

**CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED AND
ATTORNEY WORK PRODUCT MEMORANDUM
PREPARED EXCLUSIVELY FOR THE CITY OF SAN LEANDRO**

**BY JANE KOW
HR LAW CONSULTANTS
JANEKOW@HRLAWCONSULTANTS.COM
1310 FILLMORE STREET – SUITE 901
SAN FRANCISCO, CA 94115
TELEPHONE (415) 796-2785**

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**Confidential Summary Report of Investigation
Prepared by Jane Kow, Investigator at HR Law Consultants**

The following is an Executive Summary Report of the confidential independent investigation conducted by Jane Kow of HR Law Consultants on behalf of the City of San Leandro (“City”) into Council Member Xouhoa Bowen’s complaint against Council Members Fred Simon and Victor Aguilar. This investigation examined Bowen’s allegations that she and other women were subjected to a pattern of gender-based bias, bullying, harassment and retaliation by Simon and Aguilar.

I. INTRODUCTION AND BACKGROUND

Council Member Xouhoa Bowen began her term on January 1, 2023, and is currently serving a one-year term as Vice Mayor. Council Member Fred Simon began his initial term on January 1, 2021, and then was re-elected in at the 2024 election taking office in January 2025 for his second successive 4-year term. Simon served as Vice Mayor last year from January 2024 to December 2024. Victor Aguilar began his initial term January 1, 2019, and then began his second term on January 1, 2023. Mayor Juan Gonzalez began his 4-year term on January 1, 2023. Council Member Bryan Azevedo began his initial term on January 1, 2021, and was re-elected to serve his second term starting January 1, 2025. Council Member Sbeydeh Viveros-Walton was initially appointed to fill a vacancy following the resignation of Celina Reynes on March 4, 2024, and then was elected on January 1, 2025. Dylan Boldt, who began his term on January 1, 2025, is the most recent addition to the City Council.

A. Council Members Simon and Aguilar Were the Subjects of a Prior Investigation into A Complaint of Gender-Based Discrimination, Harassment, and Interference with The Performance of Job Duties by Former City Manager Fran Robustelli, Which Ultimately Resulted in A City Council Vote of Censure

Council Members Simon and Aguilar were the subjects of a prior May 2024 complaint by former City Manager Fran Robustelli, who served in that capacity from May 20, 2021, until her resignation on June 21, 2024. Robustelli had complained that Simon and Aguilar subjected her to gender-based discrimination and harassment, as well as interference with her job duties and retaliation following her decision to terminate the former Police Chief, in violation of the City Charter. The City retained Carl Botterud, an independent outside investigator, to investigate her complaint.¹ Botterud’s investigation found that both Simon and Aguilar had interfered with

¹ This investigator is not acquainted with Mr. Botterud and has not discussed this or the prior investigation with him. The prior investigation’s findings were not re-examined by this investigation. However, the underlying events examined by the prior investigation that are relevant to the events in question are described here to provide context for Bowen’s claims of gender bias, harassment, and retaliation after she, along with the other Council Members voted in favor of censuring Aguilar and Simon. As examined in this investigation and discussed below, various witnesses accounts of their interactions with Simon and

Robustelli's execution of her duties as the City Manager by subjecting her to disciplinary action for her decision to terminate the former Police Chief. Based on the findings of the Botterud investigation, on November 18, 2024, a majority of the members of the City Council voted to censure both Simon and Aguilar for their violation of Section 345 of the City Charter, as memorialized in Resolution Nos. 2024-153 and 2024-152, respectively.

The October 30, 2024, Botterud investigation report concluded that "[c]redible evidence suggests that Simon has a gender bias against women in power. This is not, however, sufficient to establish Robustelli's claim [that she was subjected to misconduct based on her gender]." Botterud opined without explaining the basis for his conclusion, "I am not persuaded that Simon's implicit bias toward women was the reason for his action towards Robustelli."²

On November 18, 2024, the other City Council Members, including Bowen, Viveros-Walton, Gonzalez and former Council Member Ballew voted in favor of censuring Council Members Simon and Aguilar. Bowen contends that after she voted along with the majority on the City Council in favor of censuring Simon and Aguilar, they subjected her to retaliation.³ She also alleges that both Simon and Aguilar have subjected her and other women to gender bias, bullying, and harassment sufficient to create a hostile work environment. She believes that they have disrespected, undermined and gaslighted her and other women sufficient to create a hostile environment for women.

B. Controversy Surrounding the Selection of Bowen as Vice Mayor

The City Council adopted a rule, which was inserted into Page 9 of the City Councilmember Handbook as follows:

SELECTION AND ROLE OF THE VICE MAYOR

At its first regular meeting in January of each year, the Council must designate one of its members as Vice Mayor to serve for one year and until a successor is elected and qualified. In the absence of the Mayor, the Vice Mayor shall possess and perform the powers and duties of the Mayor. (Sec. 310, City Charter)

The Vice Mayor will be designated by seniority, seniority is to be defined by date sworn into office. If two Councilmembers have equal seniority, option to defer nomination. If more than one member remains, random name draw to establish seniority that year.

During the January 2, 2024, City Council meeting, Council Members Simon and Bowen both indicated that they were interested in becoming Vice Mayor. Simon questioned whether the rule about the selection of a Vice Mayor would be subject to further deliberation before adoption. Aguilar nominated Simon and the nomination was seconded by Azevedo. Ballew nominated Bowen because Simon would not be eligible under the then existing rule regarding the selection of Vice Mayor. Ultimately, Simon was selected to be Vice Mayor based on a majority vote of the Council Members.

According to Bowen, in January 2024, when it appeared likely that she would have secured enough votes on the City Council to be the next Vice Mayor, Simon insisted that he be selected as the next Vice Mayor since he had the longest tenure of any member who had not

Aguilar support the investigation findings that these two men have subjected Bowen and other women to gender-based bias, harassment and by so doing, created a hostile work environment for women.

² See page 39 of the October 30, 2024, Botterud Investigation Report.

³ See November 7, 2024, Press Release from the City of San Leandro announcing the results of the investigation and the 4-1 vote by the Council to censure the two Councilmembers; see also the City of San Leandro Resolution No. 2024-153 and Resolution No. 2024-152.

yet served in that capacity. She claims she agreed to step aside since Simon was then the most senior City Council Member who had not yet served as Vice Mayor, with the understanding of an agreement that Simon would support her candidacy as Vice Mayor the following year (2025) since she would then be the member with the longest tenure who had not yet served.

During the January 6, 2025, City Council Meeting when the vote for Vice Mayor was to take place, Bowen claimed that Simon reneged on this alleged agreement and instead nominated Aguilar to be Vice Mayor. Aguilar nominated Azevedo. After Azevedo inquired whether the Vice Mayor was to be selected on a seniority basis, he decided to nominate Aguilar. Viveros-Walton nominated Bowen based on her seniority and the fact that she had not previously served as Vice Mayor so she should be given that opportunity. Simon did not nominate anyone, but he claimed that the selection process was not fair and questioned whether Council Members should serve on a rotational basis — he wanted to revisit the rule for selection of a Vice Mayor. Bowen believes that Simon and Aguilar both attempted to thwart her opportunity to serve out of retaliation for voting in favor of their censure just a few months earlier in November 2024.

Mayor Gonzalez reminded Simon that an understanding and agreement about the selection process for Vice Mayor had already been established last year to allow the member with the most seniority to be designated. Ultimately, after some discussion, Bowen received a majority of the votes, by 4-3 to be Vice Mayor for 2025.

On January 9, 2025, three days after her selection as Vice Mayor, Bowen sent Simon an email (copying the City Attorney Richard Pio Roda):

Hello Fred,

I am writing to share some concerns and my deep disappointment regarding your actions during that City Council meeting. We spoke cordially at length on multiple occasions (December 30 and a few hours before the meeting on January 6) about our shared desire to work together and move beyond politicking and drama. You shared your preference to be appointed to [Alameda County's] Stopwaste [Commission] and I offered numerous times to advocate for you to be the alternate. You declined. We both know and discussed how the appointments are the Mayor's discretion. To mislead the public about the process and our conversations is neither courteous, transparent, nor truthful.

I am also deeply troubled by your effort to circumvent the VM appointment process, especially because it is the very process that you created last year so that you could be VM instead of me. As we both recall, you asked me for the courtesy of deferring the nomination (knowing that I had the necessary votes to be VM in 2024), so that you could have a chance before your term ended. The argument you made (and repeated numerous times to me, including during our Jan 6 call) was that you thought it was important to have a clearly defined process so that it would not [be] political or messy therefore we should have a rotation with the most senior person who hadn't been VM yet. To be clear, if that were not the case, then you would not have been VM last year. The courteous, honest, and appropriate course of action would have been to follow the defined process and support my turn my [sic] VM. Not once during our conversations did you mention your confusion about the process nor your issues with me being nominated for VM. It was evident by the comments CM Aguilar and CM Azevedo made immediately in response to your misleading remarks that there were prior discussions to nominate others, despite what is outlined in the Council Handbook.

It was clear to me that the actions of trying to take me off the only intergovernmental board I was appointed to and trying to prevent me from become [sic] Vice Mayor after last month's censure hearing appears retaliatory and inappropriate. I have included our City Attorney in this email so that he is aware of my concerns.

Sincerely,

Xouhoa

Simon did not respond to Bowen's email, but Simon's refusal to support Bowen's designation as Vice Mayor for 2025 after she stepped aside and allowed him to be Vice Mayor in 2024 is likely the tipping point that spurred Bowen to file her complaint against Council Members Simon and Aguilar for gender-based discrimination, harassment, bullying, and retaliation based on a series of events that have occurred since last year.

After the City Attorney received Bowen's email, the City decided to retain an outside investigator to examine whether her claim of retaliation had any merit. In the course of this investigation, Bowen contended that both Simon and Aguilar had subjected her to retaliation after she voted in favor of censuring each of them following an investigation conducted by Carl Botterud, an outside investigator into former City Manager Fran Robustelli's complaint against both Simon and Aguilar for gender discrimination and interference with her job duties. Bowen asserts that in addition to their attempts to thwart her nomination for Vice Mayor in retaliation for her vote in favor of censure, these two male Council Members also subjected her and other women to gender-based bias, bullying and harassment, creating a hostile environment for women.

C. Bowen's Complaint of Gender Bias, Harassment, Bullying (Abusive Conduct), and Retaliation Against Aguilar and Simon

Bowen believes that both Simon and Aguilar have displayed a gender-based animus, harassment (hostile work environment), and bullying towards her and other women at the City. In the course of this investigation, during her interviews and in her March 4, 2025, March 7, 2025, and May 6, 2025 emails to this investigator, Bowen recounted incidents and events to support her complaint against Simon and Aguilar, each of which were examined as part of this investigation. Bowen cited the experiences of other women who allegedly have experienced the same type of mistreatment by Simon and Aguilar.

