

Words Matter.

Words Have Consequences.

A Report and Opinion Regarding Disciplinary Proceedings
By The Stamford Board of Representatives
Pertaining to Public Statements of Representative Anabel Figueroa

Presented by Attorneys Steven G. Mednick and Richard P. Roberts – January 30, 2025

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A Chill in the Air: An Unscheduled Censure Motion.

On a cold night in early December 2024, the Stamford Board of Representatives exploded in the latest in a series of recriminatory debates. One member accused another of cursing at him during the proceedings:¹ "He just looked directly at me and said, 'F--- you.'" A motion to censure the offending Representative was moved, seconded, and brought to the floor. At first, the accused Representative denied that he had said the words and defiantly stood against the censure motion.² However, later in the debate, the member conceded: "I do not believe that I said the words...but I recognize that in the heat of the moment that I may not be remembering correctly. And therefore, I will own those words and apologize to you for saying them." That statement led to a withdrawal of the censure motion, thus avoiding a second disciplinary censure against the offending member.³

During the proceedings another member of the body, a member who happens to be the subject of this Report and Opinion, took to the floor and said, "we have to realize that people outside...are looking at us and they are losing faith in this Board."⁴ That statement could also be construed to the following effect: Words matter. Words have consequences.

The Stamford Board of Representatives avoided another heated argument that evening because Representative Sean Boeger chose to "turn the other cheek" so that the body could move on to the business at hand.

The truncated and abandoned December 2nd censure was the fourth such resolution or motion that has been debated by the Board of Representatives since 2019. A motion designed to be used infrequently has become far too familiar to the members of this body.

The circumstances leading to the December 2nd censure should not surprise anyone who has paid attention to the highly antagonistic and contentious political atmosphere that permeates the chamber of the Board of Representatives and Democratic politics in general in Stamford. What was unusual was the magnanimity of Representative Boeger's gesture to his colleague.

¹ "An 'Out of Control' 'Unapologetic' Meeting of Stamford Reps Ends With Handshake, Hug," Angela Carella, *CT Examiner*, December 6, 2024: "He just looked directly at me and said, 'F--- you.'"

² "An 'Out of Control' 'Unapologetic' Meeting of Stamford Reps Ends With Handshake, Hug," Angela Carella, *CT Examiner*, December 6, 2024. In the article the representative, who had been censured by the body in May 2024 said: "People can choose to believe what I am about to say, or they can believe what people sitting 15 to 20 feet from me ... believe that they saw...I did not mouth the words that I'm being accused of mouthing. ... I mouthed the words, 'Oh, you.' If people wish to believe that or not, that's up to them, and I frankly don't really care. The last time you guys pulled this shenanigan, frankly, for me, was a badge of honor, and frankly strengthened my support in the community."

³ "An 'Out of Control' 'Unapologetic' Meeting of Stamford Reps Ends With Handshake, Hug," Angela Carella, *CT Examiner*, December 6, 2024

⁴ Transcribed from the Proceedings of the Stamford Board of Representatives, December 2, 2024, Part A.

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Setting the Context.

The Rules of Civility. The opening paragraphs set the context for the story that we are about to tell. For better or for worse, Stamford is a part of the rough and tumble of modern American politics. Yet it is important to remember that the conduct of local legislators is subject to rules of conduct in order to maintain order in the conduct of the people's business.

Rules of civility in the conduct of meetings necessarily allow for the discipline of members for violating the rules of a legislative body apply to actions of a legislative body: within a meeting of the body,⁵ as well as "elsewhere than in a meeting."⁶ This Report and Opinion focuses on the statements made by Representative Anabel Figueroa during her primary campaign for re-election to a full term in the State Legislature. The statements were directed at her opponent in the primary, who also happened to be a colleague of hers, then-Representative Jonathan Jacobson.

So there is no misunderstanding, at the outset we want to state clearly and unequivocally that antisemitic words or sentiments, whether poorly or inelegantly expressed must be condemned, unequivocally and vehemently. In point of fact, words that convey bigotry, ethnic bile, hatred, impunity, racism, or prejudice of any kind deserve sound and irrevocable repudiation.

As you review this Report and Opinion, you will observe that we have tried to heed the advice of advocates who address the issue of antisemitism each and every day. It is their belief that condemnation should apply whether there is an apology or explanation. This is particularly true in the post October 7th environment. Speakers who utter words of bias or hatred, or words that perpetuate stereotypes, need to be called out. Forgiveness begins after repudiation. This Report and Opinion calls for a long overdue denunciation.

We live in an era where politicians' use of coarse language has become accepted as part of lexicon of our politics. It is up to the voters to decide whether they want to elect people of that caliber. Sometimes these people get elected; other times, they do not. The issue for a legislative body is to decide whether to hold offending members accountable for "conduct injurious" to the body or its purposes.⁷ That is the question for the Board of Representatives on this matter.

⁵ Robert's Rules of Order, Newly Revised, 12th Edition, §§61.6 – 61.21 ("Robert's Rules").

⁶ Robert's Rules, §61:22.

⁷ Robert's Rules, §61:1.

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What Did Representative Figueroa Say?

The appropriate place to start is with the actionable statements themselves:

- “The Hispanic vote is going to determine on August 13th who will win to represent or who will continue to represent you. We cannot permit **a person who is of Jewish origin, of Jewish origin**, to represent our community. It’s Impossible.”⁸
- “He [Jonathan Jacobson] is a man that comes from the Jewish community, a community that is obviously starting to gain a lot of power in Stamford and it starts with the Mayor.”

“I say this with respect. I think if this person were running to represent people from their community or if they were mixed, I think I would respect it. But in my community, we don’t have people like him, from his community.”

“We’re mixed, we have a large Hispanic population, but I also have a lot of African Americans in the community that are with me, because they know, who better to represent us than someone within the same minority? **But a Jewish person? Never**.”⁹

- “Since the election, Figueroa has said it was also her message when she knocked on doors that: “We cannot allow a person from that community, from the Jewish community, to represent us. And I would tell them why: Because they don’t understand our language. They don’t understand our needs. They don’t understand what it is to arrive here as an immigrant,” Figueroa said, in Spanish, in an interview [in August of 2024] with *La Voz Hispana de Connecticut*.¹⁰

It is understandable that people would find the statements offensive, inappropriate, and entitled to universal opprobrium. In fact, reviewing the local press, one sees that the words were condemned by a wide variety of friends, foes, and strangers from throughout the State.

As you will see from the chronology, below, Representative Figueroa apologized, or attempted to apologize, on several occasions¹¹. In the interest of balancing her well

⁸ Video Interview of State Representative Anabel Figueroa on a program called *Hispanic International Show* on July 28, 2024.

⁹ Video interview with State Representative Anabel Figueroa on *La Voz Hispana de Connecticut* on August 3, 2024.

¹⁰ “Stamford Democratic City Committee moves to expel Anabel Figueroa,” Brianna Gurciullo, *Stamford Advocate*, August 29, 2024.

¹¹ We recognize that some apologies were conditional, others were explanatory in nature. She made a more direct apology to then-Representative Jacobson at the polls following a thirty-minute discussion with a Stamford Rabbi. It is noteworthy that, to our knowledge, none of her apologies were accepted by her primary opponent.

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documented comments with her rationale, the following proclamation appears to be her most fulsome apology:

"I am deeply sorry to those in the Stamford and Jewish communities that I have offended....I have multiple Jewish people working on my campaign, and antisemitism has no place in Stamford – again, I apologize. My message is that we need leaders who represent our districts. There is almost no Latino representation in Hartford, and I am currently the only Latina State representative in Southern Connecticut. There is a strong Latino community in the 148th district, and I will ensure their voice is at the table and never leave it. This has nothing to do with religion, and as a bilingual speaker, I misspoke when describing my opponent's background. I am deeply and sincerely sorry¹²."

In one interesting explanation, Representative Figueroa informed a reporter that she "Googled the word 'Jewish.'" "I saw that it has more than one meaning. It also means someone's religious beliefs. I used it in ignorance... Now I understand that it hurts people. Now I know it is a word that is not right to use¹³." The issue of an apology, whether full or in half-measures, is addressed later in this Report and Opinion.

¹² "Stamford Democrat Loses Primary Following Anti-Semitic Remarks," Jamil Ragland, *CT News Junkie*, August 14, 2024.

¹³ "After Losing Her Job, Election and a Seat in government, Figueroa Speaks," Angela Carella, *CT Examiner*, August 16, 2024.

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The Spectre of Antisemitism

Now that we know what Representative Figueroa said, we must now come to grips with the proper characterization of her statements. Representative Figueroa's comments have been repeatedly characterized as antisemitic. During interviews with Representatives and others throughout this investigation, some have referred to her as antisemitic, while others have suggested that she has embraced "hatred" in other actions on the Board of Representatives. We leave it to the reader to draw his or her own conclusions about Representative Figueroa's true intention.

Rather, we have chosen to focus on the words she has used and tried to apply commonly understood standards of analysis to properly contextualize and characterize those words. During the course of this process, we met with Stacey Sobel, the Regional Director of the Anti-Defamation League ("ADL"), an organization that provides a range of services, from assisting "victims of discrimination to reaching thousands with anti-bias education" with the aim of impacting public policy and improving communities.¹⁴ Following our meeting, Ms. Sobel provided us with the following list of eleven antisemitic stereotypes:

- Jews are more loyal to Israel than this country;
- Jews have too much power in the business world;
- Jews have too much power in international financial markets;
- Jews think they are better than other people;
- Jews don't care about what happens to anyone but their own kind;
- People hate Jews because of the way Jews behave;
- Jews will talk too much about what happened to them in the Holocaust;
- Jews have too much control over global affairs;
- Jews have too much control over the United States government;
- Jews have too much control over the global media; or,
- Jews are responsible for most of the world's wars.

We are certain the list of stereotypes is not complete.¹⁵

¹⁴ See, connecticut.adl.org/about/

¹⁵ This list is derived from "Antisemitism Uncovered: A Guide to Old Myths in a New Era," ADL (2024). In that publication the "Antisemitic Myths" are: (1) Jews Have Too Much Power; (2) Jews Are Disloyal; (3)

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The meme of Jews possessing outside influence, whether over the media, government, or business, is a commonly used attack on the Jewish community or individual Jewish people. Again, the ADL mission revolves around educating all of us and combatting the perpetuation of these and other stereotypes.

When someone says, "the Jewish community...is obviously starting to gain a lot of power in Stamford and it starts with the Mayor," that is not an observation based on some quantitative analysis. It is a statement that falls squarely within this stereotype. In a campaign, words and memes of this nature can be used as a weapon against an opponent as a shortcut to tarnishing him or her so as to get a message across to a constituency that you may be harvesting.

Does this mean the person uttering the words is antisemitic? Who can know for sure? However, on one level, the speaker's beliefs do not matter because the words, on their own, have resonance. Repeating words long enough normalizes them and the behaviors they manifest.

This conclusion is the same and applies with equal fervor to the use of racist, or homophobic, or anti-Islamic words or memes. If stereotypes are allowed to breathe without appropriate efforts to call them out, they will flourish and metastasize into a more lasting and more pernicious form of hatred or hate crimes.

In 2016 the International Holocaust Remembrance Alliance ("IHRA") approved the following "working definition" of antisemitism:

"Antisemitism is a *certain perception of Jews*, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities."¹⁶

When someone asks a question such as, "Jonathan, do you know any poor Jewish people?" or a person points out that "Jewish people could clearly never understand or represent my people in the district," the speaker is clearly channeling a "certain perception of Jews."¹⁷

The IHRA statement has its own list of examples of antisemitism. We list them in order to further contextualize the debate before the Board of Representatives:

"Jews Are Greedy; (4) Jews Killed Jesus; (5) Jews Use Christian Blood for Religious Beliefs; (6) The Holocaust Didn't Happen; and (7) Anti-Zionism or Criticism of Israel is Never Antisemitic.

¹⁶ Handbook for the practical use of the IHRA Working Definition of Antisemitism," International Holocaust Alliance, November 2020, p. 9. See also, "Report on Policies, Programs, and Actions Across the Globe to Combat Antisemitism," Report of the Office of the Special Envoy to Monitor and Combat Antisemitism, of the Department of State, September 27, 2023.

¹⁷ This comment was included in "Exhibit C to the Democratic State Central Committee Second Stamford 2024 Dispute resolution, November 1, 2024". Representative Figueroa's lawyers did not permit us to meet with her to confirm or deny this particular statement that was not otherwise published.

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- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers), or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of Israel a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel¹⁸.

There are laws that criminalize antisemitism, applying principally when targets of attacks, whether people or property, are selected because they are, or are perceived to be, Jewish or linked to Jews. There are also civil laws that prohibit discrimination that would deny Jews opportunities or services available to others.

Not every antisemitic statement is a crime or a violation of civil law, and we are not suggesting that the comments Representative Figueroa made during her campaign or,

¹⁸ “Handbook for the practical use of the IHRA Working Definition of Antisemitism,” International Holocaust Alliance, November 2020, pp. 11 – 16.

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most critically, in the turbulent aftermath, violated any law or rise to the level of criminalized hate speech. However, in the context of legislative behavior and the norms of a civil society, the reported and acknowledged comments uttered by Representative Figueroa are worthy of repudiation and disciplinary action by the Board of Representatives.

It is noteworthy that in the period from October 7, 2023 -- the day of the horrific terrorist attack in southern Israel -- through January 7, 2024, there was a 360% increase in antisemitic attacks in the United States, including physical assault, antisemitic rhetoric, and expressions of support for terrorism against the State of Israel and anti-Zionism.¹⁹ It is also significant that even before the October 7th attacks, American Jews, who account for 2.4% of the U.S. population, were the object of 63% of reported religiously motivated hate crimes.²⁰ According to the U.S. National Strategy to Counter Antisemitism, "antisemitism has become increasingly 'normalized' in American society."²¹ Though the subject incident was not a hate crime, it does demonstrate the "normalization" of antisemitic behavior.

This data is also true of attacks against other groups in our society. Elected representatives need to be especially vigilant and knowledgeable, taking care in the language they use to address each other and to address salient issues. Ignorance is not and should not be an excuse in a multi-cultural society, especially in the highly charged atmosphere that exists in politics today. Misunderstandings and fights between people on the same side of the political divide effectively surrender the high road in the battle against bigotry and prejudice that is front and center in 2025.

In the face of this onslaught, one of the objectives of the U.S National Strategy to Counter Antisemitism is to "*speak out against antisemitism.*" The objective is to "*reverse the normalization of antisemitism*" and to counter such behavior and discrimination, forcefully and clearly. Silence is not an option. The White House Report found the following:

- "Beat back and overwhelm hateful and antisemitic speech....especially when spread by public figures"
- "Antisemitism and all forms of hate and violence can have no safe harbor in America"

¹⁹ Statement of Jonathan Greenblatt, CEO ADL (2024) from an ADL Reports Unprecedented Rise in Antisemitic Incidents Post-Oct.7 (December 11, 2023). The trend had been increasing even before the war in Gaza as chronicled by the Center for the Study of Hate and Extremism at California State university confirmed that "(a)nti-Jewish hate crime rose from 59% in 2021""Report to the Nation: 2020s – Dawn of a Decade of Rising Hate, Center for the Study of Hate & Extremism (2022) which found that "Jews have been the top religious bias nationally for hate crime since 1991 and are consistently the top overall bias target in New York City, where one in six American Jews reside." See also, "Politicizing Antisemitism Amidst Today's Education Culture Warts, Lili Levy, Lewis & Clark Law Review, Vol 27.4 (2024), p.1199.

²⁰ "Director Wray Addresses ADL at Never Is Now Summit," November 10, 2022.

²¹ "The U.S. National Strategy To Counter Antisemitism, May 2023), The White House, p.6.

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- "To roll back the normalization of antisemitism....there should be meaningful accountability for antisemitic conduct²²"

If the Board of Representatives concludes that the statements examined in this Report and Opinion are antisemitic, the White House, ADL, and other advocates would strongly suggest that the counteraction to those statements should be clear and forceful. The Board of Representatives must also pass a condemnation or repudiation that is legally sustainable in order for such action to be. We believe that this Report and Opinion will offer a path to achieve both of those objectives.

²² "The U.S. National Strategy To Counter Antisemitism, May 2023), The White House, p.35.

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Preliminary Thoughts.

