the President at the Reagan House, the President stated that he was in love with her and wanted to marry her, the President denied that he ever stated that he wanted to marry her. He stated that he was not divorced, may never get divorced and, in any event, does not believe he will marry again. President Rosenberg did admit that he acknowledged that he had feelings for the Female Employee but did not discuss marriage. The President stated that it is not unusual for him to tell people he loves them. He thinks he did tell her he loved her, but in a broader context.

The President agreed that, on the Monday following the Female Employee's return from vacation, he came into the office to work. He explained that, just because there may be a day where there is nothing on his calendar, he nevertheless usually comes into the office to get things done. As to bringing in tacos, he explained that the people in his office routinely bring in lunch for the office and it was not unusual for him to do so.

The President flatly denied making comments about the Female Employee's clothes and stated that he never comments on anyone's clothing. He also stated that the people who worked in his office were all huggers and it was not unusual for them to hug. President Rosenberg flatly denied that he ever called the Female Employee "Princess."

With respect to the President's dinner with the Female Employee at Graziano's, the President stated that their conversation was largely focused on her career. There were no "advances" so he doesn't understand the use of that word. He never used the term "advances." At that dinner, the Female Employee focused on her dissatisfaction with her pay and her title and he made a commitment to try and fix the situation as a way to retain her as an employee. They talked about who she would like to work with and about improving her working conditions. This was at the same time that the President purchased new shoes for the Female Employee, which she accepted and even asked for a different size so he perceived that she was not trying to establish distance.

The President did acknowledge walking into a room where the Female Employee was working. He was unaware she was taking a French lesson. He acknowledged taking a picture of her when she went outside but stated that he did so because he was concerned that she did not have an adequate space in which to work at Reagan House.

The President denies that he was looking for apartments in Coral Gables for her. He stated that he was considering a placement for his wife at the Palace in Coral Gables and was looking for an apartment for himself nearby.

President Rosenberg stated that he did exchange music with the Female Employee and that it was reciprocal as all kinds of songs went back and forth. In fact, he stated that the Female Employee sent him music from one of her favorite artists that had graphic sexual lyrics, which he found offensive.

As to a request that the Female Employee accompany him on trips, the President stated that the Female Employee asked him what he was doing on the winter break. He responded that he was going to visit museums, including the war museum in New Orleans and he asked her if she wanted to come on a day trip. She responded that she would and provided him with a day during the break when she would not be available.

The President also discussed the fact that, over the Thanksgiving weekend at the end of November 2021, the Female Employee came by and spent a few hours just hanging out and talking. Similarly, the following week, the Female Employee spent hours at his house just talking following a shopping trip with his daughter. The Female Employee brought him sleeping pills and recommended other medicines to deal with his issues. He did not sense that she was uncomfortable.

## **V. The President's E-Mails**

The Investigator reviewed all of the e-mails between the President and the Female Employee during the relevant time period. The e-mails reflected a friendly working relationship. None of the President's comments could objectively be considered offensive and none of the Female Employee's comments could objectively be construed to indicate that she was offended.

## **VI. Text Messages Between the President and the Female Employee**

The Investigator reviewed all text messages between the President and the Female Employee. While there are no "smoking guns" - - no propositions and nothing that could be construed as constituting sexual harassment - - the messages reveal an uncomfortable and inappropriate level of familiarity and informality on the part both of the President and the Female Employee. The two constantly complimented each other in their texts, even when communicating about work related issues, often coupling their messages with hearts and other emojis. The Female Employee sent a number of photographs of herself engaged in non-work-related activities such as working out. Examples of the text communications include:

- When the Female Employee sent to the President a picture of herself on an airplane, the President responded: "Alright. The only thing missing is your radiant smile!!"

- On another occasion, after the Female Employee drove home in the evening following an FIU event at which both she and the President were in attendance, the President wrote: “[ ] Missing you already – going into [Female Employee’s name] withdrawal!!!”
- On another occasion, after the Female Employee sent the President flight information, he texted: “Omg. Thanks. Fortunately for me you are an amazing person!” The Female Employee responded: “Amazing people find each other!!!”

It is worth noting that, on December 14, 2021 at 2:40 p.m., the very day that the Female Employee advised the President that she was fed up with his behavior and was transferring out of his office (and actually walked out), she texted the President a message offering him a ride to a meeting at Reagan House. In the Investigator’s opinion, these examples demonstrate a level of informality and familiarity that is inappropriate in the context of the environment and the respective positions of the participants. In short, the texts demonstrate a professional boundary that was crossed by both.