On May 6, 2025, Bowen sent another email summarizing what transpired at the end of the March 17, 2025 City Council Meeting after she disclosed that she had been physically violated by Daniel Parra, a City Council Member of Fowler and immediate past President of the League of California Cities. The incident had taken place while she was attending the November 13, 2024, National League of Cities Conference in Tampa, Florida.

Bowen discussed this incident and why she decided to speak up:

On November 13th, 2024, while I was attending an event at the National League of Cities annual conference in Tampa, Florida, Daniel Parra, a member of the City of Fowler city council, physically violated me. Mr. Parra is an immediate past president of the League of California Cities. I filed a report with the city of Tampa Police Department. The Tampa Police Department commenced a criminal investigation into Daniel Parra's actions. Following the investigation of battery, the Hillsborough County State Attorney's Office, 13th Judicial Circuit, has charged Mr. Parra with one count of first-degree misdemeanor battery.⁴ It is also

⁴ According to a March 20, 2025, ABC News report, "[a]long with his role on Fowler's city council, Parra also serves as the city manager of Orange Cove. Court documents obtained by Action News show Parra was

my understanding that there is a separate administrative investigation being conducted by the National League of Cities. I don't have any further comment regarding the criminal investigation, the charge, the charges or the administrative investigation because I believe and respect that the legal process should be [sic] should proceed.

It is also not lost on me that earlier tonight we recognize Women's History Month and the importance and urgency to address the systemic barriers and biases that women face, both in personal and professional spaces. I want to send a very clear statement that such reprehensible behavior is absolutely unacceptable and won't be held to account. The safety of everyone should be paramount, and with the support of my family, my colleagues, and the city, we denounce this behavior.

Finally, I want to say to the women and others holding public office who have experienced bodily violations and acts of harm that you are not alone, nor are you powerless.

Thank you.

During her interview as part of this investigation, Bowen alleged that Aguilar, who she presumes to be friends with Parra and was present that night, might have tried to set her up for what transpired that night when Parra just reached in to kiss her on the lips out of the blue. Bowen was shocked and distraught over what happened. Afterwards, Aguilar told a number of people that Bowen had been really drunk that night, implying that her alleged state of inebriation somehow brought on or contributed to her experience. After her disclosure at the City Council Meeting, Aguilar immediately queued in to speak right after her disclosure of this incident to say: "I wanted to say that tomorrow is the State of the City address." Mayor Gonzalez reiterated the State of the City address was taking place the next day and he invited everyone to join, stating: "Is that right?! OK, everyone's welcome Invited to the state of the city tomorrow. Thank you for highlighting that." Gonzalez then moved on to honor the passing of a longtime City resident before the meeting ended. Bowen believes that this was part of an ongoing pattern of behavior by Aguilar to silence and minimize her.

II. THE INVESTIGATION

A. The City of San Leandro's Administrative Procedure 1000 Prohibits Harassment, Discrimination, Retaliation, and Abusive Conduct

The City of San Leandro's Policy AP 1000 prohibits gender-based discrimination, gender-based harassment, abusive conduct, and retaliation for opposing or reporting harassment, discrimination, retaliation, or abusive conduct, or for otherwise participating in processes conducted by the City or a government agency with respect to such complaints. The Policy contains detailed complaint procedures as well as guidelines for investigations of complaints but does not explicitly apply to Council Members' interactions with one another.

B. Aim and Scope of The Investigation

The aim of this investigation was to determine whether Simon and Aguilar subjected Council Member Bowen to gender bias, abusive conduct, harassment sufficient to create a hostile environment, and retaliation following her vote in favor of censuring them last year (based on the findings of the Botterud investigation that they had interfered with the duties of the former City Manager). The accounts of other female employees, the former and current City

charged with battery for an incident on Nov. 13 [2024]." <https://abc7news.com/post/fowler-city-councilmember-daniel-parra-accused-assaulting-san-leandro-vice-mayor-xouhoa-bowen-florida-conference/16058418/>.

Manager, former and current City Council Members, and the former Mayor, who raised similar concerns about Simon and Aguilar's behavior towards women, were considered relevant evidence as examined as part of this investigation in drawing conclusions based on the preponderance of the evidence.

During the course of this investigation, Simon alleged that Bowen's complaint against him and the censure was driven by racial bias since he is the only African American member of the City Council. Aguilar alleged that Bowen is retaliating against him. Their contentions are also addressed in this investigation summary report.

C. Witnesses Interviewed

The following former and current City Council Members and employees were interviewed:

1. Xouhoa Bowen, City Council Member (Complainant) – 2/14/25, 3/19/25
2. Deborah Cox, former City Council Member – 3/13/25
3. Pauline Cutter, former City Council Member and Mayor – 3/13/25
4. Celina Reynes, former City Council Member – 3/14/25
5. Janelle Cameron, City Manager – 3/14/25
6. Pete Ballew, former City Council Member – 3/17/25
7. Juan Gonzalez III, Mayor – 3/20/25, 3/21/25, 4/3/25, and 4/5/25
8. Sheila Marquises, Public Works Director – 4/2/25 and 4/3/25
9. Sbeydeh Viveros-Walton, City Council Member – 4/8/25
10. Dylan Boldt, City Council Member – 4/23/25
11. Bryan Azevedo, City Council Member – 4/25/25 and 4/29/25
12. Fran Robustelli, Former City Manager - 5/8/25 and 7/17/25⁵
13. Victor Aguilar, Jr., City Council Member (Subject of Investigation) – 6/4/25
14. Fred Simon, City Council Member (Subject of Investigation) – 6/19/25

D. Documents Reviewed

This investigation included an examination of relevant documents, including the video and/or audio recordings of relevant City Council Meetings and committee meetings, emails submitted by various witnesses, emails and documentation submitted by staff, relevant sections of the City of San Leandro Charter and Administrative Procedure 1000, City Council Resolutions to censure Simon and Aguilar, City of San Leandro organization chart, job descriptions, and resumes of employees, applications for the City Council, and emails with Simon's attorney related to this investigation. These documents and weblinks where available are contained in the Exhibits to this Summary Report.

III. BRIEF SUMMARY OF FINDINGS AND CONCLUSIONS

A. Simon and Aguilar Retaliated Against Bowen Following Her Censure Vote

Simon and Aguilar have engaged in a pattern of retaliation against Bowen for her November 18, 2024, vote to censure them based on the results of the Botterud investigation. Despite a prior agreement to allow Simon to become the Vice Mayor in 2024 (since he was the City Council Member with the longest tenure who had not yet served in such a capacity) in exchange for supporting Bowen as the Vice Mayor this year, Simon reneged on his end of this deal. Both Simon and Aguilar nominated other people, and both proffered specious reasons for not supporting her nomination. Simon claimed that Bowen was dishonest and that the seniority

⁵ Robustelli has raised her own concerns about her mistreatment by Simon and Aguilar, which were examined in the prior investigation completed by Mr. Botterud, so the City Council determined that an examination of her specific allegations against Simon and Aguilar was outside the scope of this investigation into Bowen's complaint and therefore not addressed in this investigation summary report.

rule did not require her selection, when it was the very reason why he was allowed to serve as Vice Mayor last year. Aguilar claimed that Bowen had missed a lot of meetings and was frequently tardy — contentions that were refuted by the meeting attendance records maintained by the City's staff. Thus, by attempting to block her path to Vice Mayor and offering pretextual reasons for their decision, the evidence supports a finding that they have retaliated against Bowen.

B. Aguilar Engaged in Abusive Conduct Towards Bowen, And Then Attempted to Besmirch Her Reputation After She Was Physically Violated by A Mutual Acquaintance

Witness accounts and recordings of City Council Meetings reveal that Aguilar has engaged in a pattern of abusive conduct and undermined Bowen's work. During the April 20, 2024, Annual Planning Meeting, Aguilar repeatedly claimed that he was being "bombarded" and "blindsided" by her, simply because she complied with the City Manager's deadline and submitted her list of priorities on time, which resulted in her priorities being presented for consideration by the City Council. Simon also derailed the meeting by questioning why his priorities were not included when he evidently had not complied with the City Manager's deadline. Ultimately, the audio recording of the meeting confirms that Aguilar engaged in personalized attacks of Bowen, and together with Simon, they derailed the Council's consideration and vote on Bowen's priorities.

Bowen raised suspicions that Aguilar tried to set her up to be physically violated by a professional colleague at the National League of Cities Conference and then attempted to besmirch her reputation by telling people she was really intoxicated that night, implying that her behavior might have been a contributing factor. The incident prompted Bowen to file a police report against her assailant, which resulted in a charge of misdemeanor battery. When Bowen decided to address this incident at the end of a City Council Meeting, Aguilar immediately sought to change the subject and reminded everyone about the State of the City address and celebration, which Bowen believes is part of his unrelenting pattern of undermining her.

C. Simon and Aguilar Have Subjected Bowen, Female City Council Members, and A Female Employee to Differential Treatment Reflecting Gender Bias

Simon and Aguilar have engaged in disrespectful and demeaning conduct towards Bowen and other women in positions of authority. Bowen, Viveros-Walton, Robustelli, Cutter, Cox, Reynes, Cameron, and Ballew revealed that Simon and Aguilar have exhibited disrespectful, demeaning, and dismissive behavior towards competent women in positions of authority. Both Cutter and Cox felt demoralized by Simon and Aguilar's consistently disrespectful and dismissive treatment, and they noted their demeaning mistreatment of Bowen, providing corroboration for Bowen's claims.

Aguilar has scrutinized and undermined the City's support and funding for Bowen's participation in various programs over the years, but he has not scrutinized or objected to the City's expenditure of funds for the travel expenses of Simon or other male City Council Members, which reveals a pattern of differential treatment of Bowen based on gender. Aguilar undermined the City's sponsorship and funding of Bowen's participation in various programs, but he did not object to the City's reimbursement of Simon's travel expenses, even those viewed as excessive and unnecessary by the former Mayor and former City Manager.

Simon and Aguilar failed to present a legitimate non-discriminatory business reason for their support of a less qualified and less experienced male employee over Janelle Cameron who was universally perceived as qualified for the City Manager position, which supports a finding of gender bias.

Bowen, Robustelli, Reynes, Cutter, and Cox recounted that Simon supported the selection of a less qualified male candidate over Sbeydeh Viveros-Walton as City

Councilmember and Aguilar supported a female candidate who likely would not challenge his authority, reflecting gender bias.