For the purposes of this Report and Opinion, the issue is not whether the words were used. There is no doubt that they were used. There is no question about the offense taken by many in the community and throughout the state. "There is no place for hate in Stamford" said the signs at the well-organized protest before the Board of Representatives' meeting on the 3rd of September.²³ Undeniably there is real consternation, fear, and revulsion in response to the statements.

Accordingly, our primary objective is to document what happened for the public record and to counsel the Board of Representatives on the legally enforceable disciplinary tools available to expose and condemn the antisemitic statements that occurred in the 2024 Democratic Primary in the 148th district.

One of the things one discovers when undertaking a project of this nature in a volatile political environment is that there are surprising areas of agreement. For example, for all of the political divisions within Stamford's Democratic Party that play out during the many of the proceedings of the Board of Representatives, it appears that there is general agreement and little in the way of tolerance for members who resort to words of hatred and or contempt.

Since 2019 there have been two disciplinary proceedings directed against members who exercised their First Amendment privileges in a manner that could not or should not be censored, yet should be condemned. In those two cases, censure was the chosen path for legislative condemnation. The First Amendment remains the overriding issue before the Board of Representatives. This Report and Opinion advises on First Amendment concerns for what would be the third proceeding to address offensive speech by a member of the body.²⁴

This is a serious matter both for those who will sit in judgment as well as for your colleague, who will presumably speak for herself. We were retained by vote of the Board of Representatives in mid-October.²⁵ The designation of counsel was made pursuant to Sec. C1-90-1 of the Charter. The vote margin also comports with the provisions of Sec. C5-20-3.

In our retainer letter, we agreed to confine ourselves to "...the issues raised by the statements, including due diligence review of any and all information pertinent to the issue and a recommendation of appropriate action by the Board of Representatives, if any, under Sec. C1-90-1 of the Charter or other legislative actions." We emphasized, then, and reassert now, that a removal proceeding is serious. It should not be taken lightly as

²³ "Stamford residents weigh in on Antisemitism, Figueroa's Seat on Board of Reps," Angela Carella, *CT Examiner*, September 4, 2024.

²⁴ For purposes of this discussion the brief proceedings in the Zelinsky and Weinberg II proceedings didn't involve significant First Amendment considerations and were probably too brief in duration to be considered "proceedings."

²⁵ The vote was 31-1-5 as set forth in the Proceedings of the Board of Representatives, October 16, 2024.

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such a move would effectively reverse the decision of the voters who elected Representative Figueroa. For many communities, "removal" of elected officials, like recall, is not an expressly granted power.²⁶ Thus, it should not be wielded cavalierly or as a political tool.

In our view, a "removal proceeding" should not be used as a political ruse designed to force members of the body to cast a vote that could be held against them in the next election cycle. Of course, we would like to believe that most Representatives are not viewing this process in strictly political terms. However, we do recognize that in an impulsive political environment, forcing a vote on removal might create the impression that those against removal were insensitive to antisemitic remarks.²⁷ Members of an elected body should only be removed for good cause and serious offense, not for political maneuvering.

Would the exercise of a First Amendment right, however misguided the actual words, provide a sufficient foundation to dismiss a member of an elected body? That is the subject addressed in this Report and Opinion.

In order to come to grips with this issue we conducted due diligence interviews with each of the leaders of the Board of Representatives:

- Jeff Curtis
President
- Megan Cottrell
Clerk of the Board
- Nina Sherwood
Majority Leader
- Mary Fedeli
Minority Leader
- Virgil de La Cruz
Deputy Majority Leader
- Eric Morson
Deputy Majority Leader
- David Watkins
Deputy Min. Leader

At the suggestion of leadership, we also met with the following Representatives: Ramya Shaw (12th Dist.); Maureen Pollock (11th Dist.); Carl Weinberg (20th Dist.); Bobby Pavia (17th Dist.); Jeff Stella (9th Dist.); and Bonnie Kim Campbell (5th Dist.).

Moreover, we interviewed former Representative Jonathan Jacobson on two occasions. We appreciate his cooperation and his reflections on the statements of his opponent and colleague. We also met with counsel for Representative Figueroa because

²⁶ We will discuss the Special Act authority of the Stamford removal provisions in the body of this Report and Opinion.

²⁷ The "impulsive political environment" was evident during our due diligence interview sessions. It is one thing if you genuinely favor "removal from office" and believe it is the best tool available to eradicate antisemitism or other forms of hatred from the political arena. It is quite another matter when you look to "removal proceedings" as a political tool. One member of the leadership favored a removal process regardless of the outcome for the reason that a vote taken against removal (or, even a removal process) could be used in the 2025 campaign against those members who did so, as evidence of their failure to take appropriate action in the face of Representative Figueroa's remarks. There is no doubt that removal would be an effective tool for fighting antisemitism or racism or abhorrent philosophies; except for the fact that the First Amendment poses some significant challenges, as you will see later in this document.

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we were anxious to be exposed to her perspective, although she was not permitted to meet with us herself and, thus, this Report and Opinion will rely on public sources of information to tell her story.

Two further notes: first, we have made it clear to leadership that while this review will focus initially on the removal provisions of the Charter, we would explore alternative disciplinary alternatives, including censure. Second, we asked leadership, during this due diligence period, to refrain from coming to any conclusions about a particular course of action or expected outcomes. While it is clear from our interviews that members have different perspectives and may have made decisions already, we appreciate that those views have not been publicly discussed or revealed. We believe that the time for robust debate will occur following the submission of this Report and Opinion.

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Alternative Approaches to Legislative Discipline and Conduct

Removal from Public Office. Sec. C1-90-1 of the Charter of the City of Stamford (“Stamford Charter” or “Charter”) includes a provision entitled “Removal of Elective Officers.” We believe that those provisions would constitute a valid exercise of authority by the Board of Representatives.

In determining the validity of a municipal law or action under the Connecticut law of home rule, one needs to bear in mind a few essential points. The issue of the validity of the removal provision was raised during a telephone conference with Attorneys Lopez and Klein, counsel for Representative Figueroa. At that time Attorney Lopez expressed surprise when we indicated that the removal provision was an appropriate exercise of authority by the Board of Representatives. She was particularly astonished since “one of us” actually argued the case of *Simons v. Canty* at the Connecticut Supreme Court.²⁸ On the surface, it was a point well taken.

Express Grants of Power. *Simons v. Canty* actually stood for a number of critical propositions about municipal authority and power, girded by a series of cases that came before:

- The sources of municipal authority are well defined. Municipalities, because they are creations of the state, have no inherent legislative authority.²⁹
- Municipalities “can wield only those powers expressly granted to them by the legislature”³⁰ or “necessary to the exercise of an expressly delegated power.”³¹
- The “...sole font of municipal authority is legislative delegation in the form of a general statute or a special act adopted prior to the effective date of article tenth.”³²

²⁸ 195 Conn. 524, 488 A.2d 1267 (Conn. 1985). Attorney Mednick argued the case on the prevailing side.

²⁹ This is a well stated and long understood underpinning of home rule in Connecticut set forth in *Simons v. Canty*, 195 Conn. 524, 529: See also, See *New Haven Commission on Equal Opportunities v. Yale University*, 183 Conn. 495, 499, 439 A.2d 404 (1981); *Connelly v. Bridgeport*, 104 Conn. 238, 252, 132 A. 690 (1926); *State ex rel. Bulkeley v. Williams*, 68 Conn. 131, 149, 35 A. 24 (1896), *aff'd sub nom. Williams v. Eggleston*, [195 Conn. 530] 170 U.S. 304, 18 S.Ct. 617, 42 L.Ed. 1047 (1898); *Webster v. Harwinton*, 32 Conn. 131, 138-39 (1864); Littlefield, “Municipal Home Rule--Connecticut's Mature Approach,” 37 Conn.B.J. 390, 404-405 (1963); 2 McQuillin, *Municipal Corporations* (3d Ed.Rev.1979) § 10.11.

³⁰ 195 Conn. 530. See also, *City Council v. Hall*, 180 Conn. 243, 248, 429 A.2d 481 (1980); *Pepin v. Danbury*, 171 Conn. 74, 83, 368 A.2d 88 (1976).

³¹ 195 Conn. 530. See also, *Perretta v. New Britain*, 185 Conn. 88, 102, 440 A.2d 823 (1981); *New Haven Water Co. v. New Haven*, 152 Conn. 563, 566, 210 A.2d 449 (1965).

³² 195 Conn. 530. See also, Article X, §1 of the State Constitution.

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- The powers granted to municipalities are “well established” as the General Assembly “has been very specific in enumerating those powers” principally in Title 7.³³
- The concept of enumerated powers is strictly construed, to wit: “An enumeration of powers in a statute is uniformly held to forbid the things not enumerated”³⁴ and, as such, are “narrowly construed.”³⁵

Consistent with these principles, the analysis in *Simons v. Canty* held that in determining “whether a municipality has the authority to adopt a challenged charter provision, ‘we do not search for a statutory prohibition against such an enactment; rather, we must search for statutory authority for the enactment.’”³⁶ Using the logic and consistent home rule principles, the Court concluded that the recall provisions of the Watertown Town Charter were invalid: “If the legislature had intended to confer the recall power on municipalities it would have done so explicitly.”³⁷

A Special Act Is An Express Grant of Authority. The Court also addressed the issue of Special Acts. The Court explicitly referenced the notion that prior to the adoption of Article X, the General Assembly enacted local charters through the Special Acts. The court rules that the legislature “...can no longer enact special legislation in this area.”³⁸ It also explicitly acknowledged, in footnote 3, the validity of the five municipalities that had special act recall.³⁹ Contrary to the protestations of Attorney Lopez, we rely on the law set forth in *Simons v. Canty*, with regard to Special Act provisions.

The Current Charter Provision Is Rooted in the 1947 Special Act Charter. The “removal” provision in the current version of the Charter can be traced, at least, to 1947. Section 120 of the Special Act 312, entitled “An Act Concerning a Consolidated government for the City and Town of Stamford and a Proposed Charter Therefor,” included the following provision:

³³ 195 Conn. 530. See also, See *General Statutes Title 7.* “*Buonocore v. Branford*, 192 Conn. 399, 403, 471 A.2d 961 (1984).

³⁴ 195 Conn 530. See also, *State ex rel. Barlow v. Kaminsky*, 144 Conn. 612, 620, 136 A.2d 792 (1957); *State ex rel. Barnard v. Ambrogio*, 162 Conn. 491, 498, 294 A.2d 529 (1972).

³⁵ 195 Conn 530. See *Gregory v. Bridgeport*, 41 Conn. 76, 86 (1874).

³⁶ 195 Conn 530-531. See also, *Avonside, Inc. v. Zoning & Planning Commission*, 153 Conn. 232, 236, 215 A.2d 409 (1965).

³⁷ 195 Conn. 532.

³⁸ 195 Conn. 527-528.

³⁹ See. FN [3] of *Simon v. Canty*, as follows: “The five municipalities with special act recall authorization are: New Haven, adopted in 1952 under authority granted by 16 Spec. Acts 817, No. 159; 17 Spec. Acts 1224, No. 449; 18 Spec. Acts 512, No. 181; and 23 Spec. Acts 618, No. 551; Bristol, adopted in 1939 under 23 Spec. Acts 489, No. 489; Milford, adopted in 1959 under 29 Spec. Acts 142, No. 139 (as revised in 1975); Stratford, adopted in 1921 by 18 Spec. Acts 1048, No. 479 (as revised in 1975); Westport, adopted in 1957 by 28 Spec. Acts 427, No. 348 (Home Rule revision 1979).”

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“Removal or Impeachment of Elective Officers. Any elective officer, except members of the board of finance⁴⁰, may be impeached and removed from office for cause by a vote of three-quarters of the entire membership of the board of representatives. No elective officer may be removed except upon charges and after hearing thereon. Written notice of the charges and time and place of hearing of at least one week shall be given to the officer. *Such charges shall be for neglect or dereliction of official duty, or incompetency, or dishonesty or in capacity to perform his official duties or some delinquency materially affecting his general character or fitness for office.* Such officer shall have the right to be represented by counsel at the hearing (emphasis added on the grounds for removal that survive in the current Charter).”

We hope that you will understand why we believe that the 1947 language is the starting point. It is the express grant of authority by the General Assembly that is the foundation for the current charter language.

As you will see, the current provision of the Stamford Charter is firmly rooted in the Special Act of 1947, as follows:

“Any elective officer may be removed from office for cause by a vote of three-quarters (¾) of the entire membership of the Board of Representatives. No elective officer may be removed except upon charges, which shall have been affirmed by the vote of a majority of the entire membership of the Board of Representatives, and after hearing thereon. Written notice by the Board of Representatives of the charges and time and place of hearing shall be given to the officer at least two (2) weeks before such hearing. Such charges shall be for neglect or dereliction of official duty, or incompetency, or dishonesty or incapacity to perform official duties or some delinquency materially affecting that person's general character or fitness for office. Such officer shall have the right to be represented by counsel at the hearing, to present testimony personally and through witnesses, to cross-examine witnesses presented in favor of removal, and to compel the attendance of witnesses by subpoena issued in the name of the Board of Representatives. The Board of Representatives shall designate an attorney who is a member in good standing of the bar of the State of Connecticut for at least ten (10) years to present such charges on behalf of the Board of Representatives. The standard of proof required for removal shall

⁴⁰ The Board of Finance exception was apparently removed as a result of the 1969 Charter revision. See Minutes of the Special Meeting of the 10th Board of Representatives, April 14, 1969, pp. 5830-5831. We render no opinion on the authority to subject the Board of Finance to “removal.”

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be clear and convincing evidence" (Italics represent the specific language retained from the 1947 Special Act⁴¹).

We are of the opinion that enforcement of the provisions would be a valid exercise of an expressly granted authority. As a result of that conclusion the issue in this Report and Opinion is not whether the Charter provision is valid. Rather, the question, for us, is whether Representative Figueroa's exercise of speech, including the odious words used, could be sanctioned and sustained as grounds for removal from office as "some delinquency materially affecting that person's general character or fitness for office." That is the element of the grounds that comes closest to the mark in this case and is a significant issue that will be addressed in the Recommendations.⁴² We have also been asked to review "dishonesty" as an alternate ground for dismissal.

Censure. We opened this Report and Opinion with an anecdote about the truncated December 2, 2024 Censure Motion against Representative Weinberg. It would have been his second censure. It was by dint of the mercy and maturity of the maker of the motion that the Representative was spared a second disciplinary offense. We would further like to remind all that "formal disciplinary procedures should generally be regarded as a drastic step reserved for serious situations or those potentially so."⁴³

As discussed above, there are offenses that occur *during* a meeting similar to the truncated December 2nd censure motion and, then there are actions of members that occur *outside* the chamber, so to speak.

The easier case would be the transgressions in the chamber that occur on the record for all to see and hear. These are usually addressed by the rules of procedure. The standing rules are where the body establishes the rules of engagement. They articulate the terms of order and decorum. Durable standing rules ensure meetings conducted in a business-like manner with proper decorum exhibited by all members. One example of such a rule from another large municipality is against delaying or interrupting "...the proceedings or the peace of the City Council or disturb any member while speaking or refuse to obey the orders of the President, who shall be responsible for preserving order and decorum."⁴⁴

⁴¹ Note: The remainder of the language may be a legitimate exercise of home rule since it doesn't create a new power or authority; but rather, amplifies and establishes a procedural framework for the exercise of the "removal" authority. Frankly, many of these objectives could have been accomplished by Ordinance as well. More problematic are the revisions in 1969 which eliminated the "board of finance" exception. Prior to that time a member of the Board of Finance was not subject to the "removal" provisions. Additionally, it is not clear where the express grant of authority exists to establish a "subpoena" power. When it comes to Special Acts, it is better to work around the edges on procedure and implementation protocols. Once you start tinkering with new powers you subject yourself to legitimate challenges in the court system.

⁴² Some have suggested that Representative Figueroa should be subject to removal for "dishonesty" based on a series of Board of Ethics proceedings, her erratic fit and start series of "apologies" surrounding her antisemitic statements as well as the resignation and rescission. The one issue we will discuss is the series of "ethics rulings."

⁴³ Robert's Rules, §61:22.

⁴³ Robert's Rules, §61:4.

⁴⁴ Standing Rules of the Hamden Legislative Council, §11(a).