## **VII. Foundation Fund Expenditures**

The Florida International University Foundation, Inc. completed a detailed review of President Rosenberg’s expenses for the period of January 1, 2001 through January 2022. The review did not disclose any expenses that were contrary to Foundation policies and procedures or which, according to the auditor, warranted further inquiry.

## **VIII. Findings**

As noted, the timeline and salient facts revealed both by the Female Employee and President Rosenberg during their respective interviews were, for the most part, consistent. So, too, were those facts in line with those provided by other witnesses. The most significant divergencies between the two principal witnesses was the Female Employee’s statement that the President told her that he wanted her to be his “lover” and his subsequent assurance that he would stop his “advances.” The President strenuously denies that he ever used the term “lover” and, it should be noted, in the Female Employee’s discussions with the Supervisor about the President’s conduct, she never stated that the President had asked her to be his “lover.” All the Female Employee told the Supervisor was that the President had asked her to consider being his “companion.” So, too, the President denies that he ever assured the Female Employee that he would stop his “advances.” He is adamant that he never made any advances and never used that term. That statement also never was made by the Female Employee when she related events to the Supervisor.

The Investigator found the President to be straight forward, honest and genuinely remorseful about what had occurred. The Investigator also found the Female Employee to be straight forward and credible. While the workplace, by no means, has to be sterile to the point of unfriendliness, it is clear here that the President acted in a manner that was unprofessional and that he crossed appropriate boundaries in his behavior towards and interactions with a female subordinate. It is immaterial that the Female Employee interacted with the President with the same degree of familiarity and lack of formality. It was up to President Rosenberg to set the tone and the boundaries. Given his position as President of a major educational institution, the substantial disparity in age and the obvious power dynamic that existed in the relationship, the President, at best, displayed extremely poor judgment. That poor judgment continued after being

told to stop on more than one occasion. Such poor judgment simply is not compatible with the important position of President of a large complex enterprise such as FIU. These findings are based on the corroborated conduct, giving lesser weight to the directly disputed comments.

The Investigator also finds that FIU's General Counsel, its Board Chair and the members of its Board of Trustees acted expeditiously and appropriately upon their receipt of information regarding potential inappropriate behavior on the part of the President. An independent investigation was immediately commenced and the Female Employee was placed on paid administrative leave (with her consent) so that she would not have to face the discomfort of interacting with the President during the course of the investigation. At the request of the Female Employee, her anonymity and confidentiality have been maintained. Once it became apparent that the allegations against the President were more serious than originally contemplated and were corroborated in significant part, and that information was conveyed to the President, the President made the decision to resign effectively immediately. The President's resignation was accepted. The Board then acted expeditiously in appointing an interim President. In short, the General Counsel, the Board Chair and the members of the Board of Trustees acted in the best interests of FIU while, at the same time, fairly and impartially investigating the President's alleged conduct and protecting the interests of the Female Employee throughout the process. It is worth noting that, if the President had not resigned and the matter was brought before the Board, potentially lengthy public proceedings would have ensued and the Female Employee's ability to remain anonymous would have been compromised as she would become a witness in those proceedings.

## **IX. Next Steps**

As a result of his resignation the President's status is that of a tenured faculty member. In that capacity, this Investigation Report will be presented to the Faculty Advisor Board ("FAB"), which also is referred to as the HR team. It is comprised of the Vice Provost for Faculty Leadership and Success, the Associate Provost for Academic Planning and Finance, the Director of Employee & Labor Relations ("ELR"), the Associate Director of ELR and the Deputy General Counsel. When the FAB learns of potential faculty misconduct, it decides whether there should be an investigation and, if so, which office (*e.g.*, ELR or Title IX) should conduct it. Here, an investigation already has been conducted and its results will be reviewed by the FAB. The FAB then determines its recommendation, if any, by looking at the conduct and the precedence. Recommendations can range from counseling to reprimand, to suspension or termination. The recommendation typically is given to the Department Chair and, depending on the severity of the conduct, also to the Dean. This can be escalated to the Provost, depending on various factors including the severity of the discipline. If the Department Chair and/or the Dean and/or the Provost agree with the recommendations of the FAB, a discipline letter is created following the BOT-UFF CBA. The Department Chair and/or the Dean, along with someone from ELR, will give the letter to the faculty member. At that point, the rest of the CBA process is followed. Some disciplinary determinations are grievable and some are not (depending on severity). Ultimately, pursuant to the BOT-UFF CBA, a grievable disciplinary finding can result in arbitration, if initiated by the faculty member.

In short, at this point, it is up to the FAB to decide what, if any, further steps may be taken based on the facts gathered in the instant investigation or any further investigation it may wish to conduct.