Although Bowen contends that Simon has undermined Public Works Director Sheila Marquises, who takes issue with how Simon and Aguilar have addressed staff, Marquises is not certain that their behavior is driven by gender bias per se.

D. Simon's Claim of Race Discrimination and Aguilar's Claim that Bowen's Complaint Was Motivated by Retaliation Are Both Without Merit.

Simon's claim that Bowen's complaint and his censure by the City Council are the result of race discrimination is without merit. The same Council Members that Simon alleges to have engaged in race discrimination against him (including Bowen, Gonzalez, and Viveros-Walton) have supported the hiring of Cameron and other African American employees whose hiring Simon opposed. Witnesses recounted that Simon had previously claimed that he has been denied opportunities due to race discrimination — like the recent decision by the Mayor to allow Bowen to replace him on the Alameda Stop Waste Board, a position he has held for a number of years. His only evidence in support of his race discrimination claim in this instance is that he is currently the only Black member of the City Council.

Aguilar claimed that Bowen raised her complaint in retaliation for his objection to the City's funding of an event held at the public library years ago, before Bowen joined the City Council and when she was on the Arts, Culture, and Library Commission, while running a non-profit organization that received a \$5,000 grant from the City for an event at the Library sponsored by her non-profit organization. However, when queried about the evidence to support his claim, he admitted that apart from Bowen filing a complaint against him, he did not have any evidence to support his claim. Bowen's complaint about Aguilar's personalized attacks and efforts to undermine her and other women do not appear to be driven by retaliation simply because of this incident years ago — before she joined the City Council. Ultimately, Simon's and Aguilar's contentions that they are the victims of Bowen's alleged race discrimination and retaliation respectively, amount to avoidance of accountability for their own actions and decisions as examined in this investigation.

IV. ANALYSIS OF EVIDENCE AND SUMMARY OF FINDINGS

A. Aguilar's Contention That Bowen's Complaint is Driven by Retaliation Is Not Substantiated

Aguilar recounted that when Bowen was serving on the Arts, Culture, and Library Commission, Bowen also headed a non-profit, Community Impact Labs, which received a \$5,000 grant from the City that was earmarked for a Family Day event at the Library sponsored by her non-profit organization. Aguilar raised concerns about a potential conflict of interest with the City Attorney about Bowen's dual role as a Library Commissioner and Executive Director of an organization that received funds for an event to be held at the library. As a result of his intervention, Community Impact Labs ultimately returned the funds to the City after the event took place. He claims that he tried to discuss this with Bowen afterwards, but she shrugged it off and then resigned from the Arts, Culture, and Library Commission.

Aguilar believes that Bowen's complaint about him is driven by retaliation based on this prior episode, which occurred a number of years ago and before Bowen became a City Council Member.⁶ However, when queried about the evidence to support his claim, he admitted that apart from Bowen filing a complaint against him, he did not have any evidence to support his claim. However, Bowen's claims based on Aguilar's personalized attacks and efforts to

⁶ Neither Aguilar nor Bowen provided a specific date for this incident, but both confirmed it occurred a few years ago and before Bowen ran for City Council.

undermine her and other women do not appear to be driven by retaliation simply because he once raised conflicts of interest concerns years before Bowen and the other City Council Members voted to censure him based on his interference with the duties of the former City Manager.

Former Mayor Pauline Cutter, former City Council Member Deborah Cox, and former City Manager Fran Robustelli noted that Aguilar has a tendency to complain about being the victim of discrimination without any basis as a means to achieve his personal objectives. They referred to the discrimination complaint that Aguilar once filed against former Mayor Pauline Cutter for race and sexual orientation discrimination simply because Cutter would not allow him or anyone else who was running for re-election to be on the Planning Committee for the City's 150th Birthday Celebration.⁷ Cutter explained that she has a child who is gay and has always been supportive of the LGBTQIA+ community. Cutter even gave Aguilar the opportunity to be the emcee at a flag raising ceremony at the City's Pride Parade. But after the City's Public Information Officer, an outside consultant and Cutter discussed the fact that anyone who was running for re-election should not be on the steering committee for the City's 150th Birthday celebration, Aguilar accused her of being homophobic and having discriminated against him because he is Latino. Ultimately, an outside investigator hired by the City found there was no evidence that her decision to bar him from serving on the steering committee was driven by discrimination based on any protected characteristic.

Based on this and other incidents, witnesses point to Aguilar's propensity to complain that he is the victim of mistreatment without sufficient evidence to support his contentions. As Ballew and others revealed, Aguilar "is constantly making himself the victim" without accepting accountability for his own actions. Ultimately, an examination of the evidence uncovered in this investigation found that Bowen's complaint was largely substantiated and not driven by retaliation when she raised legitimate concerns about Aguilar's behavior and decisions.

B. Simon's Contention That Bowen's Complaint and the City Council's Decision to Censure Him Was Driven by Race Discrimination Is Not Substantiated

Simon claimed that Bowen's complaint, Mayor Gonzalez's decision to remove him from the Alameda County Stop Waste Board, and a majority of the City Council's decision to censure him, were all driven by race discrimination. He specifically named Bowen (Asian), Robustelli (Caucasian), Gonzalez (Latino) and Ballew (Caucasian) as the culprits. However, each of these past and present members of the City Council and the former City Manager Robustelli supported without reservation the promotion of Janelle Cameron (who is African American) to City Manager over a lesser qualified Caucasian male who was supported by Simon. Robustelli also hired an African American female Police Chief to replace the former Police Chief. These employment decisions do not reflect racial bias against African Americans.

Simon contends he is being treated differently than other non-Black members of the City Council, but he does not cite any comparators who were accorded differential or unequal treatment under the same circumstances. Indeed, when this investigator pointed out that Aguilar, who is of a different race and who was also subject to censure at the same time as him (following an independent investigation into a complaint by Robustelli against him and Aguilar), Simon could not provide any evidence that he was subjected to differential treatment based on race. He only applied circular reasoning that 1) he is the victim of race discrimination, 2) because he is the sole African American presently serving on the City Council; therefore 3) any complaint raised against him and any decision by the City Council to censure him must be because of race discrimination. However, in the absence of any evidence to support his claim of race discrimination, he appears to divert attention from concerns raised by a number of women and denying any accountability for his own actions and decisions. Ultimately, as

⁷ Cutter referenced the minutes of a meeting held to discuss who could serve on the steering committee that reflected the collective decision to exclude anyone who was up for re-election that year and the fact that Aguilar was the only one who was in that category.

recounted by witnesses, Simon, along with Aguilar, has engaged in gaslighting others who raise legitimate concerns about their behavior and decisions, and his claim of race discrimination is a prime example of this.

C. Bowen Claims Simon and Aguilar Retaliated Against Her After She Voted to Censure Them for Their Interference with The Former City Manager's Duties

At the November 18, 2024, City Council Meeting, Bowen voted in favor of censuring both Simon and Aguilar based on the conclusions of the prior Botterud investigation, which found that the two men had subjected Robustelli to adverse treatment for terminating the former Police Chief and interfered with her duties in violation of the City Charter and their obligations as City Council Members. Bowen recounted that “[n]either Aguilar nor Simon acknowledged any wrongdoing or contriteness during and after the Censure hearing. Both claimed that they were being politically targeted despite the evidence substantiating the former city manager’s claims that they interfered with her ability to do her work and showed signs of gender bias. I witnessed Simon and Aguilar bully Robustelli, trying to intimidate and coerce her. Some examples are included in the [Botterud] report.”

Bowen claims that Simon went out of his way to try to deprive her of being named Vice Mayor. She contends she had enough votes from the other Council Members to be Vice Mayor last year, but Simon wanted to be Vice Mayor since he had not yet had that opportunity and proposed that Bowen could be the Vice Mayor in the following year. However, when the time came for the appointment of Vice Mayor in January of this year, Simon questioned why she should be Vice Mayor and denied that there was a pre-existing process in place for the selection of the Vice Mayor based on seniority, despite the fact that a rule was specifically created to ensure that each City Council Member would be able to serve as Vice Mayor on a rotational basis.⁸

Bowen contends that after her vote in favor of censure in November 2024, Simon intentionally obstructed her appointment to Vice Mayor in retaliation for her vote. She also claims that Simon attempted unsuccessfully to block her appointment to Stop Waste/Waste Management Board of Alameda County, but the Mayor appointed her despite Simon’s attempt to thwart her appointment.

This sequence of events lends credence to her claim of retaliation by Simon, who provided specious reasons for not supporting her Vice Mayor appointment at the beginning of 2025, as discussed below. Bowen also provided a list of incidents that she believes demonstrates a pattern of mistreatment on account of her gender and bullying behavior by Simon and Aguilar, each of which is examined below. Bowen believes that these episodes, including this one, have increased in volume and intensity following her vote to censure them for their interference with the City Manager’s performance of her job duties.

1. Simon Told Other Council Members That He Would Not Vote for Bowen for Vice Mayor Which Reveals His Retaliatory Motive

As recounted by Gonzalez, Viveros-Walton, and Ballew, Bowen had a sufficient number of votes to be Vice Mayor in 2024, but Bowen graciously agreed to step aside to allow Simon, who had more seniority on the City Council, an opportunity to be Vice Mayor. At that time, Simon stated he deserved to be Vice Mayor because he had the most seniority on the City Council and had not yet served in such a capacity. Despite the recent adoption of a seniority rule for the selection of Vice Mayor, when it came time to vote for the Vice Mayor in 2025, Azevedo nominated Aguilar, and Aguilar nominated Azevedo, which Viveros-Walton noted could be perceived as retribution for Bowen’s vote in favor of censuring Aguilar and Simon last year.

⁸ See City Council Member Handbook, Pg. 9, “SELECTION AND ROLE OF THE VICE MAYOR.”

At the same time, Mayor Gonzalez had to appoint City Council Members to committees and intergovernmental agencies, so he asked every member for their preferences. He noted that unlike other organizations, the Alameda County Stop Waste Board actually pays Board Members for their attendance at their meetings, so it may be one reason why such an appointment is coveted by Council Members. Gonzalez decided to appoint Bowen to that board based in part on the fact that she previously worked with Stop Waste in her leadership role at her former non-profit organization, Community Impact Labs. This meant that Simon, who had been serving on the Board for years, would no longer serve on that board, which upset him.

According to Viveros-Walton, Simon accused Mayor Gonzalez of taking the only African American off the Stop Waste Board, implying that racial bias was behind this decision, but Viveros-Walton supported Bowen's appointment to that Board so that Bowen would have the opportunity to serve in a leadership role for that organization — and not because of any racial bias against Simon.