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Those Standing Rules go on to emphatically reinforce the notion of procedural decorum. For example, "... (w)hen a member of the Council is about to speak in debate, the member shall seek recognition and respectfully address the President; and upon being recognized the member shall stand and shall, in a courteous manner, confine comment to the question under debate."⁴⁵ Stamford has a similar germaneness rule in the Rules of Order Sec. V.B.1. In another municipality, the rules of engagement clearly prohibit members from mentioning the name of another member in debate "but may be referred to by such designation as will be intelligible and respectful."⁴⁶ New Haven has a rule that prohibits one member from interrupting another "but by a point of order."⁴⁷ The rule goes on to establish a clear line of authority:

"If any member, in speaking or otherwise, transgresses the rules of the Board, the Chair shall, or any member may, call to order, in which case the member so called to order shall sit down, unless permitted to explain. Where there is an appeal to the Board, and decision in favor of the member called to order, that member shall be at liberty to proceed; if otherwise, that member shall not be permitted to proceed without leave of the President."

In Sec. II.A.3 of the **Rules of Order of the Board of Representatives**, there is one provision that goes to the issue of internal order:

"The President shall preserve order and decorum and shall decide all questions of order, upon which no debate shall be allowed except at the President's request; however the President's decision shall be subject to an appeal to the Board."

Generally, protocols and rules of conduct are critical to the sound and balanced operation of a legislative body.

In the course of representing municipalities large and small throughout the state, we both advise our clients that, as a general rule, members of legislative bodies should work to establish a good relationship with other members. The success or failure of legislative efforts may be dependent upon the degree of cooperation evident among the 9 or 15 or 21 or 30 or 40 members of the body. Of course, this should not jeopardize a member's efforts to represent his or her constituency to the best of his or her ability. Rather, it is always beneficial to remember the old adage: "while you may disagree, you don't need to be disagreeable."

The following is a list designed to simplify a point that cannot be driven too much in this day and age, which is how to exhibit civility:

⁴⁵ Standing Rules of the Hamden Legislative Council, §11(a) (1). See also, Rules of the Board of Alders (New Haven), Sec. 17.

⁴⁶ Rules of the Board of Alders (New Haven), Sec. 18.

⁴⁷ Rules of the Board of Alders (New Haven), Sec. 19.

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- Show respect for another's viewpoint;
- Set aside personal or business interests;
- Minimize polarization and factions among members;
- Welcome new members and assist them in becoming acquainted with their duties;
- Allow others adequate time to fully present their views before making comments;
- Avoid rancor and bitterness; and,
- Sidestep pejorative or disparaging remarks, in or out of Council meetings, about your colleagues, the administration and staff.

Mind you that none of these admonitions suggests that any member should avoid honest and respectful criticism about an idea or an issue. However, any tactic calculated to embarrass a colleague, a member of the administration, or a member of the public should be avoided. One can learn from good faith criticism, and sticking instead to the politics of recrimination may not ensure success. Censure is the legislative device used to condemn those who take the latter course.

Other Alternative Sanctions. During our due diligence, a couple of leaders suggested the possibility of stripping Representative Figueroa of her committee assignments. After all, she had been stripped of her committee assignments in the State House of Representatives by the Speaker. That option doesn't appear to be available under the Rules of Order.

Under the Rules of Order, members are appointed by the President to "...the Standing Committees and any other Committees that may be necessary."⁴⁸ One might argue that the power to appoint might suggest the power to remove. However, under another rule all members are permitted to "attend and participate" in the meetings of any of the committees of the Board of Representatives:

"All members of the Board of Representatives shall be ex-officio members of all committees to which they have not been appointed, with the right to attend and participate in any meeting thereof, notwithstanding however, that ex-officio committee members shall not have the right to make motions or to vote⁴⁹."

Without a change of rules, this alternative is not available.

⁴⁸ Rules of Order, Sec. I.C.12 (Order of Business of the Organization Meeting)

⁴⁹ Rules of Order, Sec. III.A.3

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Background and Facts:

Any legal case is based upon the facts as they are known or to the extent they can be understood. In order to explain the facts, a trial lawyer needs to tell the trier of fact a good story. In this case, the story starts with the comments at the beginning of this Report and Opinion. You will hear those words again throughout this analysis. In most cases, the words are clear. However, while many condemn those words as they stand alone, others, including Representative Figueroa, will ask you to accept context or rationale in order to better understand what she was trying to say. The latter position may not absolve her of her actions, but may help to inform the appropriate response.

The presentation of this story is further complicated by the byzantine labyrinth of the cantankerous and competitive political environment within the Democratic Party in Stamford. The writers of this Report and Opinion observed the spectre of rivalry in the very expensive and contested charter revision debate and referendum in 2023. Both of us have represented charter commissions throughout the state and have rarely observed the level of contention and vituperation. As we commence the 2025 municipal election year, we recognize that the “factions,” as they are described in the press, will try to find advantage on political issues as they arise. That is part of the rough and tumble of politics. It is our hope that this Report and Opinion will provide the Board with the foundation for a sober discussion of a sordid episode that should be treated seriously and effectively.

Two contests in 148th District. Representative Figueroa won a special election on February 28, 2023, to serve as State Representative from the 148th District.⁵⁰ Her term commenced on March 3, 2023.⁵¹ The special election was the result of the decision by former Representative Dan Fox to resign in order to be eligible for appointment to the Superior Court.⁵² Representative Figueroa won the nomination for the special election by a 4-3 vote at the Stamford Democratic City Committee (“DCC”) over then-Representative Jonathan Jacobson. A little more than a year later, on May 23, 2024, Figueroa lost the party endorsement to then-Representative Jacobson.⁵³ Following the loss of the nomination, Representative Figueroa petitioned and qualified for the primary, which was scheduled for August 13, 2024.

A Series of Antisemitic Comments. The events leading to this Report and Opinion were not generally known until early morning hours before the polls opened on primary day. What we do know is that the first of the comments occurred on July 28, 2024 during a video interview on a program called *Hispanic International Show* on a local AM

⁵⁰ “STAMFORD HACE HISTORIA: Anabel Figueroa se convierte en primera hispana en llegar a la legislature” (“STAMFORD MAKES HISTORY: Anabel Figueroa becomes the first Hispanic to reach the legislature”) read the headline in *La Voz Hispana* on March 3, 2023.

⁵¹ “Stamford voters elect Democrat Figueroa to state House’s 148th District seat, unofficial results show, Brianna Gurciullo and Jared Weber, *Stamford Advocate*, March 1, 2023; See also, “Democrats win all 3 state house special elections,” Emma Wulfhorst, *Fox 61*, February 28, 2023. Figueroa defeated Republican Olga Anastos 584-373. (61%-39%).

⁵² “Rep. Dan Fox, D-Stamford expected to leave House, Mark Pazniokas, *CT Mirror*, December 22, 2022.

⁵³ “Two Incumbents Lose endorsements as Stamford Democrats Keep Out Press,” Angela Carella, *CT Examiner*, 24 May 2024.

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radio station WSTC. It was during this program that Representative Figueroa made the following statement:

"The Hispanic vote is going to determine on August 13th who will win to represent or who will continue to represent you. We cannot permit **a person who is of Jewish origin, of Jewish origin**, to represent our community. It's Impossible."

On August 3, 2024, Representative Anabel Figueroa appeared on *La Voz Hispana de Connecticut* and made the following statement:

"He [Jonathan Jacobson] is a man that comes from the Jewish community, a community that is obviously starting to gain a lot of power in Stamford and it starts with the Mayor."

"I say this with respect. I think if this person were running to represent people from their community or if they were mixed, I think I would respect it. But in my community, we don't have people like him, from his community,"

"We're mixed, we have a large Hispanic population, but I also have a lot of African Americans in the community that are with me, because they know, who better to represent us than someone within the same minority? **But a Jewish person? Never.**"

Ironically, on August 12, 2024 Representative Figueroa condemned a Facebook Post made by former DCC Member Eva Padilla referring to Representative Jacobson as "the Israeli lawyer" or "the Israelite lawyer":

"I unequivocally condemn the recent Facebook post, shared by DCC member, Eva Padilla, in which she referred to my opponent, Jonathan Jacobson, as 'the Israeli lawyer.' I have known Eva for many years, which makes her comments all the more disturbing and disheartening. At a time when antisemitism is on the rise, both nationally, and locally, such remarks are unacceptable and have no place in our discourse.

"Political differences can blur the boundaries of respect and decency, leading many into dangerous territory. This is not a time for hate but for unity. I stand with the Stamford Democratic Party and condemning these antisemitic (sic) remarks. We have united across the country to fight for our democracy, and to protect the rights and freedoms of all. Now, more than ever, we must come together. As Democrats, we are committed to fostering inclusivity and respect, and this incident only strengthens, our resolve to uphold those values. Let's not allow behavior of one to overshadow what we stand for as Democrats."⁵⁴

⁵⁴ Facebook post by Anabel Figueroa, August 12, 2024.

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The DCC also condemned the Padilla statement,⁵⁵ which occurred on the eve of the primary. The juxtaposition of Figueroa's comments and her robust condemnation of a remark she characterized as "antisemitic" was both ironic and, arguably, tone deaf at the same time. The only silver lining in this incident is that fact that Representative Figueroa and Ms. Padilla's statements were made prior to the primary and as noted by the DCC "before her statements became widely known."⁵⁶ The "silver lining" is the fact that, if these statements were intended to have an impact on the primary, it is gratifying to acknowledge that garnering the support of 40% of the electorate was not the result she expected.

A Stealth Message from "Tiffany Love": 1:37 AM on August 13th. The DCC claims it received an email that was sent to Ignascio LaGuarda at *the Stamford Advocate*. The email from a pseudonymous source called "Tiffany Love" stated under the title "Anabel Figueroa in HER own words," the following⁵⁷:

"Yesterday I found this video on YouTube, recorded two weeks ago, in which Anabel Figueroa is promoting her campaign and states the following:

"Starting at 36:00 she says: "The Hispanic vote is going to determine on August 13th who will win to represent or who will continue to represent you. We cannot permit a person who is of Jewish origin, of Jewish origin, to represent our community. It's impossible."

<https://www.youtube.com/watch?v=5Vthiw8RuWY>

⁵⁵ "DCC Leadership Statement on Antisemitic Facebook Post – 148th State House Primary."

⁵⁶ Jacobson Interview (November 13, 2024): Eva Padilla posted an attack on Facebook regarding an "Israeli lawyer" about a week before the primary. Anabel attacked and repudiated the posting. Many of his supporters were pleasantly surprised; although they were not aware at that time that Anabel had already participated in the radio interviews on Hispanic radio that form the basis for the matters before the Board of Representatives.

⁵⁷ In a second email Tiffany Love on 14 August @ 11:11 AM stated the following: "I am not the individual that originally found the video. That person found it quite accidentally, sent it to me and 1 other person and we agreed, after consulting with the original finder that the public deserved to see the video. I sent the e-mail and scheduled for it to be sent in the early morning. Also, the person that did find the video does not believe that anyone on Anabel's side was aware of its existence. It was literally hidden on YouTube and had only 25 views. We agree with this assessment...When releasing the video it was agreed to keep the identity of the finder anonymous, since the content within was more important to be known. I can tell you only that this individual was not from either your campaign or Anabel's campaign, but is politically active in Stamford and currently holds no elected office. Additionally, we are relieved, as are they, that Anabel's loss was of a significant margin. They are also glad to see that Hispanic voters rejected Anabel's outreach since after viewing the video they did not feel the outreach was genuine, was totally based around her and her needs, and quite contemptuous (sic) to the Hispanic community...Once again we are glad you won, since victory for the other side would have sent the wrong message. The finder, who works with the Hispanic community frequently, also wanted to emphasize that you not hold the Hispanic community at fault for her behavior, since they were merely being used by Anabel for her own political ambitions and the hate expressed by Anabel was of her own doing and for her own benefit, and not reflective of the Hispanic community as a whole."

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"Disgusting. It appears that this idea originated from the candidate, not a surrogate."⁵⁸

Representative Figueroa Loses the Primary: August 13, 2024. The headline was clear, as was the result: "Anabel Figueroa loses Stamford primary after antisemitism incident."⁵⁹

"In Stamford, Figueroa already was seen as struggling to hold the 148th House District she won in a special election last year when the race took a dramatic turn over allegations of antisemitism by Figueroa in a Spanish-language interview video that went unnoticed for two weeks.

"The Hispanic vote is going to determine on August 13th who will win to represent or who will continue to represent you,' Figueroa said in the video, according to a translation posted by the Democratic City Committee. **'We cannot permit a person who is of Jewish origin, to represent our community. It's impossible'**.

"House Speaker Matt Ritter, D-Hartford, said Figueroa acknowledged the accuracy of the translation in a phone conversation."⁶⁰

Was There An Apology? Speaker Ritter "encouraged her to apologize." According to the *CT Examiner*, "She did, after a fashion...Figueroa, accompanied by Rep. James Sanchez, D-Hartford, approached Jacobson and his supporters outside a polling place at Stamford High school, where they were chanting, 'Stop the hate.'⁶¹ At that point,

⁵⁸ Jacobson Interview (November 14, 2024): At approximately 5:00 AM on the day of the primary Jacobson noticed an email that he received at 1:37 AM an email that was also sent to the *Stamford Advocate*. This was the first her heard of the offending statements. Again, the email came from somebody called "Tiffany Love". It turns out that Tiffany Love is not a person. It's a consortium of three people who came upon this information after the 11th or even the 12th hour. They sent the information to the press and others in the overnight hours prior to the opening of the polls.

⁵⁹ Mark Pazniokas, *CT Mirror*, August 13, 2024. See also, "Stamford Democrat loses primary after saying Jew can't represent district," Michael Starr, *Jerusalem Post*, August 14, 2024.

⁶⁰ "Jacobson, Simmons Rally at Polls after Figueroa Comments Against Jewish Representation," Angela Carella, *CT Examiner*, August 14, 2024: "Jacobson approaches Figueroa and begins questioning her. Figueroa ignores him. The two, who serve on the Board of Representatives, have a strained relationship dating to 2021, when Jacobson lodged an ethics complaint against her. On Walston's video, Jacobson tried to confront Figueroa but she speaks over him. A woman in the group cuts her off." See also, "Connecticut Official Loses to Jewish Opponent After Antisemitic Comments," Alyce McFadden, *New York Times*, August 14, 2024: "The statehouse race is not the first time Mr. Jacobson and Ms. Figueroa have tangled. The two have been colleagues for the better part of a decade on Stamford's Board of Representatives....In 2021, Mr. Jacobson filed an ethics complaint against Ms. Figueroa for campaigning and voting against the reappointment of a Board of Ethics member who had overseen a previous investigation into her actions....two years later, both ran to fill a vacant seat in Connecticut's House in a special election. The nominees for both parties were picked by committee, and Ms. Figueroa, one of eight members of the nominating committee, won the nomination. Despite their differences, Mr. Jacobson said he was hurt by Ms. Figueroa's comments."

⁶¹ "Jacobson, Simmons Rally at Polls after Figueroa Comments Against Jewish Representation," Angela Carella, *CT Examiner*, August 14, 2024.

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Figueroa told the rally that "...she only was trying to make a case for keeping the seat in the hands of a racial minority and was sorry --- if her remarks offended anyone. Neither the explanation nor the conditional phrasing of an apology was accepted."

"This is not going to help, ma'am,' Jacobson told her. 'That is not an apology.'" The exchange was recorded on video by the *Connecticut Mirror*. Jacobson said Figueroa then offered an unconditional apology after speaking with a rabbi who stood with Jacobson supporters. The controversy came one day after Figueroa denounced one of her own supporters, Eva Padilla a member of the DCC, for referring to Jacobson as 'the Israeli lawyer.'

"I have known Eva for many years, which makes her comments all the more disturbing and disheartening,' Figueroa said on her Facebook page. 'At a time when antisemitism is on the rise both nationally and locally, such remarks are unacceptable and have no place in our discourse.'"

Another version of the events at the primary day rally came from Jim Fleischer, a member of the DCC.

"At this time, I noticed that Anabel had been on her phone talking with someone. A short while later, after she was off the phone, she came over to where Jonathan was standing and said to him, '**Jonathan, does it offend you when someone calls you Jewish?**' To which Jonathan replied, 'Well, it depends on the context.' They continued to have a back-and-forth conversation, in a civil tone, about this topic and statements Anabel made on a recently videotaped interview.