Simon acknowledged that he had a conversation with Bowen when they discussed his selection as the Vice Mayor in 2024 as the most senior member of the City Council who had not yet had an opportunity to serve in that capacity. He initially stated that he recalled discussing a rotational process for Vice Mayor based on seniority but then claimed that he did not recall if Bowen allowed him to be Vice Mayor in exchange for his agreement to support her nomination in 2025. Simon reasoned that if the selection should be based solely on seniority, then Aguilar, who has the longest tenure, should have been selected instead of Bowen, despite the fact that Aguilar had already previously served as Vice Mayor. Simon contends that the rule contained in the Council Member's Handbook: "*The Vice Mayor will be designated by seniority, seniority is to be defined by date sworn into office,*" does not require the selection of the most senior member *who had not yet served as Vice Mayor*. But his interpretation of the rule undercuts the intent behind enacting it since the impetus for the creation and adoption of the rule was to provide every Council Member an opportunity to serve on a rotational basis as Vice Mayor based on seniority. It was not designed to allow a City Council Member with the longest tenure to be selected repeatedly, effectively foreclosing the opportunity for other Council Members to serve in such capacity. Furthermore, Simon had sought the Vice Mayor position in 2024 because he was the City Council Member with the most seniority *who had not yet served as Vice Mayor*. This is precisely why Bowen had stepped aside to afford him this opportunity to be Vice Mayor last year, as corroborated by Gonzalez and Ballew.

Simon also contends that Bowen lacks leadership qualities to be Vice Mayor because she is not fair or impartial. He claims that during the censure process, Bowen made untrue statements when she allegedly stated that Simon had criticized Cameron about issues that were outside the scope of her work. Simon heard from someone else that Cameron had an unprofessional interaction with a Spanish Television station reporter, which is part of the reason he did not support her appointment to City Manager. But Simon concedes that he did not know that Cameron was following City protocols about media interviews or that Robustelli, her direct supervisor at the time, had instructed Cameron not to speak to the press on behalf of the City. Simon did not consider that was outside the scope of Cameron's duties for which Bowen might have been alluding. Instead, he accuses Bowen of lying, which he believes led to his censure by the City Council. However, his rationale reveals his motive to seek retribution over Bowen's alleged statements, which he believes resulted in his censure by the City Council.

Both Boldt and Azevedo recall that Simon had shared his plans to vote against Bowen's nomination for Vice Mayor, regardless of what the rule stated. Azevedo recalls that Simon said that he would not vote for Bowen to be Vice Mayor because Simon said that she is a liar, and Boldt recalls telling Simon that "he was a dummy" for trying to obstruct Bowen from being selected as Vice Mayor. Boldt also told Simon that he was going to create more havoc by obstructing Bowen's path to Vice Mayor, but Simon said that he was entitled to his vote, even though there was a clear rule and rotational process in place for the selection of the next Vice Mayor. Such evidence suggests that Simon deliberately voted to block Bowen from becoming

the next Vice Mayor due to retaliation for her vote to censure him, notwithstanding their prior agreement that Bowen would step aside to allow him to serve in that capacity last year.

2. Aguilar's Reasons for Not Supporting Bowen's Nomination — Her Alleged Poor Attendance, Tardiness, and Her Lack of Full Commitment — Is Not Factual and Suggests That He Was Motivated by Retaliation

Aguilar acknowledged that the Rules Committee created a rule for the selection of Vice Mayor, which went into effect last year to provide all Council Members with a chance to serve in that role on a rotational basis. Aguilar initially claimed he did not discuss his 2025 nomination for Vice Mayor with anyone beforehand, but he later admitted that he discussed with Azevedo a plan for his nomination of Azevedo and that Azevedo in turn would nominate him, despite the fact that both Azevedo and Aguilar had both previously served as Vice Mayor.

Aguilar claims that he did not support Bowen for Vice Mayor because she is frequently absent or tardy for City Council and committee meetings, but he did know how many meetings she has missed — he could only speculate that she might have missed more than five meetings. By comparison, he claims that Viveros-Walton has missed about 4 meetings; Simon has missed only 1 or 2 meetings. He believes that there is an attendance policy for City Council Members, but he is not aware if there are any repercussions for poor attendance or tardiness. However, the City's records of Council Members' attendance and late arrivals undercut Aguilar's claims that Bowen's attendance and tardiness was worse than that of others. Therefore, this was not a legitimate basis for not supporting her nomination to Vice Mayor.

Based on the staff's tracking of City Council Member's attendance, Simon missed 18 meetings, which means that he missed the most meetings in the past three years; followed by Azevedo at 9 missed meetings; and Aguilar is tied with Bowen at missing 7 meetings total. Further, Viveros-Walton had the highest number of late arrivals at meetings — 3 total; Aguilar, Gonzalez and Simon were each tardy 2 times; and Azevedo and Bowen were only late once across all categories of meetings. Therefore, Aguilar's claims about Bowen's frequent absences and tardiness are refuted by the City's records of Council Members attendance at both City Council Meetings and Committee Meetings, which reveal that Aguilar offered this as a pretext for not supporting her nomination out of retaliation for her censure vote.

Aguilar also claims that Bowen allegedly told him that she did not want to run for re-election due to the stress, which she was having trouble handling. Aguilar claims that he wanted to select a Vice Mayor who was fully committed to being on the City Council. This explanation seems incredulous if Bowen was committed enough to express her desire to be the Vice Mayor two years in a row.

Ultimately, Aguilar proffered reasons for his decision not to support Bowen for Vice Mayor, which were not credible, following her vote to support censure. Therefore, it is likely that both Simon and Aguilar were motivated by retaliation against Bowen for her comments during the censure process and her participation in the vote that resulted in their censure.

D. Aguilar Undermined the City's Sponsorship and Funding of Bowen's Participation in Programs, But Did Not Object to Reimbursement of Simon's Excessive Travel Expenses, Reflecting Gender Bias

1. Aguilar Objected to Bowen's Former Non-Profit Organization Receiving City Funds Earmarked for An Event at The San Leandro Public Library While She Was a Library Commissioner

Before Bowen joined the City Council, during an anti-Asian hate event organized by Azevedo, Bowen provided feedback that the event should have included Asian community leaders. When Bowen did not call out Aguilar who was present at that event, he then reported Bowen for misusing City funds as an Arts, Culture, and Library Commissioner and head of a

non-profit that received funds from the City. Robustelli confirmed that Bowen was a Commissioner on the Arts, Culture, and Library Commission, while running a non-profit organization, Community Impact Labs, which received \$5000 funding for a program to be held at the library. After Aguilar complained that the event was a political one that promoted fundraising for Bowen's non-profit organization, Robustelli had to conduct an audit of how the funds would be spent. Ultimately, Bowen's organization returned the funds to avoid any appearance of a conflict of interest. Robustelli and Bowen both cite this as an example of Aguilar deliberately scrutinizing the City's funding of Bowen's programs and raising concerns about conflicts of interest when he has not done so for the other male members of the City Council.

2. On April 25, 2024, Aguilar Pressured City Manager Robustelli Not to Sponsor or Promote an Event Where Bowen Was Scheduled to Be a Panelist

Bowen recounted that during the alarming spike of anti-Asian violent hate crimes during the COVID-19 pandemic, she was invited to be a panelist to share her experiences as an Asian American woman on the importance of combatting anti-AAPI hate following a documentary screening held by the Vietnamese American Community Center of the East Bay (VACCEB). According to Bowen, the City initially agreed to partner on the event,⁹ but the day before the event, Aguilar told Robustelli that the City should not sponsor or promote the event because one of the other panelists had allegedly expressed anti-Semitic views that he opposed.

Robustelli felt pressured by Aguilar to rescind the partnership agreement with VACCEB, which resulted in the City not promoting the event. Robustelli recalls that Aguilar threatened to blast on social media that Gonzalez and Bowen were supporting an anti-Semitic panelist. Robustelli recalls that Aguilar threatened to bring people to stand in protest of the event, so ultimately, Gonzalez and Bowen participated without the sponsorship of the City. Robustelli cites this as an example of Aguilar's efforts to undermine an event where Bowen was going to be a participant by using strong arm tactics where he would threaten and "bulldoze" to get his way. Aguilar never addressed this with Bowen or the Executive Director of VACCEB beforehand. Bowen contends, "If Aguilar was worried about the other panelist, he could have raised questions, emailed the organizers, or spoken to me a week earlier about his concerns, but did not do so." Instead, he deliberately prevented the City from supporting this event and as Bowen contends, he attempted to undermine her behind her back.

3. Aguilar Claimed That the City's Funding of Bowen's Attendance at a Harvard Fellowship Program Constituted Favoritism, Which Compelled the City to Pass a Resolution to Fund Aguilar's Participation in Another Leadership Program

Bowen and Aguilar were both accepted into a Harvard Fellowship Program in the same year. According to Bowen, after Aguilar had already received sponsorship through another organization, "Aguilar started a whisper campaign with misinformation about the funding and the program, including rumors that Fran Robustelli was showing favoritism [towards Bowen]. [Robustelli] felt so pressured by Aguilar, telling me that she would be willing to NOT go forward with a discussion about the program if it meant she would be able to avoid the trouble he would cause. One Councilmember should not be able to threaten a City Manager to pull agenda items in such a way."

According to Aguilar, after he was accepted into the program, The Victory Fund agreed to sponsor his enrollment in the program. He claims that when he told Bowen about this, she disclosed she had also been accepted into the same program. Gonzalez and Robustelli proposed a resolution to enable the City to pay for Bowen's airfare and tuition, but Aguilar was told that he could use his allotted travel budget towards partial payment of his tuition and would

⁹ The sponsoring organization had been working with the City to foster senior services programs and the City had agreed to partner on the event. It is unclear if this means that the organization and the City were co-sponsors and what, if any, funding was at stake for this event.

be responsible for the rest of the costs of attendance. Ultimately, Water Education for Latino Leaders (“WELL”) paid for the remainder of his expenses. Despite this, he complained to Robustelli that Bowen was receiving preferential treatment by the City.

However, Gonzalez and Robustelli recalled that Aguilar did not apply for City funds to participate in that program. Aguilar told them that The Victory Fund was paying for him to attend the Harvard Fellowship program, so they assumed he had already secured funding for his participation. After Aguilar learned that the City would be sponsoring Bowen’s attendance at the Harvard program, he raised concerns that the City was funding Bowen’s participation in the program. Robustelli then sought a City Council Resolution to approve sponsorship of any Council Member’s participation to support their ongoing leadership development and education since there were no clear guidelines on funding tuition and expenses for attendance at these programs. The proposed Resolution initially included language specifically to sponsor Bowen’s participation in the Harvard Fellowship Program. But in order to placate Aguilar, the Council revised the Resolution to enable the City to both fund Bowen’s attendance and also provide additional funding to enable Aguilar to attend a different leadership program offered by WELL.¹⁰ In the end, Aguilar was not deprived of the opportunity to participate in both programs and both Aguilar and Bowen were funded by the City to participate in programs that they each sought to attend.

Consistent with her and Bowen’s perceptions that Aguilar engaged in gender bias, Robustelli observed that Aguilar had never raised concerns about the City’s funding for male City Council Member’s participation in programs or reimbursement of their seemingly excessive travel expenses, but he appears to have zeroed in on expenditures for Bowen’s activities. For instance, Robustelli noted that Aguilar did not raise similar concerns of favoritism towards Simon when Simon twice requested the City’s reimbursement for his expenses incurred for traveling to Chicago and Palm Springs that were purportedly related to City business. By contrast, this was the third time in a row that Aguilar raised concerns about the City’s support for one of Bowen’s desired programs, which Robustelli believes reflects a pattern of deliberately undermining Bowen.

Ultimately, Aguilar’s scrutiny of and objections to the City’s sponsorship and funding of Bowen’s activities, while not raising any concerns over the use of City funds for the activities engaged in by Simon or other male members of the City Council, supports a finding of differential treatment on account of Bowen’s gender.

E. During the April 24, 2024, Annual Planning Meeting, When Bowen’s Proposed List of Priorities Was Presented for Consideration, Aguilar Subjected Bowen to Abusive Conduct and Simon Derailed the Meeting

Before the scheduled April 24, 2024, Annual City Council Planning Meeting (Bowen refers to this as the Priority Work Session Council Retreat), Robustelli had directed Council Members to submit their proposed priorities for the upcoming year to the City Clerk ahead of the planning meeting. In her March 11, 2024, email to all City Council Members, Robustelli outlined the preparations for the council retreat, including a reminder of the March 18, 2024, deadline to submit their proposed “referrals.” Bowen submitted a list of her referrals by the March 18, 2024, deadline.

Bowen recounted that before the planning meeting took place, Aguilar and Simon, like everyone else on the Council, had access to the presentation that included a compilation of all the priorities submitted by Council Members. Bowen submitted two main priority areas for the City Council to focus on in the coming year — quality of life and economic development, but she

¹⁰ See City Council Resolution No. 2024-047 Resolution to Approve Reimbursements for Council Members to Attend Strategic Organizational Training, which was proposed by Councilmember Ballew and unanimously passed and adopted by the City Council on May 20, 2024.

also compiled a long list of her priorities. Bowen recounted that during the Planning Meeting, Aguilar repeatedly exclaimed that he felt “bombarded,” “blindsided” or “offended” by Bowen in what she perceived as a personalized attack and gaslighting. At least three times he questioned why Bowen’s proposed priorities were the only ones that appeared on the agenda for the planning meeting. Simon chimed in to ask why his proposed priorities were not included. By so doing, Bowen claims that Aguilar and Simon created a false narrative that Bowen was attempting to “bombard” them with her proposals and implying that she was somehow depriving them of an opportunity to present their own ideas for consideration by the City Council. Bowen alleges that Simon and Aguilar falsely accused Robustelli of not properly preparing them for the Planning Meeting. Bowen claimed, “I was targeted at the meeting and left shaken by the experience. I followed the outlined process, did my homework, and showed up prepared to contribute in a meaningful way. Both Aguilar and Simon had a very difficult time accepting this fact and devalued my effort and ideas. Aguilar continued to repeat these claims at a subsequent meeting.”

According to Bowen, the Mayor, who maintains control over the meeting, allowed Aguilar and Simon to continue complaining about Bowen’s priorities taking precedence over that of other City Council Members, even though the City Manager had previously met with each Council Member individually to explain the process and to reiterate the need to submit their priorities before the planning meeting so that their proposed priorities could be placed on the agenda and discussed at the annual planning meeting. Instead of complying with the deadline for submission of their own “referrals” or priorities, Aguilar lambasted her, while Simon created a false impression that he had submitted a list of priorities that had been omitted in favor of Bowen’s list of priorities. Bowen claims that Aguilar’s inflammatory language and Simon’s implication that only her priorities were being considered resulted in her feeling bullied and scapegoated by both Simon and Aguilar. Bowen recounted that the entire audience, including staff, were shocked by Aguilar and Simon’s behavior.

Bowen recounted that Aguilar called her after this meeting and said he could tell she was upset. Bowen told him that she felt attacked by him when he claimed he was “bombarded” by her and asked him not to do this to her ever again. Despite this admonition, she claims that a few weeks later, during the next Council Meeting, Aguilar repeated this pattern when he stated once again that Bowen had blindsided him when her referrals (ideas) were placed on the agenda, implying that she had somehow deliberately orchestrated this plan to deprive him of the opportunity to present his proposals for consideration and a vote by the Council. She claims that because the Mayor did not allow her to fully respond to these baseless accusations, she could only state in response, “I did not blindside you; I did not bombard you. It’s not true; you have a problem that the spotlight was on someone else and [that] I had a voice.”

1. The Audio Recording of the Meeting Confirms That Aguilar’s Engaged in Abusive Conduct Towards Bowen, And Simon’s Comments Derailed the City Council’s Consideration and Vote on Bowen’s Priorities

An examination of the audible portions of the recording of the meeting revealed that Aguilar engaged in personalized, demeaning comments that undermined Bowen’s work product and performance, which a reasonable woman would likely find hostile, offensive, and that is unrelated to the City’s legitimate business interests sufficient to constitute an abusive and hostile environment.¹¹ Specifically, his repeated and unwarranted comments about being “bombarded” and “blindsided” by Bowen were inappropriate criticisms of her work sufficient to constitute abusive conduct.

¹¹ There is no video recording of the April 24, 2025, Planning Meeting -- only an audio recording is available for public access. Portions of the discussion are inaudible, so it is impossible to discern at times which Council Member is speaking and what they are saying. For this reason, witness accounts of what transpired at the meeting were relied upon in making these findings.

The audio recording revealed that Aguilar stated, *“I see nothing but Bowen’s priorities listed here.” “I feel completely blindsided by this. I feel like I can’t vote without knowing what the other priorities are.”* He recommended another work session because he felt unprepared to make decisions (presumably because neither he nor Simon submitted their own proposed priorities). Aguilar wanted to add items to the list, including protection for non-traditional family relationships. But rather than presenting his own proposals, he made snide remarks aimed at gaslighting Bowen: *“I could be like Bowen and add 30 items — my constituents are being disenfranchised.”* Aguilar declared, “I am just traumatized to see Bowen all over the list.” Then he disingenuously added, “no disrespect.” After some additional discussion about whether to add any items to the list of priorities, Aguilar stated, “I do not want one Council Member bombarding the list,” as if to imply that she was doing this on purpose to his detriment. Bowen stated that she did not appreciate that anyone should feel “bombarded” and [and that everyone] needed an opportunity to be heard.

According to both Robustelli and Bowen, Aguilar acted as if the agenda was suddenly sprung on him with no prior notice when he said, *“we should have been told we were voting on this.”* According to Bowen and Robustelli, each of the Council Members were informed that the clear purpose of the annual Planning Meeting is to discuss and then vote on the priorities for the City in the coming year. Therefore, it is inconceivable that Aguilar or any other Council Member with his tenure on the Council could have misunderstood the purpose of the Planning Meeting and the need to submit their proposed priorities ahead of time for consideration at the meeting.

Aguilar claimed that after he saw that the list of City Council priorities had contained only Bowen’s submissions, he decided to call this out. He claimed that he did not attack her personally; rather, he was merely challenging the process itself that enabled only her priorities to appear on the list presented for the Council Members to vote on. When this investigator pointed out that he did say a number of times during that meeting, which was recorded, that he felt “bombarded” and “blindsided” by Bowen, but he did not challenge the process itself, Aguilar first denied this. When this investigator informed him that the audio recording of the meeting is posted on the City Council’s webpage and provides verification that he did actually make these comments a number of times, he then claimed that was not his intention — and claimed that he meant only to challenge the process and not attack Bowen personally. Aguilar claimed that the process itself was unfair to him and the other City Council Members because their priorities were not included in the list.¹²

After Simon stated that he would like to see the previous list of priorities so he could see what else was put forward (and presumably what was omitted), Gonzalez stated that he wanted to obtain consensus on the key priorities. Aguilar once again exclaimed, *“I felt completely blindsided by this list. No disrespect to Bowen.”*

Gonzalez reiterated that “this list was part of the agenda packet, so it was public information and that past items for the prior year were not included.” Gonzalez stated that City Council Members “need to hold ourselves accountable” and declared that the City Manager will provide [another] deadline for members to add to the list and obtain a prior list of items to create a comprehensive final list, which would then be voted on by the City Council to determine

¹² However, when queried about whether he had received an email from Robustelli requesting that City Council Members submit their proposed priorities by March 18, 2024, he claimed he could not specifically recall if he received an email from Robustelli on March 11, 2024. This investigator asked him to check his emails and submit any proof that he submitted his own proposed priorities before the Annual Planning Meeting took place so that this investigation could include an examination of how the process itself deprived him of an opportunity for his proposed priorities to be considered at the annual planning meeting. His interview took place on June 4, 2025, and as of the date of this report, he has not yet submitted any proof that he had timely submitted his own proposals for consideration. Instead, the audio recording of the meeting clearly supports Bowen’s claim that he repeatedly lambasted her simply because her name appeared alongside her list of priorities — in other words, for simply doing her job, which he attempted to undermine with his abusive conduct.

priorities for the coming year. Gonzalez stated that he will allow each Council Member to advocate for their top two items.

Simon then made a statement that was largely inaudible in the audio recording: "Uncomfortable with..." Therefore, it is unclear what he said that set off Bowen to state that she felt gaslighted by Simon and Aguilar. Simon did not engage in direct attacks against Bowen, but his statements unnecessarily distracted and diverted attention to his proposed priorities, which he claimed he submitted in prior years but clearly failed to timely submit before this meeting took place.