"Until then, I was merely an observer, and did not say anything about the discussion taking place. However, a short while later, after a lull in the conversation, Anabel once again addressed Jonathan and said, '**Jonathan, do you know any poor Jewish people?**' Jonathan was clearly confused by her question and said, 'I'm sorry, what?' To which Anabel repeated her question. Jonathan responded, 'Well, yes, I do, but I don't know what that has to do with anything.' Anabel then responded by saying, "**Well, Jewish people could clearly never understand or represent my people in the district.**" (I was shocked because her statements implied that all Jewish people are rich, and all Latino people are poor). At that point I spoke up for the first time and said, "Anabel, you need to stop. Everything that you are saying goes against the core values that we hold as Democrats." Anabel did not say anything else while I was there. I continued to poll stand for another 20 minutes, and then I left to go to work⁶²."

The only thing you can do is "resign from your three seats." Another news account says that "Jacobson says she offered him an apology, but he did not accept it. 'I said to

⁶² Exhibit C to the Democratic State Central Committee Second Stamford 2024 Dispute resolution, November 1, 2024.

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her that the type of rhetoric is harmful and it has no place in political discourse... I believe that what we all want is to be able to come together, but that unfortunately a lot of harm was done with her words.” Jacobson told the reporter that after a thirty-minute conversation between Representative Figueroa and a rabbi, Figueroa offered a “second apology.” Jacobson’s reported response was: “What you are trying to do is to put two communities against each other for no reason other than to get votes. Shame on you⁶³.” It was further reported Jacobson informed Figueroa that the only apology that would resolve the situation was if she would “resign from your three seats.”⁶⁴ In other words, that was the only course available to Representative Figueroa.

On the 14th of August, Representative Figueroa apologized in the press:

“I am deeply sorry to those in the Stamford and Jewish communities that I have offended....I have multiple Jewish people working on my campaign, and antisemitism has no place in Stamford – again, I apologize. My message is that we need leaders who represent our districts. There is almost no Latino representation in Hartford, and I am currently the only Latina State representative in Southern Connecticut. There is a strong Latino community in the 148th district, and I will ensure their voice is at the table and never leaves it. This has nothing to do with religion, and as a bilingual speaker, I misspoke when describing my opponent’s background. I am deeply and sincerely sorry.”⁶⁵

The Aftermath: A Deluge of Coverage. Following the primary, the story hit like a firestorm. On August 13th Hartford reporter Kevin Rennie included the offending quote in his headline and in the body of the article. In an update Rennie took a more expansive look at the history between the primary winner, Representative Jonathan Jacobson and Figueroa:⁶⁶

“Reached while campaigning this afternoon, **Jonathan Jacobson said this is not the first encounter with Figueroa and hate.** In 2018, Jacobson, a member of the Board of Representatives moved to censure a fellow

⁶³ “CT State Rep. Anabel Figueroa loses primary after making antisemitic remarks,” Maricarmen Cahahuaringa, *Connecticut Public Radio*, August 14, 2024.

⁶⁴ “After Losing Her Job, Election and a Seat in government, Figueroa Speaks,” Angela Carella, *CT Examiner*, August 16, 2024. At the time Representative Figueroa served in the State House of Representatives, the Board of Representatives and the DCC.

⁶⁵ “Stamford Democrat Loses Primary Following Anti-Semitic Remarks,” Jamil Ragland, *CT News Junkie*, August 14, 2024.

⁶⁶ “Democratic State Representative Figueroa: ‘We cannot permit a person who is of Jewish origin, of Jewish origin to represent our community’,” Kevin Rennie, *Daily Ructions*, August 13, 2024. “After saying ‘impossible’ for a Jew to represent the district, Connecticut state rep loses primary to a Jew,” *JNS.org*, August 13, 2024. Further citing the ADL as follows: “Rep. Figueroa’s statement was outrageous and her apology equivocal. To accuse Jewish politicians of being unable to represent all constituents is unacceptable.” See also, “‘Blatant antisemitism’: State lawmaker faces resignation calls after interview surfaces,” Matthew Chapman, *Raw Story*, August 13, 2023

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member who had posted anti-Muslim and anti-immigrant sentiments in social media. **Figueroa refused to join colleagues condemning hate.**⁶⁷

“Jacobson, who was called an ‘Israeli attorney’ by a Figueroa supporter, said the Democrat was using antisemitism to ‘influence the outcome of an election.’

“On Tuesday afternoon, Figueroa raised the ‘I have Jewish friends’ defense to explain her poisonous comments. She apologized and said, ‘we need leaders who represent our districts.’ There are not enough Latino legislators, she believes. She seemed to attribute her comments to be being a ‘bilingual speaker.’⁶⁸ That appears to make her fluent in hatred in two languages.”

In addition to her assertion about Figueroa’s earlier failure to “condemn hate” (his conclusion) Jacobson descried the August 3rd remarks as “just incredibly ignorant on many levels... Sephardic Jews are Jews from the Iberian Peninsula, who are by definition of Latin origin⁶⁹.”

The deluge of attacks on the Figueroa comments (and other actions by other officials) continued in the aftermath of the primary:

- Stamford officials called for her resignation;⁷⁰
- The State Chair of the Democratic party called for her resignation and supported actions by the DCC to take “whatever further action they take to hold her accountable”;⁷¹
- Majority Leader, Minority Leader, Deputy Majority Leaders, Deputy Minority Leader and Clerk of the Board of Representatives called for representative Figueroa’s resignation;⁷²

⁶⁷ If then-Representative Jacobson based his statement on the fact that Figueroa did not vote for the censure, he is free to draw his own conclusion. On the other hand, the record demonstrates that while Representative Figueroa “abstained” she did, in fact, condemn the behavior.

⁶⁸ Representative Figueroa repeated the bilingual mistakes in an article entitled “Michel and Figueroa Lose Challenges, Corey Beats Smith to Take on Murphy,” Angela Carella, *CT Examiner*, August 14, 2024: “‘Her comment had ‘nothing to do with religions,’ Figueroa said. ‘As a bilingual speaker, I misspoke when describing my opponent’s background. I am deeply and sincerely sorry.’”

⁶⁹ “CT State Rep. Anabel Figueroa loses primary after making anti-Semitic remarks,” Maricarmen Cahahuaringa, *CPR*, August 22, 2024.

⁷⁰ “Stamford officials call on state representative to resign amid accusations of antisemitism,” Cat Murphy, *NBC Connecticut*, 15 August 2024.

⁷¹ Statement from Democratic State Chair Nancy DiNardo, August 16, 2024. In her statement the Chair repeated then-Representative Jacobson’s assertion that “‘this isn’t the first time she has made hateful comments. The pattern is disturbing, and has no place in political discourse.”

⁷² “Anabel Figueroa resigns from Stamford Board of Representative after outcry over antisemitic remarks,” Brianna Gurciullo, *Stamford Advocate*, August 16, 2024.

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- DCC voted to hold expulsion hearing to remove Figueroa from the DCC;⁷³
- DCC called on President of the Board of Representatives to resign;⁷⁴ and,
- The Mayor called for “accountability for Representative Figueroa’s behavior.”⁷⁵
- A *Stamford Advocate* Editor suggested that Representative Figueroa did not “...acknowledge that her comments would be problematic even without the repeated ‘Jewish origin’ phrase. Any elected official has to represent all constituents.”⁷⁶

The reluctance of President Curtis to sign on to a letter demanding Representative Figueroa’s resignation also drew fierce criticism from the DCC.⁷⁷ His public statements, however, were not indifferent to the tenor or implications of Representative Figueroa’s statements. Instead, he felt that his role, as the leader of the legislative body, was to encourage Figueroa to “do the right thing” and resign without adding his voice to the public chorus of condemnation.⁷⁸

⁷³ Press Release of DCC entitled “DCC membership votes in favor of holding expulsion hearing to Remove DCC Member Annabel Figueroa,” August 28, 2024; See also, “Stamford Democratic City Committee moves to expel Anabel Figueroa,” Brianna Gurciullo, *Stamford Advocate*, August 29, 2024.

⁷⁴ “Stamford’s Democratic City Committee Calls on Board of Reps President Curtis to Resign,” Angela Carella, *CT Examiner*, August 19, 2024. The asserted reason was his failure to call for her resignation.

⁷⁵ “After antisemitism incident, Stamford State Rep. Figueroa speaks out,” Maricarmen Cahajuaranga, *Connecticut Public Radio*, August 27, 2024. After condemning the comments as language that is “not tolerated” in Stamford, the Mayor said: “One of our city’s greatest strengths is our diversity and such divisive language has no place in our political discourse or community. Words matter, and as elected officials, we must uphold a higher standard of integrity that earns the public’s respect and trust, and there must be accountability for this behavior.”

⁷⁶ “Figueroa saga a cautionary political tale. She ‘essentially elected herself to the Connecticut General Assembly,’” John Breunig, Editorial Page editor, *CT Insider*, September 8, 2024.

⁷⁷ The unified Democratic leadership, with the exception of the President and Republican leadership said: “Representative Figueroa’s pattern of antisemitic and racist comments is inconsistent with the principles we expect of our elected officials. Her position on ethnic and religious background expressed in video interviews on July 28 and August 3 demonstrate an innate inability to effectively serve all members of her constituency and the City of Stamford. It is untenable that she remain in office where the absence of bias and prejudice are critical to fair and just service to the city and all of its people.” See, “After Losing Her Job, Election and a Seat in Government, Figueroa Speaks.” Angela Carella, *CT Examiner*, August 16, 2024.

⁷⁸ Figueroa said Board of Representatives President Jeff Curtis, a fellow Democrat, called her to tell her she should resign... Curtis said Figueroa Thursday agreed to send him a letter of resignation, and he alerted board leaders... ‘Then I started getting phone calls demanding that she send it by 11 or 12 on Friday,’ Curtis said. ‘I said let’s give her time to speak to her family and write the letter. Then [Friday] morning some board leaders went on their own and wrote their own letter demanding her resignation, and tried to rope me into signing it. I told them I felt they were acting like sharks in a feeding frenzy. But they went ahead and put out a statement without my signature.’ In addition, President Curtis said the following: “I would have done the same for anyone on the board in a similar situation,” he said. “What Representative Figueroa said was wrong – we humans do that – and she has to live with her actions. I think the moment called for compassion. It was suggested to me that I sign the board’s letter because ‘they will come after you.’ Fine with me. If they want to attack me for being humane, then have at it.” See, “After Losing Her Job, Election and a Seat in Government, Figueroa Speaks.” Angela Carella, *CT Examiner*, August 16, 2024.

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"What (Figueroa) said was wrong in many eyes and parts of our community...I was raised to treat my fellow human being with respect and dignity no matter what. I take Representative Figueroa at her word, I am sure she will do the right thing. That being said, I notified leadership yesterday of my conversation with Anabel. They chose optics over humanity to a fellow human. This woman has been through enough, she has ruined her career. I think me signing would only add to her stress and I can't do that to her or anyone."⁷⁹

A similar sentiment was made by Rabbi Daniel Cohen of Congregation Agudath Sholom, as follows:

"There's a rise in antisemitism, so people's radars are on high alert," he said, "But I also think that if there's an opportunity for somebody to recognize the fact that they may not have realized what they said, they apologized for what they said, that we should try to not dig for the dirt in people but mine for the gold and try to find a way to build bridges."⁸⁰

Rabbi Cohen also reported that since his meeting with Representative Figueroa at "...the protest on primary day she has visited his synagogue to learn and understand how words can impact people's lives." The Rabbi was quoted as saying:

"In times of division, it's crucial to emphasize what unites us, rather than what separates us...By working together, we can overcome challenges and create a more inclusive and supportive environment for everyone."

According to the article the Rabbi advocated for "political leadership to engage in constructive conversations and collaborate on initiatives to strengthen Stamford's unity. 'It is important for us to recognize that, while misunderstandings can occur, our focus should be on coming together and working toward a better future for Stamford'⁸¹."

Meanwhile, on August 29th the United Jewish Federation of Greater Stamford, New Canaan, & Darien released a statement "...from nearly a dozen leaders of the Jewish community, including a number of local rabbis, who urged the Board of Representatives to 'act to ensure that elected officials who engage in this kind of divisive and hateful rhetoric can no longer serve on the board.'

"The egregious nature of her remarks makes her continued tenure on the Board of Representatives of our cherished city — for any length of time — intolerable...Stamford has long been a diverse, inclusive and welcoming

⁷⁹ "Anabel Figueroa resigns from Stamford Board of Representative after outcry over antisemitic remarks," Brianna Gurciullo, Stamford Advocate, August 16, 2024.

⁸⁰ "After antisemitism incident, Stamford State Rep. Figueroa speaks out," Maricarmen Cajahuaranga, Connecticut Public Radio, August 27, 2024.

⁸¹ "After antisemitism incident, Stamford State Rep. Figueroa speaks out," Maricarmen Cajahuaranga, Connecticut Public Radio, August 27, 2024.

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community. It can rightly be proud of its spirit of collaboration and support for all among us.

"That kind of collaboration and support among the various groups that make up our city requires ongoing nourishment and leadership, and can quickly be torn apart by implicit tolerance of the kind of hateful and undemocratic expressions repeatedly made by Rep. Figueroa...A community should not be judged by the hateful statements of any one person, even one who is an elected official, however hurt we may be at that longstanding official's betrayal. Instead, the community should be judged by how it responds to those hateful statements."⁸²

Response from the Latino Community. Within the Latino community there was also a general repudiation of Representative Figueroa's comments; yet, the circulation of a "so-called unity pledge... (by) "prominent Latinos in government, business. And nonprofit organizations" "created consternation among Latino immigrants who question how the matter was handled." Fourteen of the signatories were from Darien, Norwalk, Westport, Fairfield, Bridgeport, and West Haven.

"A group of Stamford residents who were born in different countries of Central and South America contacted *CT Examiner* to say they think Figueroa's words were wrong. As people who face discrimination themselves, they do not condone speech that discriminates against anyone else....But they are concerned that the matter is being exploited for political aims, they said, and that the need for better representations of Stamford's growing Latino population will not be addressed."

"I was sad Anabel used the wrong words," a man from South America said with the help of an interpreter. "Calling someone by their nationality is normal in many of our countries. It doesn't mean hate. But now we live in a multicultural country, so we have to speak in a different way...the mayor should have called her and the other politician and tried to make peace between them. Instead, hate was fortified. People sent Anabel messages calling her names and threatening her family. But you can't fight hate with hate."⁸³

State Representative Minnie Gonzalez (D-Hartford) expressed concern about the continued clamor since Figueroa..."sincerely and repeatedly apologized for certain comments." She went on to say that she "...can only conclude that (Figueroa's) tormentors are engaged in a campaign of sanctimonious virtue signaling designed to obscure the antisemitic strain which threatens to metastasize within the Democratic Party...The Latino community of Stamford represents approximately 30% of the city's

⁸² Stamford Democratic City Committee moves to expel Anabel Figueroa," Brianna Gurciullo, *Stamford Advocate*, August 29, 2024.

⁸³ "After Figueroa Fallout, Stamford's Latino Community Speaks Out," Angela Carella, *CT Examiner*, August 26, 2024.

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population. To deprive it of its only voice in the General Assembly is bad enough, but to expel that voice from the Board of Representatives and the Democratic City Committee fully highlights the hostility towards diversity present in the elected officials of the City of Stamford. Perhaps a passage from the New Testament can offer guidance to all faiths, 'Let he among you who is without sin, cast the first stone.'⁸⁴

Former Deputy Speaker of the House Edwin Vargas raised questions about what he described as the portrayal of Representative Figueroa "...as someone akin to a neo nazi...devalues the struggle against the truly evil forces of antisemitism that have been rearing their ugly heads."⁸⁵ He raised the concern that "an inelegant remark"⁸⁶ made to her Latino base had effectively become a tempest in a teapot that was playing into the hands of "some local politicians "...who are trying to settle their internal political differences with a Hispanic politician by raising the specter of rampant antisemitism. Nothing could be further from the truth." Referring to "local intraparty intrigues of this municipality" the former Deputy Speaker encouraged "...the public, and especially my Jewish friends, not to allow themselves to be used as pawns...and especially, don't give comfort to those who would use a minor incident like this to create a wedge between members of the Jewish and Hispanic communities. Please let cooler heads prevail. There should be no space between allies in our just cause."

Representative Figueroa Resigns from the Board of Representatives: August 16, 2024. On August 16, 2024 at 12:17 P.M. Representative Figueroa resigned from the Board of Representatives by emailing the President of the Board, Jeff Curtis. In her email she stated:

⁸⁴ "Treatment of Figueroa Obscured Antisemitism Unaddressed in the Democratic Party," State Representative Minnie Gonzalez, *CT Examiner*, September 2, 2024.