Witness accounts of the Annual Planning Meeting support Bowen's claim that she was subjected to bullying and gaslighting by Aguilar, and that Simon's remarks derailed the meeting, and prevented voting on Bowen's submitted priorities. Former City Council Members Reynes, Cox, and Cutter observed that Aguilar had disparaged Bowen for simply doing her job and proposing priorities for the City Council's consideration as instructed by the City Manager. Cox, who observed the meeting, recalls that Simon and Aguilar "made a big stink about Bowen's agenda items taking precedence" over theirs. Cox recalls that Bowen was "horrified about their behavior" and shared her concerns with Cox. Based on this and other incidents, these former City Council Members believe that Aguilar has engaged in a clear pattern of disrespectful and abusive conduct, and gender bias against Bowen and other women.

Ballew recalls that ironically, three hours before the Planning Meeting, the City Council Members had agreed to protocols on respectful communications and then afterwards, during that Planning Meeting, Aguilar engaged in a mean spirited personalized attack of Bowen by claiming he was "blindsided" by her proposals and stating that he was not going to bombard staff with 30 proposals of his own, implying that Bowen purposefully did this to make him look bad. Ballew observed that Bowen is always prepared for meetings and is a good communicator, and Aguilar undermined and targeted her personally for doing her job. Ballew recalls that afterwards, Aguilar apologized to Bowen and claimed that it was not meant as a personal attack, but his behavior was clearly disrespectful and unwarranted.

Azevedo recalls Aguilar's agitated state and having to tell Aguilar to "calm down and stop mentioning Bowen." Azevedo acknowledges that each Council Member needs to do their homework and submit their proposed priorities in a timely manner, which Aguilar clearly failed to do, so he "was taking it out on Bowen." Azevedo had previously submitted his ideas last year and thought that the prior year's list would be incorporated into the current year's list, so he too was upset to see that they were not.

Viveros-Walton recalls that before the Planning Meeting, Bowen submitted a long list of referrals in compliance with the process established by the City Manager, and that Aguilar used abusive language to attack Bowen, by claiming to be "blindsided" and "bombarded" when it was clear that they were denigrating Bowen for her hard work in compiling her list of priorities. Initially, Viveros-Walton perceived their reaction as covering up for their own lack of preparation for the meeting, but in hindsight, she now views this as bullying of Bowen since their antagonistic behavior was unwarranted.

Viveros-Walton and former City Council Member Reynes have never witnessed Simon or Aguilar treat former Council Member Ballew in a similarly abusive or disrespectful manner as they mistreated Bowen, who is more closely aligned with their progressive positions on political issues. Former City Council Member Ballew described himself as the most conservative member of the City Council so naturally, he disagreed with Aguilar on a lot of issues, but Aguilar did not demean, disrespect or undermine him in the manner he observed how he treated women. Ballew described Aguilar and Simon's behavior as disrespectful towards women. Reynes and Robustelli believe that both Simon and Aguilar are threatened by smart women and have engaged in a clear pattern of gender bias.

Ultimately, Simon's and Aguilar's behavior undermined Bowen's work and the Council's ability to prioritize issues and allocate resources for the coming year. Aguilar's hostile and offensive behavior crossed the line into abusive conduct and created a hostile environment, which was noted by other witnesses interviewed as part of this investigation. Aguilar's relentless "personalized, demeaning comments" constituted inappropriate criticisms of Bowen's work and targeted her for simply doing her job. Simon's remarks were less profuse and personally targeted at Bowen, but they nonetheless compelled the City Council to postpone consideration of Bowen's submitted priorities and created the wrong impression that the City was only presenting her ideas for consideration.

F. Bowen Suspects that Aguilar Set Her Up to Be Physically Violated at the National League of Cities Conference and Then Attempted to Besmirch Her Reputation By Telling Others She Was Really Intoxicated That Night, Implying That Her Behavior Might Have Been A Contributing Factor

The week before the City Council's censure vote, Bowen, Ballew, Gonzalez, Azevedo, and Aguilar attended the National League of Cities Conference which took place in Tampa, FL. On the evening of November 13, 2024, Bowen, Ballew and Gonzalez attended a reception at the Hotel Bar. Bowen ran into the immediate Past President of the CA League of Cities, Daniel Parra, who is a current Council Member for the City of Fowler, CA, with whom she had been acquainted in a strictly professional capacity for years without incident. Bowen recounted that within five minutes of chatting with Parra, he placed his hands on the top part of her arms, drew her closer, and then kissed her on the lips. Up to that point, their conversation had been entirely professional, so Bowen was shocked by his unwelcome behavior. Stunned, she remarked in disbelief over what he had done, "Did you just do this??" Bowen recalled that Parra immediately grabbed his belongings and left. Bowen believes that Aguilar, who had been standing nearby, likely saw what happened. Aguilar immediately walked over to Gonzalez and said, "Xouhoa is really drunk and making a scene. You gotta get her to leave."

Although Bowen, Ballew, and Gonzalez had a few drinks beforehand, Ballew clearly recalled that none of them had exhibited any obvious signs of intoxication that night and noted that he had not observed any signs that Bowen was drunk that night.

Gonzalez observed Bowen walking into the restroom. About 10 minutes later, Aguilar approached him and was emphatic that Gonzalez "needed to take Xouhoa [Bowen] home. She is drunk." Gonzalez was standing in a separate area from Bowen and Parra, so he had not witnessed Parra's interaction with Bowen. Gonzalez did not question why Aguilar told him that he needed to get Bowen out of there right away; he immediately went to look for Bowen. Bowen was speaking to someone at the time and Gonzalez grabbed her arm and told her, "We need to go." After Gonzalez and Bowen walked out the door, Bowen became visibly upset and started to cry. He recalls that Bowen told him that Parra had run his hands up and down her body and kissed her. He described Bowen as distraught and inconsolable, so he did not doubt that Bowen was telling him the truth. Gonzalez recalled that Bowen was crying and upset for several hours afterwards.

Ballew, who had previously served as a Captain in the Police Department, had experience investigating sexual assault crimes. Based on his prior police work and dealing with victims of sexual assault, he believed that Bowen's visibly distraught reaction and demeanor was entirely consistent with that of victims who have reported being assaulted, so he believed her account of what transpired that night. In his view, she must have been violated for her to react that way.

Bowen recalls asking Gonzalez how he knew about what had just happened since he was not in the vicinity when it occurred and she recalls that he said that Aguilar told him to get her to leave right away. According to Bowen, Gonzalez told her that he thought Aguilar might be up to something when he said to get Bowen out of there right away.

Gonzalez, Ballew and Azevedo recalled that Aguilar told each of them that Bowen was really drunk that night, implying that her drunkenness might have caused a scene, warranting her immediate removal. Azevedo was not socializing with the rest of the group that evening, so he did not witness the interaction or see how distraught Bowen was after the incident.

Two days later, on November 15, 2024, while still at the conference, Bowen confronted Parra and asked him, "Do you remember what you did the other night?" Parra allegedly responded, "I don't remember." Bowen then reminded him, "You kissed me and violated me and I'm not okay with it." Parra allegedly deflected and said that everyone was drinking that night, a line that is consistent with Aguilar's narrative of Bowen's alleged intoxication that night, which she and others deny.

When Bowen later confronted Aguilar, she asked him if he saw what happened that night, Aguilar claimed that he did not witness Parra kiss her but he claimed he saw her dancing near the bar.¹³ According to Aguilar, Bowen was given a drink and appeared to be happy and excitedly ecstatic "out of the norm." Aguilar states that he observed that she took a sip from her drink and attempted to get Parra to dance with her and that Parra waved his hands in the air as if to signal his rejection of her request. Aguilar claims that Parra sat down, but Bowen gave Parra a hug and took a sip from her drink, and that Bowen was persistently asking Parra to dance with her so Parra finally relented. Aguilar claims that he was uncomfortable watching Bowen forcing Parra to dance with her and walked over to speak with Ballew and Gonzalez and told them that he was concerned about Bowen's behavior and that she had asked Parra to dance.

However, Aguilar's account is refuted by Gonzalez, who said that Aguilar merely said that Bowen was drunk and that Gonzalez needed to get her out of there. Gonzalez stated that Aguilar did not mention Bowen trying to compel Parra to dance with her. Aguilar denies that he told anyone that Bowen was really drunk that night and that he told Gonzalez that he needed to get her out of there, which contradicts what Azevedo recalls Aguilar telling him that Bowen was really drunk that night. Boldt was also told that Aguilar told Gonzalez that Bowen had been drinking too much and he had to get her out of there. Former City Council Member Reynes recalls that Aguilar once told her that Bowen was really drunk at a conference which she believes was an effort to besmirch Bowen's reputation.

Aguilar claims he did not see Parra kiss Bowen, but he spoke with Parra the following day and told him that Bowen was alleging that he kissed her. Aguilar explained that if Parra did kiss Bowen, then "it goes both ways," since Bowen was forcing Parra to dance with her that night, implying that Bowen invited the unwelcome kiss by Parra by her own behavior. However, Aguilar told others that Bowen was really drunk that night, he asked Gonzalez to remove her from the premises, and the very next day, he advised Parra that Bowen was alleging he had kissed her, instead of showing support for his colleague who had just been physically violated by Parra. This speaks volumes about his lack of sensitivity to Bowen's plight and his attempts to discredit Bowen's account and reputation.

Bowen subsequently filed a criminal complaint against Parra, and he has since been charged with misdemeanor battery. Insofar as Bowen is aware, the investigation is still ongoing and there has not been a final disposition on this charge against Parra. At the end of the March 17, 2025, City Council Meeting, Bowen disclosed that she had been physically violated by Parra and that he had been charged. As soon as she concluded her remarks, Aguilar, immediately,

¹³ On November 18, 2025 during a break in the City Council Meeting to censure Aguilar and Simon, a resident of the City of San Leandro showed her an email sent to him from an unknown person who suggested that she was having an affair with Mayor Gonzalez, both of whom are married to other people and both deny that there is any truth to this. Although Bowen has no direct proof that Aguilar is the person behind these emails, she believes that Aguilar's behavior that night suggest that he had "set her up" to be kissed by Parra with whom he is friends. He then asked Gonzalez to escort her out of the premises and told others that she was really drunk that night in an attempt to destroy her reputation.

without pause, reminded everyone that there was the State of the City event the next day, Gonzalez reiterated that the event was going to take place the next day, but no Council Member acknowledged Bowen's remarks or spoke up in support of Bowen after her disclosure. Bowen cites this as part of an ongoing pattern of Aguilar's attempts to undermine, belittle, and disrespect her.

G. Bowen, Viveros-Walton, Robustelli, Cutter, Cox, Reynes, Cameron, and Ballew Contend That Simon and Aguilar Have Exhibited Disrespectful, Demeaning, And Dismissive Behavior Towards Competent Women in Positions of Authority

Bowen has witnessed Simon and Aguilar mistreating other women, including former City Manager Fran Robustelli, current City Manager Janelle Cameron, Public Works Director Sheila Marquises, and City Councilmember Sbeydeh Viveros-Walton. Bowen explained that given her position on the City Council, she has decided to voice these concerns on behalf of "employees" who would not otherwise have a voice and cannot speak up because they report to the Council," related to the mistreatment of women by these two City Council Members. Former Mayor Pauline Cutter, former City Council Member Deborah Cox, former City Council Member Celina Reynes, former City Council Member Pete Ballew, former City Manager Fran Robustelli, current City Council Member Viveros-Walton, and Bowen each perceive that Simon and Aguilar have exhibited a bias towards "strong women" who occupy "positions of power."¹⁴

Former City Council Member Ballew noted that despite his disagreement with Aguilar and Simon on policy issues, they did not treat him in the same disrespectful manner as they treated women. Ballew endorsed Simon the first time he ran for City Council but did not do so when he ran for his second term. Ballew described Simon as "misogynistic and treats women in positions of authority differently than men who hold similar positions."

According to Robustelli, Simon refused to listen to Cutter and Cox, and they shared with her that they felt attacked by him. Robustelli also recounted that when former Mayor Shelia Young met with her (Young serves on the Ora Loma Sanitary District Board with Simon), she shared that Simon had "treated women horribly" and was dismissive of them, which Robustelli believed to be a clear pattern of Simon's inability to engage respectfully with women.

Cutter recounted that she would set up monthly one-on-one meetings with each Council Member but despite her best efforts to foster a positive working relationship with Simon, he was dismissive of her and did not seem to respect her position as Mayor.

Similarly, former City Council Member Cox recounted that Simon had trouble dealing with women in positions of authority, "who could hold their own" against him.

Robustelli recounted that Simon would disparage the performance of the newly hired City Clerk Kelly Clancy, whom he publicly humiliated by raising concerns about her performance and alluding to the fact that she might make inappropriate remarks, but he did not explain which comments he found to be inappropriate.

Reynes recalled Simon scapegoated Robustelli outside of Council meetings, but he was deferential towards the male Police Chief (who reported to Robustelli and was ultimately terminated for performance reasons).

Robustelli described Aguilar as rude and disrespectful in the manner in which he addressed her and other women. Robustelli has observed that Aguilar was frequently rude and

¹⁴ Each of them expressed concerns about the findings of the prior Botterud investigation into Robustelli's gender bias claims. In particular, they cite the fact that despite finding credible evidence that Simon had exhibited gender bias against women in positions of authority, the investigation nonetheless did not find that Simon's implicit bias towards women was the reason for his actions towards Robustelli.

gaslighted her and other women and cites the example of the Planning Meeting where he continually claimed that Bowen bombarded and blindsided him and gaslighted Robustelli.

Robustelli recalls that initially, Celina Reynes (who filled Deborah Cox's seat on the City Council) was aligned with Simon and Aguilar on issues, but within a few months, Reynes' relationship with them appeared to deteriorate and she would refer to Simon and Aguilar as "misogynists." Reynes disclosed to Robustelli that they were dismissive and gaslit her and other women, which aligned with what Bowen told her. Robustelli observed that Aguilar would attack Reynes and tried to undermine her whenever he disagreed with her. Robustelli recounted that Aguilar would also respond differently when it was called out by Ballew. She contrasts this with how they would attack Reynes whenever she would raise issues. Then Gonzalez would intervene to shut down the vitriol, Aguilar would not attack Gonzalez.

These witness accounts corroborate Bowen's accounts that Simon and Aguilar have engaged in disrespectful, demeaning, and ultimately abusive conduct that contributed to a hostile work environment for women.

H. Simon and Aguilar Favored the Selection of a Less Qualified Male Employee Over Janelle Cameron for The City Manager Position, Which Reflects Gender Bias

After Robustelli announced her resignation, Robustelli and Bowen advocated for the selection of Janelle Cameron to fill the City Manager position based on her qualifications and relevant experience for the position. Cameron served as the Assistant City Manager under Robustelli and then after Robustelli's departure, as the Interim City Manager. Robustelli and Bowen's support for Cameron was consistent with the recommendations of an outside consultant hired by the City Council to find a replacement for Robustelli, who informed City Council Members that there was no better choice to fill the position than Cameron.

Bowen recounted that both Simon and Aguilar were adamant that Cameron *not* be selected for the position. They both insisted that the Deputy City Manager Eric Engelbart, who had no direct reports and was less qualified, be selected instead. Simon did not believe that Cameron was a good fit for the City Manager position because of an alleged negative interaction she had with a reporter from the Telemundo network. Aguilar revealed that he heard about this negative encounter from former City Councilmember Corina Lopez, but he acknowledged that he had not asked Cameron about this particular interaction for which he and Simon sought to disqualify Cameron for the City Manager position. Bowen believes that the absence of a logical explanation for their opposition to the appointment of Cameron, a highly qualified female candidate in favor of a less qualified male, is indicative of gender bias.

Aguilar discussed with Simon the need to bring in someone new for the City Manager position and that Simon proposed Engelbart to fill the position. Aguilar claims that he asked Engelbart if he was interested in the position and that Engelbart assured him that he was interested in being the City Manager but was not ready to undertake the role and responsibilities at the time. Aguilar stated that "Eric would have been great for the job." When queried about which criteria he applied in evaluating a candidate's qualifications for the position, Aguilar claimed that he considered experience in the following areas: policy development, advocacy, ability to work with council members, candor, and tact. However, he did not review the job description for the City Manager's position, nor did he review Engelbart's performance reviews or resume. He acknowledged that he does not have a background in human resources so did not consider these as relevant to his decision. When pressed about whether other City Council Members had discussed their experiences working with Engelbart, Aguilar acknowledged that Viveros-Walton had worked with Engelbart and did not think highly of his leadership skills, which did not dim Aguilar's support of his selection of Engelbart. However, later in his interview, Aguilar claimed that ultimately, he did support selecting Cameron for the position. This likely occurred after Viveros-Walton asked if he was ready to "go public" with his vote against Cameron's selection as City Manager.

Aguilar claimed that Lopez told him that Cameron was rude towards a reporter from the Telemundo television network -- that Cameron "was dismissive and wouldn't give the reporter the time of day." Aguilar conceded that he did not know what transpired between Cameron and the reporter and was unaware of the City's policy prohibiting staff from speaking to reporters.

Simon explained that he had advocated for Eric Engelbart for the City Manager position because he was talented and sharp. However, when questioned about whether he was familiar with Engelbart's qualifications for the position, he conceded that he had not bothered to review Engelbart's resume or performance evaluations before he recommended that Engelbart be considered. When queried about whether he ever discussed with Engelbart if he was interested in the position, Simon stated that he could not remember if he did. He also did not even know Engelbart's title at the time or the fact that he was working in a position that was two levels below that of the City Manager. He also could not recall what information he had received or reviewed about Cameron's background or qualifications before he made his recommendation.

When queried about whether other City Council Members had discussed their experiences working with Engelbart, he initially responded that he did not recall discussing this subject with them but then acknowledged that Viveros-Walton did not have positive feedback about her experiences working with Engelbart. Despite this, he persisted in advocating for Engelbart to be considered.

Simon also stated that he did not recall whether he discussed with Engelbart his interest (or lack thereof) in the City Manager position before Simon put forth Engelbart's name to be considered. Simon tried to justify his decision to push forward with Engelbart even if he was not ready to undertake the role by explaining that Engelbart may have simply "needed a nudge" towards advancing his career.¹⁵ Simon never bothered to 1) review Engelbart's qualifications for the position or compare them with Cameron's; 2) examine Engelbart's management experience, skills, or abilities and his suitability for the position; or 3) gauge Engelbart's interest in the position or capacity to take on the role before he proposed that Engelbart be considered for City Manager. Therefore, Simon presented no legitimate basis for his pushing the City Council to consider Engelbart, who told members of the City Council that he was not interested in pursuing the position due to his family obligations.

Simon also claimed that an email from Tiffany Treece, who was an Environmental Services Coordinator, raised concerns about the City's lack of compliance with hazardous materials protocols or regulations. He claimed that afterwards, Treece was reprimanded in the Plant Manager's Office "at Janelle [Cameron's] direction."

An examination of the emails as quoted above reveals there is no reference in Tiffany Treece's email to her being disciplined at Cameron's direction. Indeed, there is no record in her personnel file of any disciplinary action that was taken against Treece. Further, there is no reference in Treece's email to a reprimand for identifying City facilities that were allegedly out of compliance with respect to hazardous waste. Simon never bothered to discuss this incident with Cameron or to verify the accuracy of this account. Yet, he claimed that this incident raised concerns about Cameron's ability to lead and explains why he voted "no" when she was being considered for the Interim City Manager position.

Cameron stated that she always supports whistleblowers and had never received the email from Treece so had no knowledge that Treece or anyone else had ever been subjected to disciplinary action as a result of Treece's email. Cameron produced a November 15, 2023, email she received from Treece raising concerns about her communications with the Plant Manager, who she accuses of mischaracterizing messages and attributing them to Cameron as the source. Since Treece was never disciplined and there is no evidence Cameron was behind

15 [REDACTED]

any disciplinary action taken against her, Simon's characterization of these emails appeared to be another attempt to disqualify Cameron from being promoted to City Manager.

Like Aguilar, Simon claimed that he had heard that Cameron had mishandled an interview with a Spanish television reporter — that she had been unprofessional, but he admits that he did not know that she was merely following instructions by her supervisor at the time, City Manager Robustelli, who instructed Cameron not to speak to reporters on behalf the City. Simon is aware that the City has a Public Information Officer through whom all media inquiries should be referred, but he does not know who holds that position.

Ultimately, Simon's justifications for not supporting Cameron's appointment to City Manager were not credible. He failed to present any legitimate non-discriminatory reasons for pushing the City Council to consider selecting a less qualified male employee over Cameron, a highly qualified female employee who had the support of nearly all City department managers as recounted by Gonzalez.

During Deborah Cox's tenure on the City Council, the City hired three City Managers. She recalls that despite qualified female applicants for the position, Simon advocated hiring a young African American male candidate who did not seem to know how to tackle the pressing issue of homelessness. According to Cox, Simon and Aguilar were opposed to hiring Robustelli, but they did not provide a legitimate reason why they preferred a male candidate who was less experienced and qualified than Robustelli. She cited these as examples of Simon's gender bias against qualified women in positions of authority.