⁸⁵ "A Parody of Indignation Is Taking Place in Stamford," Former State Representative Edwin Vargas, *CT Examiner*, September 2, 2024.

⁸⁶ Note: The statement was made and not denied by the former Deputy Speaker. In his op-ed he attempted to set a context for a proportionate response to her comment: "In her remarks she tried to convince her Latino constituents that they would be better served by electing a Hispanic woman, than by a "white Jewish male." Her message was one that is frequently used by candidates from underrepresented communities. Statements such as 'that Italian guy doesn't understand our community like I do' or 'what does that Irish guy know about our community' or 'it's time for women to call the shots' or 'he doesn't look like us' etc. While we may all have our opinions as to whether identity politics are proper or not, they are commonplace in America. Now, as to the uproar in Stamford. It is critical that we understand what is happening and put it in perspective." The Deputy Speaker went on to say: "Anabel is the only Latina woman currently serving in the state House in the entire southern half of the state of Connecticut, and when her term expires in a few months there will be none. In the heat of the campaign her remarks were made in a clumsy attempt to create a dramatic contrast between her and her opponent. Unfortunately, we are living through a period of rising antisemitism and there is an understandable sensitivity that it may take hold in cities like Stamford. However, as a lifelong adversary of these hate movements, I can attest that Anabel is neither part of nor does she in any way share such hateful sentiments. I am sure that she would be the first to stand up against any assault on the values of equality and justice we hold so dear. *Following the reaction to her comments she did not seek, as a bigots would, to double down on her initial remarks but instead she repeatedly attempted to apologize. Her attempts were largely rebuked and her political adversaries have taken full advantage of what could have simply been interpreted as a minor misunderstanding and an opportunity for nurturing better understanding and clearer communications (emphasis added).*"

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"Please accept this notice as my resignation from the Stamford Board of Representatives, effectively immediately. Serving the citizens of Stamford has been an honor."⁸⁷

She was also terminated from her job at the Norwalk Hospital and Nuvance Health, and had her committee assignments in the State House of Representatives revoked by the Speaker and Majority Leader⁸⁸.

Further Explanations by Representative Figueroa. During this period Representative Figueroa tried to explain her positions on numerous occasions:

- "[Figueroa] said she used the phrase not only in Spanish-language interviews that were posted online in the two weeks before the primary, but also while campaigning to keep her seat in state House District 148. . . . Figueroa said that when she was knocking on doors in Glenbrook, the East Side and the Cove, where many households are Latino, she told people, **'we cannot have a person from the Jewish community represent the Hispanic community.'**"⁸⁹

- "Figueroa, who has served District 8 on Stamford's Board of Representatives for over 20 years, claims that the timing of the controversy was a deliberate move to sabotage her re-election campaign, made by Mayor Caroline Simmons and the Democratic City Committee (DCC).

"Of course, **my words were taken out of context and manipulated,**' Figueroa said. 'This entire situation has been orchestrated by the mayor and the Democratic Party.'

"They went after me right now and they want to go after those who support me,' Figueroa said. 'When is the Democratic town community, when is the mayor, when are they going to stop the harassment?'"⁹⁰

- **"I said that a person from that community, you know, from the Jewish community, represents us, and I said why? Because they don't understand our language. They don't understand our needs. They don't understand what it means to come here as an immigrant."**⁹¹

⁸⁷ "Anabel Figueroa resigns from Stamford Board of Representatives after outcry over anti-Semitic remarks," Brianna Gurciullo, *Stamford Advocate*, August 16, 2024. See also, "State Rep. Anabel Figueroa resigns from Stamford Board of Representatives," Richard Kaufman, *Patch*, August 19, 2024

⁸⁸ See also, "Anabel Figueroa resigns from Stamford Board of Representatives following alleged use of anti-Semitic rhetoric against primary opponent," Rose Shannon, *News12*, August 17, 2024.

⁸⁹ "After Losing Her Job, Election, and a Seat in Government, Figueroa Speaks," Angela Carella, *CT Examiner*, August 16, 2024.

⁹⁰ "After antisemitism incident, Stamford State Rep. Figueroa speaks out," Maricarmen Cajahuaringa, *CPR*, August 22, 2024.

⁹¹ Video interview with State Representative Anabel Figueroa on *La Voz Hispana de Connecticut*, August 24, 2024.

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- Another article indicated that Representative Figueroa's intent was to "address Jonathan Jacobson's ethnic background, not his religion... 'When I used that word, I was referring to his ethnic origin, not his religion or any of the accusations being made against me. Just as you would identify someone as Puerto Rican or Salvadoran, that was my intent'. Figueroa, a native of El Salvador, has said she did not understand that Jewish also describes a religion or that her use of the terms was offensive. She said she thought that saying someone is Jewish is like saying someone is Mexican or Colombian."⁹²

The Resignation is Rescinded and Nullified by the Law Department: August 23, 2024.⁹³ On August 23, 2024 at 7:54 P.M. Representative Figueroa rescinded her resignation in an email to President Curtis and City Clerk Lyda Ruijter, as follows:

"Please be advised that I hereby rescind my notice of resignation sent to you via text message on 8/16/24. Please disregard the content of the text message.

"Since there has been no official action on my notice of resignation, rescission is proper and appropriate.

"I remain a duly elected member of the Stamford Board of Representatives."

On the next morning (August 24th) at 9:36 A.M., President Curtis requested "...a legal opinion (from the Law Department) on this matter as well as direction as to how to proceed going forward." On August 26th at 4:13 P.M. Deputy Corporation Counsel Amy J. LiVolsi replied, as follows:

"Ms. Figueroa did not submit her resignation to the Mayor as provided for in Section C5-20-19 of the City's Charter and subsequently rescinded the resignation in a reasonably prompt fashion. Consequently, it is my opinion that Ms. Figueora (sic) is currently a member of the Board of Representatives."

The Aftermath of the Rescinded Resignation: A community on edge.⁹⁴ During a public comment session of the Board of Representatives on September 3rd thirty-two people signed up to speak. Approximately 100 people demonstrated demanding the "removal" of Representative Figueroa prior to the meeting. Under the banner of "No place

⁹² "After antisemitism incident, Stamford State Rep. Figueroa speaks out," Maricarmen Cahahuaranga, *Connecticut Public Radio*, August 27, 2024.

⁹³ "After Anti-Semitism Outcry, Figueroa Walks Back Resignation in Stamford," Angela Carella, *CT Examiner*, August 27, 2024.

⁹⁴ "Stamford Resident Weigh in on Antisemitism, Figueroa's Seat on Board of Reps," Angela Carella, *CT Examiner*, September 4, 2024. See also, "Following antisemitic remarks, Stamford residents call for Anabel Figueroa's expulsion," Eddy Martinez, *Connecticut Public Radio*. Mayor and others testify before the Board of Representatives.

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for hate in Stamford,” they were addressed by Mayor Simmons and Rabbi Jay TelRav of Temple Sinai. The following is a summary of the comments:

- “Excuses: exhibit “an ignorance not befitting someone who has served for more than twenty years;”⁹⁵
- City leaders must adhere to the highest ethical standard... “there’s no such thing as accidental hate”;⁹⁶
- “...empathy should be extended to the targets of bigotry, not the source of it”;⁹⁷”
- A community is harmed when people believe “we can represent only those who are like ourselves;”⁹⁸
- “She meant what she said. When she said it, and that it wasn't coming out of a place of ignorance, but out of a place of hate.”⁹⁹

In a separate email the United Jewish Federation of Greater Stamford, New Canaan, and Darien urged residents to speak at the Board meeting in order to “enforce her resignation.” The statement read, in part:

“A community should not be judged by the hateful statements of any one person, even when one who is an elected official, however hurt we may be at that longstanding official’s betrayal. Instead, the community should be judged by how it responds to those hateful statements.”¹⁰⁰

⁹⁵ Comment of Stamford resident Nancy Freedman.

⁹⁶ Comment of Stamford resident Jessica Katz

⁹⁷ Comment of Jed Selkowitz.

⁹⁸ Comment of Heather Cohen Dynner.

⁹⁹“Following antisemitic remarks, Stamford residents call for Anabel Figueroa’s expulsion,” Eddy Martinez, *Connecticut Public Radio*, September 4, 2024. Comment of Stamford resident Maruja Ivri. Ms. Ivri also wrote an op-ed called “Figueroa Has Proven Herself Unfit for the Job,” *CT Examiner*, September 6, 2024: “That is why I was truly disheartened to read Edwin Vargas’ recent op-ed. I agree that our city deserves more Hispanic representation. Hearing elected officials speak Spanish makes me feel included and heard, deepening my sense of home in Stamford. However, Vargas’ assertion that the outrage over Representative Anabel Figueroa’s comments is overblown, or merely a product of political gamesmanship, is at best naive and at worst dismissive of the harmful impact of antisemitic rhetoric. It was particularly hurtful to hear such vile antisemitism from an elected official in my native Spanish—it felt like a negation of my very family...” “Like Vargas, I wanted to believe this was all a misunderstanding. When friends first told me about the situation, I assured them it had to be overblown—I too assumed it was about more Hispanic representation and that what sounded like antisemitism was likely stemming from a simple lack of exposure to the Jewish community. So I set out to listen to the comments in their original Spanish, to shore up my argument that this was a cultural misunderstanding, simply taken out of context. As I watched Rep. Figueroa speak, I was in shock. There was no mistaking the hostility and blatant antisemitism.”

¹⁰⁰ “Stamford Resident Weigh in on Antisemitism, Figueroa’s Seat on Board of Reps,” Angela Carella, *CT Examiner*, September 4, 2024.

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Others at the meeting agreed that “communities should be celebrated, not denigrated” and while Stamford is a diverse city, it is not an equitable city,”¹⁰¹ citing education disparities and lack of access to power. A high school student named Valerie addressed the meeting by ZOOM expressing her disquiet with the “...hateful graffiti, including a swastika and a racial slur, found outside AITE.” She also expressed her concern about the tenor of the rally that took place at the Stamford High School primary election polling place after viewing a video of the event:

“I once admired Mayor Caroline Simmons as our first woman mayor, and I felt immense pride when Anabel Figueroa became our first Latina state representatives...it was inspiring to see a woman like my mother --- a Latina with an accent ----achieve such a position in Hartford” yet, the video of the primary day rally “brought tears to my eyes.”

From Valerie’s point of view, the video showed Figueroa “being confronted by a mostly white crowd calling her ignorant, telling her to ‘get educated’ and even referring to us as ‘Latins...in those brief moments, I lost all respect for Mayor Simmons. What kind of leadership responds to hate with more hate? Most importantly, where was the urgency for a rally against hate when we --- the youth and our schools --- were targeted with hateful graffiti? Why didn’t we have a rally?”¹⁰²

A third group of speakers gave personal testimony defending Representative Figueroa:¹⁰³

- “...a few people are being intolerant in their strategy to achieve tolerance...trying to combat hate with more hate...I’ve known Anabel Figueroa for eight years. I know she’s not a hateful person in spite of how her words sounded.”¹⁰⁴
- Representative Figueroa “is not a neo-nazi, and it’s sad some are portraying her that way...I know municipal politics. People latch onto an issue to score political points. In this case, other people are fighting a just cause against bigotry. There can be more than one thing happening.”¹⁰⁵

The Democratic City Committee Expels Representative Figueroa. On September 11, 2024 the Executive Committee of the Stamford DCC emailed Representative Figueroa inviting her to a hearing “to consider your expulsion from the DCC” on September 25th¹⁰⁶. The party offered Representative Figueroa “...the

¹⁰¹ Comment of Stamford resident Cynthia Bowser.

¹⁰² “Stamford Resident Weigh in on Antisemitism, Figueroa’s Seat on Board of Reps,” Angela Carella, *CT Examiner*, September 4, 2024.

¹⁰³ “Stamford Resident Weigh in on Antisemitism, Figueroa’s Seat on Board of Reps,” Angela Carella, *CT Examiner*, September 4, 2024.

¹⁰⁴ Comment of Stamford resident David Adams.

¹⁰⁵ Comment of former Deputy Speaker of the House of Representatives Edwin Vargas.

¹⁰⁶ Email from Stamford Democratic City Committee to Anabel D. Figueroa and Carmen Lopez re – “Notice of DCC’s Expulsion Hearing,” dated September 11, 2024 at 9:00 A.M. See also, “Stamfo9rd Democrats to

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opportunity to be represented by an advocate," as well as "...30 minutes to respond to the...accusations of misconduct" including calling witnesses.¹⁰⁷ The Rules of the DCC pertaining to expulsion do not include allegations of "Misconduct" yet includes a "good cause" standard that "includes but is not limited to the reasons set forth therein."¹⁰⁸

Accusations of Misconduct. Attached to the email was a document entitled "Accusations of Misconduct," prepared by the DCC, which included the following points:

- "An elected or appointed body has the right to expel members for misconduct. In Stamford, the expulsion of elected and appointed officials is specifically permitted under the City Charter" citing Sec. C1-90-1 and Sec. C6-00-3.¹⁰⁹
- "The First Amendment Does Not Protect Anabel Figueroa from Actions by the DCC for her anti-Semitic Speech. The First Amendment protects individuals from censorship or adverse action by the government, but does not apply to private organizations (like businesses, non-profit organizations, social media platforms, or private clubs), including the DCC."
- "Private organizations can set their own rules regarding speech and behavior and enforce their own policies. This means that a private organization can choose to penalize or take action against hate speech or other misconduct based on its own rules and values."
- "The Stamford DCC is a private organization. Moreover, our discussion and any actions we take on this matter are part of our own First Amendment-protected right to communicate our own views on important matters of public concern, decide who will represent us as a member of our organization, and communicate our own values to the public."
- "In short, not only does the First Amendment not prevent us from taking any action with regard to Anabel Figueroa, it protects our decisions and actions."

hold expulsion hearing of Anabel Figueroa over antisemitic remarks," Brianna Gurciullo, *Stamford Advocate*, September 13, 2024.

¹⁰⁷ The entire defense including presentation of witnesses, if any, was confined to thirty minutes.

¹⁰⁸ Article I, Section 8 of the DCC Rules entitled "EXPULSION" states: "The Committee, by two-thirds (2/3) vote of the entire membership, at a meeting called for that purpose, may expel a member for good cause. Good cause shall include but shall not be limited to failure to attend three (3) consecutive meetings without a satisfactory excuse; failure to perform duties assigned by vote of the Committee; or failure, upon proper proof, to support the policies and regularly nominated candidates of the Democratic Party. Activities on behalf of any Democratic candidate for party nomination shall not be considered good cause for expulsion of a Committee member. Any member to be expelled shall be entitled to a hearing before the Committee."

¹⁰⁹ It should be noted that these provisions of the Charter do not apply to private political organizations such as the DCC or, for that matter, the Republican Party committee.

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From this defensive posture the “Accusation of Misconduct” statement includes the specific allegations of “Anabel Figueroa’s Anti-Semitic Statements,” summarized as follows:

- Before Figueroa’s remarks became known, she condemned an Aug. 12 Facebook post by a then-DCC member who referred to Jacobson as “the Israeli lawyer.”
- On the morning of the primary, the DCC received an email with a link to a YouTube video showing a July 28 interview of Figueroa on the Hispanic International Show. Figueroa said in Spanish that the Hispanic vote would determine the winner of the primary, and “we cannot permit a person who is of Jewish origin ... to represent our community.”
- DCC member Jim Fleischer said he witnessed a conversation between Figueroa and Jacobson on primary day at the Stamford High School polling place. According to Fleischer’s statement, Figueroa asked Jacobson whether he knew any poor Jewish people. After a moment of confusion about the question, Jacobson responded “...yes, I do, but I don’t know what that has to do with anything.” Figueroa then said that “*Jewish people could clearly never understand or represent my people in the district,*” according to Fleischer’s statement. “I was shocked because her statements implied that all Jewish people are rich, and all Latino people are poor,” Fleischer said in his statement.
- Figueroa’s remarks from an Aug. 3 interview with La Voz Hispana de Connecticut described Jacobson as “...a man that comes from the Jewish community, *a community that is obviously starting to gain a lot of power in Stamford and it starts with the mayor,*” Figueroa said in Spanish.
- Figueroa said she told Hispanic constituents while she was campaigning that “*we cannot have a person from the Jewish community represent the Hispanic community.*”
- Figueroa’s remarks continued after the primary, which she lost to Jacobson. On Aug. 24 she told *La Voz* that a Jewish person doesn’t “understand our language. They don’t understand our needs. They don’t understand what it means to come here as an immigrant.”
- Figueroa has “shifted the blame to others” by saying “this entire situation has been orchestrated by the mayor and the Democratic Party.”