Ultimately, the City Council voted for Cameron to be selected as the City Manager and she was not deprived of this employment opportunity. However, the foregoing witnesses' accounts support a finding that Simon and Aguilar were likely influenced by gender bias in their support of a less qualified male employee who was not interested in the position.

I. Former and Current City Council Members Contend That Simon Supported the Selection of a Less Qualified Male Candidate Over Sbeydeh Viveros-Walton as City Councilmember and Aguilar Supported a Less Qualified Female Candidate Who Would Not Likely Challenge Him

Bowen claims that Simon supported a less qualified male candidate (out of a total of 18 applications) over Sbeydeh Viveros-Walton to replace Celina Reynes on the City Council after she resigned. Bowen recounted that during the February 13, 2024, Council Meeting, "Simon would only support less qualified men," and he refused to acknowledge that Viveros-Walton was qualified for the role despite her relevant experience in public and community service. Ballew believed that the only candidate who answered all questions from the City Council Members was Viveros-Walton, who "could hit the ground running."

Robustelli believes that Simon ignored the superior qualifications of two of the female candidates, Viveros-Walton and Pcyeta Stroud. Simon nominated David Anderson, with whom he served on the Senior Commission for two years. Simon described Anderson as having "life experience," is smart, and "stands up to issues." Although Simon could not recall whether he reviewed the description of the City Council member's duties and qualifications, he claims that Anderson was qualified for the position because Anderson had experience balancing budgets and dealing with community issues, which he believes is relevant to the Council Member's responsibilities. When queried about the factors he considered when determining whether someone was qualified for the Council Member position, he stated the candidate must care about the community and presumably Anderson has demonstrated this because of his public service background. Simon stated that he could not "speak to the relative qualifications" of the other candidates, and he was "not saying that Sbeydeh Viveros-Walton was not qualified, but [he] just thought Anderson was more qualified." Viveros-Walton recalls that in advocating for the selection of David Anderson, Simon underscored the value of "life experiences" and stated something along the lines of "smart people got us here," as if to imply that intellectually inclined

individuals may lack the requisite “street smarts” or common sense, as if those attributes were mutually exclusive.

Bowen contends that both Simon and Aguilar “dismissed Sbeydeh Viveros-Walton’s superior qualifications, experiences, answers, and overwhelming public support” for her candidacy; “Only after intense public pressure highlighting how much more qualified and supported Viveros-Walton was and outrage at the prospect of spending money on a special election over the course of the two weeks, Simon and Aguilar finally voted to appoint her at the next meeting.” Bowen contends that their lack of support for the most qualified woman for the City Council is part of a pattern of bias against highly qualified women in positions of authority.

Ultimately, an examination of Simon’s decisions reveals a pattern of supporting male candidates over highly qualified female candidates. He supported a male candidate for City Council without considering the relative qualifications of the other candidates or the description of the City Council member’s duties and qualifications and attempted to justify his decision that Anderson’s lack of higher educational attainment should not be a factor for consideration. He also insisted that a less qualified male employee who was not even interested in the City Manager position be selected without having reviewed the job description for the position. In the absence of legitimate non-discriminatory business reasons for these decisions, the evidence suggests that gender bias may be a motivating factor in these decisions.

Aguilar nominated a female candidate, whom others viewed as inexperienced and unqualified to serve in a leadership role as a City Council Member. Azevedo and Aguilar nominated and supported Sulema Hernandez with whom Aguilar has had a close personal relationship, but Hernandez lacked prior relevant experience in government or in a leadership role. According to her application, Hernandez is a licensed real estate agent and family resource specialist, a cosmetologist (since 1998), and a volunteer at her PTA and other school district related organizations. She was a past recipient of the Mayor’s Kindness Award. At one point during her interview at the special session, when she was asked a question by Gonzalez, she hesitated and stated, “I’m so nervous, I am sorry,” which calls into question how she would be able to respond to community questions and concerns when making difficult decisions on behalf of the City.

Aguilar claims he considered the following factors in his advocacy of Hernandez: 1) her volunteer experience; 2) her vast knowledge of San Leandro; 3) her support for the community; 4) her public participation; and 5) her diversity of background. Aguilar identifies as a gay, disabled, person of color who has mentored women of color, including Celina Reynes, so he supported Hernandez to be appointed to the City Council.

Although Aguilar denies that he has a problem with women who hold positions of power as contended by Bowen and other witnesses, Council Members Ballew, Cox, Cutter, and Reynes, as well as Bowen, Robustelli, and Cameron believe that the justifications proffered by Simon and Aguilar indicate their lack of support for strong women in positions of authority reflecting gender bias. Reynes believes that Aguilar exhibits disdain towards smart women. She believes that Aguilar likes to surround himself with uneducated people who support him and do not pose a threat to him. Robustelli also observed that Aguilar seemed to “want the least educated woman who could be told what to do.” Viveros-Walton believes that Aguilar supported Sulema Hernandez because he could exert control over her, noting that she had not even registered to vote until she submitted her application, which indicates her lack of civic engagement.

J. Bowen and Other Witnesses Recounted That Simon and Aguilar Have Undermined Public Works Director Sheila Marquises and Other Staff, But Marquises Does Not Contend That Their Behavior Is Driven by Gender Bias

Bowen observed that during City Council meetings, Simon has challenged and undermined the expertise of Public Works Director Sheila Marquises, who has a strong

background in public works and transportation and is therefore highly qualified for her position. Bowen recounted that during a recent meeting,¹⁶ Marquises informed the Council that in its present state, Lake Chabot Road was not safe enough to reopen. But Simon allegedly challenged Marquises' recommendations. He stated that he is a civil engineer (implying that his professional experience should somehow override her Public Works expertise) and that he did not believe her conclusions. Bowen could not believe the manner that he addressed her conclusions when he allegedly stated, "She's lying; she doesn't know what she is talking about." Bowen believes that his behavior towards Marquises is part of a larger pattern of his undermining and demeaning women in positions of authority.

During the February 3, 2025, City Council Meeting, City Engineer Jayson Imai, and one of the Chiefs of the Alameda County Fire Department presented their findings and recommendations that due to safety concerns the road should not be reopened in its current state before repairs could be completed. Marquises explained that the soil beneath the roadway had washed away — that there was a void or gap underneath the seemingly intact surface, which could be hazardous for vehicles to drive over. Simon requested documentation, including photographs, to support the staff's finding that one half of the road was missing due to erosion. He maintained that the road needed to be accessible to the public in the event of an emergency and questioned whether the past geotechnical studies found that the road was unsafe for drivers.

Public Works Director Marquises, who has a bachelor's degree in civil engineering, and a master's degree in public administration, and is a licensed traffic engineer, recalls that there have been multiple meetings when they discussed the proposed reopening of Lake Chabot Road. She recounted that Simon has a tendency to send the most emails to staff, but Marquises noted that Simon, as an engineer, should have a better understanding of the engineering component of her work. Simon also asks the most questions about topics that have already been addressed in the reports prepared by staff that are submitted ahead of each meeting. Marquises' teams consistently overprepare for these meetings in anticipation that he might put them on the spot with his questions, as he is prone to do. Her staff have to continually remind him that the answers to his questions have already been presented in prior meetings or are in the written materials that were provided ahead of these meetings.

During the February 2025 City Planning Meeting, Simon asked the City Manager if the slides of the staff presentation were available to the public, even though as a City Council Member, he would have to know that these presentations and reports are always available for public scrutiny. During the February 2, 2025, City Council Meeting to discuss the reopening of Lake Chabot Road, Simon asked to review the photographs as proof of the road erosion, implying that he did not believe that the bottom half of the road had washed away. Afterwards, Marquises emailed the photographs that were previously presented at the prior Facilities and Transportation Committee meetings that Simon had attended. Simon also forgot that he previously requested community involvement in a project and then later questioned why this was even necessary.¹⁷ Marquises provided these examples of how Simon routinely engages in

¹⁶ Bowen did not provide a date for when this meeting took place, so it is unclear which meeting she is referring to since there has been a series of City Council regular meetings and Facilities and Transportation Committee meetings, when the staff presented reports on whether Lake Chabot Road could be safely reopened.

¹⁷ Robustelli recounted that the staff struggled with how Simon would subject them to cross examinations during City Council Meetings and put them on the spot, but Simon would never read the packet of materials provided to each Council Member before each meeting and then would raise issues that were not on the agenda. Robustelli explained to Simon that this was not only a potential violation of the Brown Act, but also when he sprung "gotcha" questions at staff during meetings on items not on the agenda, it made staff appear as if they were unprepared. Robustelli noted that he mostly hammered the engineering staff, consisting of both men and women, which does not evidence gender bias.

a pattern of asking questions about the content of past geotechnical reports and summaries, which have already been discussed or provided to him. Marquises and other witnesses noted that Simon does not read the materials sent to him in advance of these meetings and then quizzes the staff about the content of their reports, which would not be necessary if he had only properly prepared for these meetings.

Marquises noted that Simon also tends to lob tough questions on another female manager, Human Services Director Jessica Lobedan and he has a tendency to frequently interrupt staff when they are providing answers to his many questions. From Marquises' standpoint, Simon and Aguilar ask questions that make it appear as if the staff are not working diligently on projects, which can be demeaning.

Aguilar has asked pointed questions implying that staff should have better managed cost overruns in project designs, which she believes spurs public skepticism of whether the staff are capably performing their jobs. Marquises noted that during a break in the November 4, 2024, City Council meeting, Aguilar "apologized for putting her in the hot seat," claiming, "it is the Council Members' job [to do so]." Marquises questioned whether Aguilar's apology was disingenuous since the Council Members' job is not to put staff in the hot seat. Instead, they should be asking meaningful questions and show appreciation for staff members' hard work to address the myriads of questions presented by the City Council. Marquises believes that this kind of behavior contributes to the overall ineffectiveness of the City Council and makes it more difficult to recruit qualified candidates for employment, and ultimately, has had the effect of undermining the work performance of Marquises, a highly qualified female director in a position of authority. But when queried about whether she believed that she was being subjected to gender bias by Simon and Aguilar, Marquises could not say for certain that their behavior was motivated by gender bias.

Ballew observed how Simon grilled Marquises during a meeting when the Council discussed the reopening of Lake Chabot Road. Ballew described Simon as someone who will relentlessly persist and press until he gets his way — like a "dog with a tennis ball." Ballew recounted that when Simon interrogated staff, he was not respectful towards women like Marquises.

Former Mayor Pauline Cutter observed that Simon would undermine Marquises, when he would say, "Well, that's your opinion, but let's get an expert's opinion or another opinion," implying that the City needed to hire someone else with the expertise to do her job. Cutter noted that when Simon disagreed with men, he did not question their expertise.

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