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The Figueroa Defense. Attorneys Carmen L. Lopez and Jonathan J. Klein presented the defense against the DCC claims.¹¹⁰

- Fundamental fairness requires an expulsion hearing to include safeguards, a longer time to present a defense, an impartial trier of fact (as opposed to the 37 members who voted in favor of the expulsion hearing);
- DCC lacks "authority to remove a person elected to a position by the voters" as the cited Stamford Charter provisions do not apply to the DCC;
- C.G.S. §§9-392 and 9-393 do not grant town committees the authority to expel members';¹¹¹
- The DCC Rules requires a "meeting called" for the specific purpose of expelling a member and a thirty-minute agenda item does not meet that standard;
- The DCC failed "...to notify the accused of the Rules of Procedure," including a standard of proof;"
- Article I, Section 8 of the DCCC rules provides that "activities on behalf of any Democratic candidate for party nomination shall not be considered good cause for the expulsion of a committee member" and Figueroa's comments were made on behalf of her nomination;¹¹²
- The DCC has not set forth which definition of antisemitism is being applied to Representative Figueroa;
- Representative Figueroa apologized for her comments;
- DCC is disenfranchising Latino voters by treating Representative Figueroa with "vengeance, rather than mercy."

On September 25th Representative Figueroa was expelled from service on the DCC by a vote of 37-1-1¹¹³.

¹¹⁰ Stamford DCC Meeting, Wednesday, September 25, 2024, At 7:00 PM, Government Center – 4th Floor Cafeteria, Response of Anabel Figueroa to DCC Claims.;

¹¹¹ The brief cites *Simons v. Canty* which applies to home rule analysis pertaining to the express grant of powers to municipalities by the General Assembly. The DCC is not a municipal entity.

¹¹² "Push to Unseat Stamford Rep Questions by Figueroa Attorney," Angela Carella, *CT Examiner*, September 18, 2024.

¹¹³ "Figueroa Booted by Stamford Democrats," Angela Carella, *CT Examiner*, September 26, 2024. See also, "Stamford Democratic City Committee Votes to Expel DCC Member Anabel Figueroa," Press Release of the Democratic City Committee; "Stamford DCC Votes to Expel Anabel Figueroa," Richard Kaufman, *Patch*. September 26, 2024; and, "Stamford DCC expels Anabel Figueroa as a member over antisemitic remarks," Brianna Gurciullo, *Stamford Advocate*, September 26, 2024.

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The Democratic State Central Committee Upholds Figueroa Expulsion. On October 3, 2024, Representative Figueroa's attorneys filed an appeal to the Democratic State Central Committee.¹¹⁴ The appeal proceeded on the basis of the following claims: (1) lack of legal authority to remove a DCC member; (2) ambiguous definition of what constitutes a "hearing"; (3) failure to define a standard of proof; (4) there was no violation of the DCC rules or good cause since she was acting on behalf of a candidate for party nomination; (5) the DCC did not provide a definition of antisemitism that applied to the expulsion accusations; (6) no evidence of accusations was presented to the DCC, only the reading of the accusations; and, (7) the lack of a roll call vote fails to meet the standard of proof that the 2/3rds standard was met.¹¹⁵

The DCC filed a post-hearing reply, which reiterated many of the points they had made at the DCC proceeding: (1) DCC did not rely on the Stamford Charter, only referenced it for the proposition that elected officials may be removed from office; (2) the DCC Rules do not conflict with state law or state party rules and therefore removal is permissible; (3) the DCC rules are authoritative because (a) municipal law citations by Representative Figueroa's lawyer do not apply to private associations, such as a town committee; (b) political parties are permitted to establish their own rules; (c) the fact that statutory authority exists for party organizations does not render them public entities; (d) it is a constitutional right for political parties to associate with members of their choosing; (e) the DCC meeting agenda included an item dealing with expulsion, provided for a thirty minute defense and met all the requirements of fairness; (f) the voice vote was proper; (g) evidence was provided prior to the meeting; (h) there is no legal requirement for a standard of proof because there are no due process concerns since this was not a state action or where substantive rights are being jeopardized; and, (i) the actions were based solely on her antisemitic comments.¹¹⁶

On November 1st the hearing panel of the State Democratic Party voted to "unanimously dismiss the complaint and rules in favor of the" DCC.¹¹⁷ The panel decided

¹¹⁴ Letter from Attorneys Carmen Lopez and Jonathan Klein to Nancy DiNardo, Chair, Democratic State Central Committee, October 3, 2024. The letter included a procedural challenge that was filed with the Chair on September 17, 2024 with no response from the Chair. Counsel for the party indicated no response would be forthcoming until the DCC ruled. It should be noted that on August 15, 2024, the State Party Chair also said: "The Democratic State Party will support the Stamford Democratic City Committee in whatever further action they take to hold her accountable." See, Statement from Nancy DiNardo, Chair of CT Democratic Party, About Hate-Filled Comments made by State Rep. Anabel Figueroa about her primary opponent," August 16, 2024 Press Release. See also, "Figueroa Files Complaint with State democratic Party After Expulsion for Comments Aimed at Jewish Opponent," Gregory Stroud, Angela Carella, *CT Examiner*, October 4, 2024.

¹¹⁵ Many of these issues were reiterated in the "Pre-Hearing Brief of Anabel D. Figueroa" dated, October 27, 2024 filed with the Democratic State Central Committee by Representative Figueroa's attorneys.

¹¹⁶ "Respondent's Post-Hearing reply to Complainant's Post-Hearing Brief" presented to Kevin Reynolds, Jr., Counsel to the State Democratic Party, October 29, 2024.

¹¹⁷ "Second Stamford 2024 Dispute Resolution," heard by the hearing panel which was comprised of Vanita Bhalla (Dist. 32); Thomas McDonough (Dist. 15); and Tim Appleton (Dist. 3), November 1, 2024 ("Second Stamford Dispute Resolution"); See also, "State Democrats to rule on Figueroa Expulsion," Angela Carella, *CT Examiner*. October 23, 2024.

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that while political parties have statutory responsibilities they are “voluntary associations” that “may expel a member so long as the alleged violation or transgression is serious, that the town committee provides the accused due process, and that it offers the accused a fair hearing before the members of the town committee.”¹¹⁸ The panel determined that (1) the hearing was a “fair hearing” and the member was expelled for “good cause;”¹¹⁹ (2) the DCC complied with the provision of its rules;¹²⁰ (3) antisemitic comments are not protected by DCC rules;¹²¹ (4) the comments of the State Party Chair were immaterial to the dispute hearing process.¹²²

¹¹⁸ Second Stamford Dispute Resolution, p. 4. See also, “State Party Decides in Favor of Expelling Stamford Democrat in Antisemitism Charge,” Angela Carella, *CT Examiner*, November 3, 2024; See also, “CT Democratic Party upholds Stamford DCC’s vote to expel member, calling her argument nonsensical.” Tyler Fedor, *Stamford Advocate*, November 4, 2024.

¹¹⁹ Second Stamford Dispute Resolution, pp. 4-5.

¹²⁰ Second Stamford Dispute Resolution, p. 6.

¹²¹ Second Stamford Dispute Resolution, p. 7.

¹²² Second Stamford Dispute Resolution, p. 7.

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Background Part II: Recent Censures in Stamford

This brings us to the history of censures at the Board of Representatives starting in 2019. Again, with the exception of the truncated December 2nd censure motion and the brief failed censure against then-Representative Zelinsky in 2020, the prior incidents addressed issues that had occurred outside of the confines of the Chambers of the local legislative body. While there is no guidance in the Rules of Order, the Board of Representatives utilized Robert's Rules of Order to proceed with the two substantive censure proceedings that were brought to completion.

The Censure of Representative Marion McGarry: 3/4/2019. This censure action was premised on "conduct detrimental to the public's trust and confidence in the Stamford Board of Representatives." Paradoxically, the resolution was submitted by one of the players in the instant case: then-Representative Jacobson.

The McGarry censure was precipitated by several derisive and derogatory Facebook posts, by her, directed at the Muslim population. A Special Meeting was petitioned in accordance with the provisions of the Charter,¹²³ which permits ten members of the Board to "...cause written notice thereof, specifying the time, place and purposes of the meeting." In this case, fifteen members¹²⁴ signed the petition to censure "Representative Marion McGarry for conduct detrimental to the public's trust and confidence in the Stamford Board of Representatives."

The transmittal letter dated March 6, 2019, cited the publication of "racially charged comments directed toward Muslims and Hispanics" posted "...on social media" by Representative McGarry. The letter cites Chapter XX of Robert's Rules of Order which requires members "...to be of honorable character and reputation." In this respect Representative Jacobson concluded that

"...as such, members of our Board cannot violate the values that our organization holds dear. A member of our Board who violates those values deserves to be censured - that is, for the majority of our Board to publicly denounce such behavior through a resolution. Stamford is a diverse community where neighbors, no matter their political beliefs, treat each other with decency and respect. An elected member of our Board endorsing racist comments outside of our meetings is a violation of those values and arguably deserves censure. The Special Meeting to Censure will determine whether we will live up to our values."

The posts purportedly shared by Representative McGarry included the following:

I

¹²³ Sec. C2-10-4.

¹²⁴ Representatives Jacobson, Lee, Fedeli, Pratt, Kolenberg, de la Cruz, Miller, DePina, Morson, Di Costanzo, Lion, Pendell, Coleman, Pia and Stella signed the notice petition. It is noteworthy that one of the petitioners (Coleman) voted against the censure resolution and one abstained (Stella).

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Under a picture of Judge Judy: "I don't give a rat's ass if you crossed the border on a starship from Mars, you idiot. You're an illegal alien and broke the law. *Now LEAVE!* And take your lawnmower with you."

II

Under a picture of a semi-automatic weapon: "I spoke a while ago to a Muslim guy in my town and we discussed 'radical Islam'.

"He said that if Europe or any country, for that matter becomes majority Muslim, that there is not one Muslim that wouldn't take up arms against the Infidel, if they don't want to submit to Allah, as decreed.

"I was curious and asked him 'Why?' He said that it would be a matter of survival for him as a Muslim, if he doesn't wasn't to be killed as a hypocrite, which the Quran decrees, he is obligated.

"I then asked, 'If that's the case, then really there are no moderate Muslims, are there?'

"Moderate Muslims only exists in the mind of the West, not in Islam."

III

Over a picture of the second plane attack on the World Trade Center on September 11, 2001: "How quick we forget. This is a slap in the face to all that gave their life on 911."

IV

Under a second picture of the attack on the World Trade Center a picture of Muslim members of Congress being sworn into Congress

V

Under a third picture of the attack on the World Trade Center: "A MUSLIM SWORN INTO THE US CONGRESS CALLING OUR COUNTRIES PRESIDENT A MOTHER'UCKER. REALLY AMERICA? SERIOUSLY ARE WE THAT STUPID."

VI

"Why Muslims can run for office. On November 18, 1990 the 101st Congress QUIETLY repealed the McCarran Warner Act of 1952 forbidding "muslims" from holding office: members of that congress were Dick Cheney, John McCain. Joe Biden, Al Gore, John Kerry, Mitch McConnell, Chuck Schumer, & Nancy Pelosi."

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During debate, Representative Jacobson, the principal sponsor of the resolution, made the following statement:

"When one of our fellow representatives deviates from that responsibility, by endorsing racially charged and bigoted sentiment towards Muslims and Hispanics on social media, it is our duty as elected officials to formally denounce such sentiment. The way I propose that we do so is through censure. We are empowered to censure a member of our Board under Robert's Rules of Order¹²⁵ and Stamford's Code of Ethics. The motion to censure is a main motion expressing a strong opinion of disapproval that can be debated by the assembly and be adopted by a majority vote. It formally condemns actions by a member of our Board. **It is not a motion to remove from office, or to censor, as in to silence or suppress.** We are all free to say what we feel, as is our right under the First Amendment. But when those statements contradict the values of our elective body the rest of us have the exact same First Amendment right to condemn those statements. In fact, I believe that we have the duty to do so... An elected member of the Stamford Board of Representatives who publicly endorses racist, xenophobic, and Islamophobic sentiment on social media violates our values and undermines the public's trust and confidence in the municipal government of our City."¹²⁶

It is noteworthy that some of the current conflicts between the Democratic Party leadership and the "Reform Democrats" presented themselves during this debate. Representative David Watkins, who ultimately supported the censure pointed out that:

"... (Democratic Party Chair Fedeli) appeared to have long standing grievances against Representative McGarry's stances vis a vis Party Dogma, and he somehow tried to tie whatever Representative McGarry's actions were with other parts of the Democratic Party such as the Reform Democrat movement who in my view have worked hard and effectively to bring fresh perspectives to both sides of the aisle. These comments by Mr. Fedeli were unhelpful and gave support to those who feared the political impetus of this Censure Motion."¹²⁷

The McGarry censure also offered a preview of the toxic rivalry between Representatives Jacobson and Figueroa. During the debate, Representative Figueroa

¹²⁵ "Censure" is addressed in Chapter XX of Robert's Rules entitled "Disciplinary Proceedings." A motion of censure can be adopted "without formal disciplinary procedures." Robert's Rules says: ""In most societies it is understood that members are required to be of honorable character and reputation. An organization or assembly has the ultimate right to make and enforce its own rules and to require that its members refrain from conduct injurious to the organization or its purpose".

¹²⁶ Minutes of Special Meeting of Board of Representatives, March 12, 2019, p. 2-3 ("March 12th Special Meeting").

¹²⁷ March 12th Special Meeting, p. 4.

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questioned one of Jacobson's premises: that McGarry's posts were directed against "Hispanics" as well as Muslims:

"On Monday, March 4th, I became aware of a petition letter to censure Representative McGarry. My first reaction as many of you might be aware of was why not every member of this board were notified about? Why was not I notified about? I asked this because the letter submitted by Representative Jacobson indicated that Representative McGarry had published racial comments directed toward Muslims and Hispanics¹²⁸ on social media.

"So, I called and spoke to Representative Jacobson and asked him if **there were racial comments intended for the Hispanic community why then Representative Roqueta and I were not asked or notified.** His response was because of the freedom of information he had been advised not to make any comments about, however, and so ironically, the details of these charges were already announced in the email submitted by our board, furthermore Channel 12 and *the Advocate* were pretty much going live and public on this subject.

"So one can easily assume that Mr. Jacobson purposely chose the people he wanted to sign this letter... I also want to mention that while reading over the few postings that I have been granted permission to look at, since I don't have Facebook, I have found no evidence of 'Hispanics' being racially targeted, but rather toward illegal immigrants."

In the last analysis Representative Figueroa did take a verbal stand against the McGarry posts:

"In response to these sickened comments shared by Representative McGarry, **I just like majority of you strongly condemn them. There should be no room for hate, discrimination, and prejudice in today's society**... As an immigrant, it really hurts to see these kinds of comments which at the end target communities, individuals or a group of people... Today, I humbly request to all of you to get rid of hate and prejudice. Let's see each and every one of us as human beings. Let us learn to judge people by their actions and not be their looks, gender, accents or origin. Let us work together for the benefit of our city; after all, this is what we are elected for."¹²⁹

¹²⁸ Please note that during this debate the contention, by Representative Jacobson, that the McGarry comments were about Hispanics was challenged on the floor by Representative Figueroa.

¹²⁹ March 12th Special Meeting, pp. 5-6.

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However, the impact of her comments was watered down by her unexplained decision to abstain on the censure resolution. It did not upset the final outcome of the vote which was 24-1-8¹³⁰.

The Short and Sweet Failed Censure of Representative John Zelinsky: 1/6/2020. This brief censure action occurred during a debate over a resolution "Congratulating Mothers Against Drunk Driving for their Fortieth Anniversary" sponsored by Representative Zelinsky. When then-Representative J.R. McMullen rose to oppose the resolution on the basis of comments made by the founder of the organization, Representative Zelinsky said: "If somebody made a resolution honoring motherhood and apple pie, Mr. McMullen would find fault with that, too."

At this point, as they say, all hell broke loose. According to the news report, "McMullen shot back with a call to censure, or officially reprimand, Zelinsky. 'A representative can't make derogatory comments about other representatives. It's in our rules.'" A debate went on about whether Zelinsky attacked McMullen or whether McMullen's comments were in fact "derogatory." McMullen admitted that he was concerned about Zelinsky's treatment of the minority leader on an earlier issue on the agenda and decided to move forward with a censure.¹³¹ The censure vote failed 9-18-6.¹³²

The Censure of Representative Carl Weinberg: 5/12/2024. This censure resolution was submitted by Representative Jeff Stella in March of 2024 for "conduct which impairs the ability of the members to perform the duties of his or her office or substantially impairs public confidence in the Stamford Board of Representatives" and resolution "recommendation for Representative Carl Weinberg to complete sensitivity training".

The censure of Representative Weinberg was an outgrowth of the use of "dehumanizing language ('ruling pigs') in reference to several members of the Board of Representatives in an op-ed" entitled "Stamford's double-dipping Democrats"¹³³ that was

¹³⁰ It is noteworthy to point out that in the August 13, 2024 edition of *Daily Runctions* Kevin Rennie wrote: ""Reached while campaign this afternoon, Jonathan Jacobson said this is not the first encounter with Figueroa and hate. In 2018, Jacobson, a member of the Board of Representatives moved to censure a fellow member who had posted anti-Muslim and anti-immigrant sentiments in Social media. Figueroa refused to join colleagues condemning hate." For the record, while she abstained, Representative Figueroa's condemnatory statement was clear.

¹³¹ "Small spat sparks call for censure on Stamford Board of Reps," Angela Carella, *Stamford Advocate*, January 10, 2020.

¹³² Minutes of the Regular Meeting of the 30th Board of Representatives of the City of Stamford, January 6, 2020, p. 4 of 13. Note: It would have been more appropriate to call Representative Zelinsky out of order.

¹³³ It is noteworthy that the issue of "double-dipping" addressed on the editorial page of the *Stamford Advocate* was also raised by, at least, one person who assailed Representative Figueroa, as a member of the DCC for voting for her nomination as a State Representative in 2023. It was understandable, then, when John Bruening, the Editorial Page Editor for the *Stamford Advocate* published his own op-ed critical of Representative Figueroa's vote. See, "Figueroa saga a cautionary political tale. She 'essentially elected herself to the Connecticut General Assembly,'" *CT Insider*, September 8, 2024, in which Bruening said: "I'm not sure Figueroa ever got that memo. She's not alone. It's become all-too-typical practice for politicians to

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published in the *Stamford Advocate* on February 13, 2024. According to Representative Stella these members included:

“African-Americans, immigrants, children of immigrants, Latinos, people who speak English as a second language, women, etc. Regardless of whether the members fall into protected classes or not, calling a colleague a ‘ruling pig’ is always wrong, although the sting may be felt in a sharper way for some.”

In addition, according to Representative Stella, Weinberg “has spent a lot of time casting aspersions and spreading conspiracies about his Board of Representative colleagues on Next Door and to the press.”

As was the case with Representative Jacobson’s censure of Representative McGarry, Stella cited Chapter XX of Robert’s Rules of Order which requires members “...to be of honorable character and reputation.” He additionally cited Chapter IV of Robert’s Rules for the proposition that members must “never attack or make any allusion to the motives of members.”

The Stamford Advocate Opinion Piece. Whether you call it “literary allusion” or “allegory” the fact is that Representative Weinberg accused the “Reform Stamford” wing of the local Democratic Party of hypocrisy by choosing to run for party positions while serving as elected representatives. He applied the term “double-dipping” to the actions of his colleagues. In order to avoid confusion, the term “double-dipping” typically pertains to the illicit practice of accepting income from two mutually exclusive sources (as from a government pension and a government salary or reaping benefits from two insurers for the same loss). In its common usage, it is clearly a derogatory term. Yet the actual practice might presage legal actions for what is, in effect, fraudulent behavior by the “double-dipper.”

Even Representative Weinberg conceded in the op-ed that the practice he was attacking as “hypocrisy” was “not illegal, but it’s wrong¹³⁴.” In the op-ed Representative Weinberg laid out a policy argument to the effect that a Board member who serves on the DCC has a decided advantage in the nomination process, effectively forcing challengers

serve on local party boards and nominate and vote for themselves. It’s done all the time. And every time it looks like a conflict to me...Bookmark Figueroa’s election to the General Assembly as an example of the true power of local political parties. In January 2023, the Stamford DCC was choosing between Figueroa and Jacobson for a special election. Only committee members in the district got to vote. Figueroa won 4-3 and went on to easily win the special election in this blue city with 61% of the vote...But one of the DCC members recused herself from the vote. It was Jacobson’s wife, Lauren, who recognized the clear conflict...Figueroa voted for herself, reasoning that it ‘is allowed and is not unethical’...In summary, Figueroa essentially elected herself to the Connecticut General Assembly.” Note: Mr., Jacobson did not lose a vote by virtue of his wife’s “recusal”. In fact, a proxy chosen by Ms. Jacobson voted for Mr. Jacobson.¹³⁴ Moreover, Sec. 45:5 of Robert’s Rules of Order (12th Edition) states: “The rule on abstaining from voting on a question of direct personal interest does not mean that a member should not vote for himself for an office or other position to which members generally are eligible...if a member never voted on a question affecting himself, it would be impossible for a society to vote to hold a banquet, or for a majority to prevent a small minority from preferring charges against them, and suspending or expelling them.”

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to run for office by petitioning to qualify for the primary ballot. It is typically referred to as the advantage of incumbency.

The Representative goes on to specifically identify, by name, the following fifteen incumbent Board members running for the DCC as “double-dippers”:

Dist.	Member	Dist.	Member
2	Virgil de la Cruz	3	Terry Adams
4	Megan Cottrell	5	Bonnie Kim Campbell-Dakary Watkins
6	Annie Summerville-Denis Patterson	7	Christina Strain
8	Anabel Figueroa	9	Kindrea Walston-Jeffrey Stella
15	Carmine Tomas	16	Fred Pierre-Louis
17	Sean Boeger	18	Karen Camporeale

Mr. Weinberg then goes on to blame these individuals for the perpetuation of “vacancies and holdovers on Stamford’s appointed boards and commissions (not that it stops them from complaining about those vacancies and holdovers)¹³⁵.” Representative Weinberg speculates that the “doubling-dipping” DCC members would be precluded from acting on such nominations thwarting the ability of the Board of Representatives to act if these “conflicted” members were precluded from participating on the nominations once they were made to the Board of Representatives, although he does not state why that would be the case or what law would apply to prohibit their participation¹³⁶.

The issue raised by the censure resolution was presumably based upon Representative Weinberg’s juxtaposing his use of the term “double-dipping” as a pejorative epithet with the following reference to the George Orwell novel, *Animal Farm*:

“The pigs on the farm lead a revolution and expel their human overseers. By the end of the book, the ruling pigs have adopted all of the human behaviors that they had pledged to eliminate.

“It looks like Reform Stamford has decided to emulate the ruling pigs in *Animal Farm*.”

The allegations: What is not clear to us is whether Representative Weinberg’s attempt at branding the concept of double-dipping in the op-ed would have been the sole basis for an action had the following elements of the resolution not occurred, as well:

¹³⁵ The authors of this opinion became acquainted with the “holdover” issue during their service as counsel to the 2023 charter revision process. Many appointed board and commission members continue to serve long past the expiration date of their appointment. Some point to an opinion of a Corporation Counsel from a prior administration that purported to eviscerate a six-month expiration date on holdover board and commission members as one of the reasons for this situation. The provision was designed to compel Mayors to expeditiously make replacement appointments to the Boards and Commissions in order maintain full membership and to assure turnover in a timely manner

¹³⁶ It should be noted that the activities of the DCC are not subject to the Code of Ethics of the City of Stamford. Moreover, it is not clear whether there is an opinion of the Board of Ethics that would deem participation in such nomination as a prohibited “personal interest.”

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- Openly attacking Board members during Committee and Board meetings;
- Impugning the actions and motives of targeted members;
- Disrupting, through his behavior, the conduct of Committee and Board business;
- Introducing friction and division into Committee and Board deliberations;
- Exporting such attacks to the public via the press and social media;
- Lacing his attacks with partial and outright misinformation and are sometimes conspiratorial in nature;
- Using the language, "ruling pigs" in an op-ed published in the Stamford Advocate can be construed, depending on the person targeted, as being xenophobic, misogynistic, racist, and altogether wildly inappropriate behavior unbecoming of a city legislator, and Whereas, such behavior serves to delegitimize the Stamford Board of Representatives, the legislative body of the City of Stamford, its members and
- Delegitimizing the Stamford Board of Representatives; and,
- Undermining Board members during Committee and Board meetings.

Official Board and Committee Conduct. While the precipitating actions were based upon the op-ed piece, the censure debate underscored a variety of statements by Representative Weinberg uttered both during Board and Committee meetings which characterized or mischaracterized the actions or motives of fellow Board members. Representative Stella stated that "people have a fear of being attacked...by him for how they vote... (if Weinberg disagrees)...he feels compelled to go after you."¹³⁷ Representative Cottrell accused Weinberg of speaking "with a tone of contempt...people who agree with him are good and smart and capable and competent" while those who disagree are not.¹³⁸ Representative Berns cited Weinberg's "inflammatory behavior" as "so stunningly rude...that it takes a moment to realize what happened and to begin to form a response."¹³⁹ He further stated that the public is not aware of "how sarcastic and condescending and nasty and boorish (Weinberg) can be."¹⁴⁰

For example, in one post the Representative accused the "Majority of jamming things through... (avoiding)...both sides of a controversy...(rejecting)...legal advice that challenges what they want to do" while in another accuses the Board of Representatives

¹³⁷ "Stamford Reps Vote to Censure One of Their Own," Angela Carella, *CT Examiner*, May 17, 2024 ("May 17th Article"). Video of May 17th Board meeting @ 2:03.

¹³⁸ May 17th Article.

¹³⁹ May 17th Article.

¹⁴⁰ Video of May 17th Board meeting at 1:27.

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of having a “tendency to delay making decisions...the BOR’s frequent caution contributes to the belief of many Stamfordites that our City government is unresponsive to their needs.” Other posts:

- Accused “certain BOR members” of inventing facts;
- Called out a member by name for leaving the floor during a vote; and,
- Challenged the integrity of two members by name for inviting experts espousing one point of view;

The censure resolution was aimed at Representative Weinberg’s smorgasbord of attack, critique, opinion, recrimination, and accusation, all of which run contrary to the maintenance of order and the civil conduct of business by a legislative body. Yet, the final vote of 19-14-2 in favor of censure and 15-11 in favor the resolution pertaining to sensitivity training demonstrate the continued polarization of the Board of Representatives.

Observation: There is no qualitative difference between the 2019 and 2024 censures and this case. During our interviews, one member of the leadership of the Board of Representatives urged us to distinguish the facts of the May 2024 Weinberg censure and the McGarry and Figueroa matters. The member characterized the Weinberg op-ed as an adroit use of “allegory” to make a political point against political adversaries. In this sense, we suppose he would argue that unlike the McGarry posts and the Figueroa comments, which explicitly involved Islamophobia and antisemitic comments, we can agree that Weinberg did not resort to explicit characterization based on race, religion, class, creed, or any other assumptions or beliefs about a person or group of people.

We recognize that Representative Weinberg tried to use the “pig” analogy to characterize his criticism of a practice he calls “double-dipping.” Even Representative Weinberg conceded that the practice of voting for yourself at a political convention or caucus (the object of his derision) is an entirely legal practice; he wanted to dramatize what he perceived as hypocrisy on the part of certain of his colleagues in a different political faction for exercising their rights. Right or wrong, he is well within his rights to express his opinion.

Out of respect for the member who requested this analysis, we are obliged to address the issue of distinguishing Representative Weinberg’s actions from the actions of Representatives McGarry and Figueroa. We have already conceded the difference on its face. Yet, that does not mean that the Weinberg censure was not appropriate or fell outside the framework of a legislative censure. Censures are available to legislative bodies as a means of condemning the actions of a member whose actions run counter to acceptable standards for individual behavior.

Words Matter. Words Have Consequences.

It should be noted that the Weinberg censure went beyond his embrace of George Orwell. His major defense is that he was only using the offending word in an allegorical manner. While it is true that Orwell wrote an allegorical "fairy story" about an animal rebellion against the "tyranny of human beings," Representative Weinberg did not write that particular story. What he did was to borrow or appropriate the anthropomorphic characters and, then, strip them down to the bones, so to speak. He never explained the context of factors leading to rebellion on the Manor Farm; and, ignored the diversity of other animals in the cabal, including boars and horses, ravens, mares, donkeys, and goats, choosing to focus only on the "pigs."¹⁴¹

Representative Weinberg pointedly chose to focus the attention of the reader on his characterization of specifically named colleagues as "pigs" in order to make a point by casting aspersions in a direct frontal attack.¹⁴² One of his colleagues had this response:

"Wow, Carl called me a 'pig"! I am not a pig, whether a simile, metaphor, or expanded allegory. I am a gracious woman. You may criticize my opinion, my vote on an issue; but you may not assassinate character. You did not use emotional intelligence, Carl."¹⁴³

Members were rightfully indignant about this characterization, notwithstanding his literary predilections or pretenses. The problem with focusing on the word "pig" is that it has long been associated with dirt and low nature.¹⁴⁴ Again, we can never know what is in the heart or the mind of the writer. All we have can look to are the words on paper and how they impacted the targets of derision. The majority of the body did not find the statements witty or clever; they proceeded to censure.

From our observations, Stamford politics is not for the faint of heart. Yet, while Representative Weinberg's conduct may have amused his acolytes, it is evident, to a majority of his colleagues, he went beyond the bounds of appropriate legislative behavior.

¹⁴¹ Without getting too deep in the weeds and to avoid any criticism of our literary analysis, we acknowledge that the pigs were major players in the rebellion and also had to deal with a coup d'etat of sorts within their own leadership structure.

¹⁴² See, "City Council Censures Defiant Pereira For Vitriolic Language, Called Chief Porter A 'Pig' Stripped Of Committee Assignments, Debate," Lennie Grimaldi, **Only in Bridgeport**, February 6, 2024. It is noteworthy that in February of 2024 the Bridgeport Council censured a member for calling the Police Chief a "pig" and referred to department members as "piglets." We are not aware of whether the Councilmember used the "Animal Farm" defense or was simply relying on the parlance of 1960s-era protestors.

¹⁴³ See, "Fiercely Committed to Getting Into 'Good Trouble' Whenever There is Injustice," Bonnie Kim Campbell, **Ct Examiner**, February 29, 2024.

¹⁴⁴ We are cognizant of the common usage of the term by the Black Panther Party which associated pigs with dirt and low nature; see, "The Black Panthers' Strategy To Turn Police into Pigs," Zain Murdock, **Pushback**, June 25, 2024

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While Representative Weinberg's statements did not resort to an explicit characterization based on race, religion, class, creed, or any other assumptions or beliefs about a person or group of people, his comments and other offending actions¹⁴⁵ fell squarely into the realm of the censure process, no more or no less than the other cases.

A Second Censure Resolution against Representative Carl Weinberg “Ends With Handshake, Hug” – A Pre-Holiday Cautionary Tale: 12/2/2024. A spirited discussion was in progress on an “ordinance for publication” dealing with the long-standing logjam pertaining to holdover appointments to Boards and Commissions. From the outset the debate was rancorous. In a preemptive move designed to end debate, two members of the Board of Representatives from one of the factions on the Board (as described in the press¹⁴⁶) argued in favor of returning the item to committee in light of a legal opinion of the Law Department. In the legal opinion the Assistant Corporation Counsel implied that the proposed ordinance could “...be revised or reconsidered to align with the charter and avoid legal challenges. Further legal analysis may help clarify its objectives within lawful parameters.”¹⁴⁷ Another member from the other faction asserted a point of order regarding the motion to recommit, claiming that the members deserved an opportunity for a more robust debate. The Acting Chair, Representative Mary Fedeli, agreed, and the debate ensued.

The debate was rancorous, reiterating issues that have animated the body for several years about the “holdover” appointments and the impact those appointments had on planning and zoning regulation in the City. During the debate, Representative Weinberg was informed by the parliamentarian, Representative Sean Boeger, that his comments were “not germane to the topic.” The Acting Chair agreed but allowed Weinberg to continue. When Weinberg “strayed off topic again,”¹⁴⁸ the parliamentarian moved a “point of order,” which was sustained by the Acting Chair. According to the *CT Examiner*:

¹⁴⁵ Please note that the allegations in the Weinberg censure resolution included conduct and statements made during plenary and committee meetings of the Board of Representatives, went far beyond the offending op-ed.

¹⁴⁶ Note the article also described both members as members “of the Simmons faction of the board” at the same time emphasizing that the “37 democrats on the 40-member Board of representatives are split on the proposal. One group, which includes Weinberg, has joined Democratic Mayor Caroline Simmons in opposing it. They say it will take power from the mayor and harm the pace of development in Stamford, where about 15,000 mostly high-rent apartments have been built in 15 years. ..The other group, which...supports the proposal, saying holdover appointees must be accountable to citizens concerned about congestion and quality of life...They say allowing appointees to remain indefinitely eliminates oversight and takes power from the people.” See, “City Counsel Questions Legality as Stamford Reps Move to Close Loophole in Contentious Meeting,” Angela Carella, *CT Examiner*, December 4, 2024.

¹⁴⁷ “City Counsel Questions Legality as Stamford Reps Move to Close Loophole in Contentious Meeting,” Angela Carella, *CT Examiner*, December 4, 2024.

¹⁴⁸ “An ‘Out of Control’ ‘Unapologetic’ Meeting of Stamford Reps Ends With Handshake, Hug,” Angela Carella, *CT Examiner*, December 6, 2024.

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"Weinberg then challenged Boeger, addressing him directly. Representatives are not allowed to speak to each other directly under board rules. To ensure orderly meetings, representatives must be recognized by the presiding officer first.

"I ask the member to please respect the rules of decorum,' Boeger said to Weinberg.

"Fedeli again stepped in, telling Weinberg, 'Please tread carefully here, and please be respectful with your comments.'

"Weinberg made a brief on-topic comment then looked at Boeger and asked, 'Was that OK?'

"A second later Boeger grabbed the microphone on his desk in the legislative chamber and switched it on.

"I move for the immediate censure of Representative Weinberg,' an upset Boeger told Fedeli. 'He just looked directly at me and said, 'F*** you.'"¹⁴⁹

During the debate, Boeger made the following statement on the floor:

"To mouth a curse at another representative is... outside the bounds of decorum... This is an individual who has ... made numerous complaints about the lack of sensitivity coming from other people, and then has the gall to sit on the floor of this prestigious, hallowed hall, and mouth a curse word. He then has the audacity to ask fellow representatives, 'Did anybody hear me actually say it?'"¹⁵⁰

According to the news account, Weinberg was unapologetic.

"People can choose to believe what I am about to say, or they can believe what people sitting 15 to 20 feet from me ... believe that they saw... I did not mouth the words that I'm being accused of mouthing. ... I mouthed the words, 'Oh, you.' If people wish to believe that or not, that's up to them, and I frankly don't really care. The last time you guys pulled this shenanigan, frankly, for me, was a badge of honor, and frankly strengthened my support in the community."

The news account concluded "(t)hat made things worse."¹⁵¹ A summary of the comments follow:

¹⁴⁹ "An 'Out of Control' 'Unapologetic' Meeting of Stamford Reps Ends With Handshake, Hug," Angela Carella, *CT Examiner*, December 6, 2024.

¹⁵⁰ "An 'Out of Control' 'Unapologetic' Meeting of Stamford Reps Ends With Handshake, Hug," Angela Carella, *CT Examiner*, December 6, 2024.

¹⁵¹ "An 'Out of Control' 'Unapologetic' Meeting of Stamford Reps Ends With Handshake, Hug," Angela Carella, *CT Examiner*, December 6, 2024.

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- “Having gone through what we went through last time with this, for Representative Weinberg to now say he wore it as a badge of honor is disgusting.”¹⁵²
- “You, Representative Weinberg, listened to all of us tell you then how your words hurt us, and now I hear you say you wore our pain as a badge of honor...That hurts me all over again.”¹⁵³
- “You have referred to me as a pig... You didn’t apologize then, and you brought it up just now as if what I went through was a joke to you, and a badge of honor. You have gone that low.”¹⁵⁴

What followed was a confusing maze of comments from Representative Weinberg where he “...at first denied it, then claimed that he didn’t ‘believe’ he mouthed (the words) to a fellow legislator. ‘But I recognize that in the heat of the moment I may not be remembering correctly,’ he said.”¹⁵⁵

According to the news report, the censure was withdrawn when Representative Boeger engaged in the following exchange:

“Boeger then sought to end the painful discussion. He said that, ‘unlike Representative Weinberg, I actually do wear a badge of honor ... first as a U.S. Marine and second as a Stamford police officer.’

“Boeger told Weinberg, ‘I know what I saw – you mouthed ‘F*** you.’ Still, I will walk over and shake your hand and give you a hug and drop this motion. But there has to be something from you.’

“At first Weinberg didn’t respond, and Boeger threw up his hands.

“Then Weinberg said, ‘I do not believe that I said the words ... but I recognize that in the heat of the moment that I may not be remembering correctly. And therefore I will own those words and apologize to you for saying them.

“Boeger walked over, shook Weinberg’s hand and gave him a hug. Then he withdrew his motion to censure.”

This account is included in this Report and Opinion for the sole purpose of setting a context for the environment of any disciplinary action against Representative Figueroa. This incident paints a picture of a legislative body which routinely operates on raw nerve endings. It is our belief that the advice we provide must recognize the chasm that exists

¹⁵² Representative Bobby Pavia.

¹⁵³ Representative Karen Camporeale

¹⁵⁴ Representative Bonnie Campbell.

¹⁵⁵ “City Counsel Questions Legality as Stamford Reps Move to Close Loophole in Contentious Meeting,” Angela Carella, *CT Examiner*, December 4, 2024.

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and try to avoid turning what should be a civil and dispassionate discussion about appropriate disciplinary action to address antisemitic statements into just one more notch in the belt for one side or the other that seeks political advantage.

The lesson learned from Representative Boeger's action is that sometimes you can call out the contemptuous behavior and, at the same time, take the high road out to the real policy matters that actually take the public interest into account.

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Background Part III: Relevant Board of Ethics Cases

A Series of Seemingly Inconsistent Ethics Rulings. During our preliminary interviews, including discussions with then-Representative Jacobson, our attention was directed to the series of ethics rulings addressing potential conflicts of interest on the part of Board members. A review of the ethics rulings, they argued, was relevant in light of the allegations and findings of ethical violations against Representative Figueroa, including allegations by Mr. Jacobson. These findings, they believe, could bolster an alternate argument against Representative Figueroa, based on the "dishonesty" clause of the charter removal provision.

The problem with this approach is that the findings by the Board of Ethics appear to eschew precedent and consistency of analysis in their rulings. The cases are instructive, but clearly not dispositive on the "dishonesty" issues, as we will discuss in our legal analysis.

Representative Joseph Coppola, Chair of the Public Works Committee, was permitted to vote even though his wife worked part-time for the City's Zoning Board of Appeals.¹⁵⁶ The June 18, 2014 opinion cited Ordinance §19-4 of the City's Municipal Code of Ethics, as follows¹⁵⁷:

"No officer or employee shall engage in any business or transaction or have a personal, immediate family or business interest, directly or indirectly, which is in material conflict with or incompatible with the proper discharge of his or her official duties or that by creating a divided loyalty might influence or impair his or her independence of judgment and action in the performance of said duties. A conflict of interest exists whenever an officer or employee will more likely than not benefit, disproportionately from other citizens of the city, directly or indirectly, from a decision over which they have influence.'

It also referenced Ordinance §19-5(A), as follows:

"Unless otherwise provided by law, an officer or employee shall not deliberate or participate in a decision or action by the agency of which the individual is a member or is employed if said individual or any member of his or her immediate family or a business with which he or she is associated would be likely to gain or lose a material benefit that is not common to the general interest of other citizens of the city."

¹⁵⁶ It should be noted that the Coppola request was mooted, as the vote in question was held prior to the ruling, at which time he recused himself from voting.

¹⁵⁷ The following admonition was included in the Opinion letter: "This advisory opinion is a public document. The opinions stated herein are expressly based on the accuracy and completeness of the information presented to the Board and are confined to the specifics of the question(s) put to the Board in rendering such opinions."

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While the Board of Ethics stated that "...A member of the City's Board of Representatives voting on a matter that could affect such member's spouse potentially gives rise to a prohibited conflict of interest." In this case, it found that there would not have been such a conflict.

"The Board is of the opinion that, based on the information you submitted to us, for you to have **voted on the appointment of the City's Director of Operations would not have constituted a prohibited action under the Code solely because your spouse's position with the City falls within the ambit of the Operations Department.**"

On the other hand, §§19-4 and/or 19-5 might be implicated:

"...if the result thereof would **directly affect your spouse's conditions of employment and/or compensation and thereby create a material, personal benefit** for you that is not common to the general interest of citizens of the City. The facts as you describe them do not present a connection between the result of the vote in question and any effect on your spouse's employment sufficiently direct so as to constitute a prohibited conflict, in the opinion of the Board.

Representative Gloria DePina (D-5)¹⁵⁸ had a son who worked as a custodian for the South End Community Center. Director of Operations Ernie Orgera, her son's ostensible supervisor, was reappointed by Mayor Martin in 2018. In an email the Director of Legal Affairs Kathryn Emmett ruled that

"It is not a conflict of interest in violation of the Ethics Code for a member of the Board of Representatives to vote on the appointment of the director of Operations based on the fact that a family member is employed within the Operations department" citing a 2014 Board of Ethics Opinion (Coppola)."

Representative Anabel Figueroa I. The first case against Representative Figueroa arose from her vote, in committee on June 25, 2019¹⁵⁹ (with another five members) against Mayor Martin's nominee for Chief of Police, a gentleman named Chris Murtha from Prince George's County. Representative Figueroa's husband, Robert Figueroa, was, at the time, a member of the Stamford Police Commission and her son was an officer with the Stamford Police Department.¹⁶⁰ The issue under the ethics code at the time was:

¹⁵⁸ "Stamford reps: Tight vote on Orgera appointment," Angela Carella, *Stamford Advocate*, February 3, 2018

¹⁵⁹ "Stamford mayor pulls back on police chief pick for now," Angela Carella, *Stamford Advocate*, July 2, 2019, which indicates that Representative Figueroa did not sign the "letter of protest". See also, Paragraph 2 of Board of Ethics Ruling, dated June – July 2021.

¹⁶⁰ "Potential conflict in Stamford police chief vote up for rep to decide," Angela Carella, *Stamford Advocate*, July 6, 2019.

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“...elected officials who have a personal or family interest that might influence their independence of judgment cannot engage in city business related to that interest. A conflict of interest exists whenever an official ‘will more likely than not benefit...directly or indirectly, from a decision over which they have influence.’”¹⁶¹

A local government ethics expert, quoted in the *Stamford Advocate*, said that, while the case was “clearly a conflict” the issue for recusal usually comes down to “economic conflicts”: “I think it would be unusual to withdraw in this situation. Usually economic conflicts are the only ones that matter ---- that is, if there is a potential economic benefit to you or someone close to you.” He saw no issue with the husband’s role and only one with the son should he receive “a promotion very soon after his mother took some action.” He did reference a concern about “the appearance of a conflict of interest.”¹⁶²

Representative Figueroa requested an opinion.¹⁶³ According to the draft minutes of the Board of Ethics meeting on July 17, 2019 and the subsequent Advisory Opinion the board found that with “...respect to your husband, there is no conflict of interest...with respect to your son, there is a conflict of interest if you participate in the August 5, 2019 vote and you are therefore prohibited under the Code from voting or deliberating.”¹⁶⁴ As in the *Coppola* case, the Board cited Ordinance §§19-4 and 19-5.A. Unlike the finding in *Coppola*, the Board found the following:

“You are a member of the Board of Representatives and therefore an “officer” under both sections of the Code. Your immediate family, your son, is employed by the Police Department. Your son’s salary, benefits and other aspects of employment could be affected by the vote on the new Chief of Police. He would be “likely to gain or lose a material benefit that is not common to the general interest of other citizens of the city.” Because of this, in order to avoid a “divided loyalty” and maintain your “independence of judgment” in your work as a member of the Board of Representatives, you are prohibited under the Code from voting or deliberating on August 5, 2019.”

As a result of her committee vote “against” the nominee an ethics complaint was filed by Representative Lindsay Miller against Figueroa because her son worked in the Department¹⁶⁵. On the final vote she “abstained” yet the Board of Ethics found probable cause on the assumption that “her son’s salary, benefits and other aspects of his

¹⁶¹ “Potential conflict in Stamford police chief vote up for rep to decide,” Angela Carella, *Stamford Advocate*, July 6, 2019.

¹⁶² “Potential conflict in Stamford police chief vote up for rep to decide,” Angela Carella, *Stamford Advocate*, July 6, 2019.

¹⁶³ Advisory Opinion of Stamford Board of Ethics, August 21, 2019; See also, “Ethics board: Rep may have conflict in Stamford police chief vote.” Angela Carella, *Stamford Advocate*, July 30, 2019.

¹⁶⁴ Advisory Opinion of Stamford Board of Ethics, August 21, 2019. See also, “Ethics board: Rep may have a conflict in Stamford police chief vote.” Angela Carella, *Stamford Advocate*, July 30, 2019.

¹⁶⁵ See, paragraph. #4 Board of Ethics Rule, June-July 2021.

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employment could have been affected by her vote.”¹⁶⁶ Nevertheless, the Board of Ethics decided to reach back and opine on her earlier committee vote.¹⁶⁷

In a letter dated September 5, 2019, Myrna Sessa, in her capacity as chair of the Investigating panel, informed Representative Figueroa of the panel's determination of probable cause and suggested that Representative Figueroa consider entering a Stipulated Agreement to avoid a public hearing on the allegations asserted against her in the 2019 Ethics Complaint.¹⁶⁸

In response to the investigating panel's determination of probable cause, Representative Figueroa hired Attorney Tom Cassone (then a private attorney) to defend her.¹⁶⁹ On February 6, 2020, the Board of Ethics approved a Stipulated Agreement between the investigating panel and Representative Figueroa that resolved the allegations asserted against her in the 2019 Ethics Complaint.¹⁷⁰

According to reports in the press, the stipulated agreement included the following reference to the *Coppola* case:

“The Investigating Board acknowledged that, because its Figueroa Advisory Opinion appears inconsistent with its Coppola Advisory Opinion, Figueroa and others may in good faith previously have believed that it would not constitute a violation of the Code for Figueroa to participate in the vote¹⁷¹.”

Observation: A Misalignment. In preparing this Report and Opinion we find it challenging to align the findings in the Coppola matter or the Law Department ruling in DePina case. This is especially true when you consider that the intent of Representative Figueroa, reflected by her “no” vote in the committee; was, arguably, against the interest of her son¹⁷².

¹⁶⁶ “Panel finds Stamford rep likely violated ethics code in police chief vote,” Angela Carell, *Stamford Advocate*, September 26, 2019.

¹⁶⁷ “Stamford's Board of Ethics investigate city representative – again,” Brianna Gurciullo, *Stamford Advocate*, June 9, 2021.

¹⁶⁸ See, paragraph. #8 Board of Ethics Ruling, June-July 2021.

¹⁶⁹ See, paragraph. #9 Board of Ethics Ruling, June-July 2021.

¹⁷⁰ See, paragraph. #10 Board of Ethics Ruling, June-July 2021.

¹⁷¹ “Stamford's Board of Ethics investigate city representative – again,” Brianna Gurciullo, *Stamford Advocate*, June 9, 2021. Note: In the Coppola Opinion the board stated: “Coppola wouldn't have violated the ethics code if he had voted on the appointment of the city's director of operations even though Coppola's spouse held a position that fell 'within the ambit of the Operations Department.' The city's director of legal affairs referred to that opinion years later, when questions emerged about Rep. Gloria DePina D-5, voting on the reappointment of Stamford's operations director when her son worked under that official.”

¹⁷² Her intent would be a “no” vote as reflected in her committee vote. Her son lives independently of her and, at the time of the vote was deployed in Southeast Asia for three years. The article also indicates that she had voted carefully to avoid perceived conflicts.

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Representative Anabel Figueroa II.¹⁷³ In 2020 Representative Figueroa voted to oppose the Mayor's re-appointment of a Board of Ethics member, Myrna Sessa.¹⁷⁴ Please note that Sessa investigated and voted to find probable cause against Figueroa in the earlier ethics case¹⁷⁵ and on September 5, 2019 found "...probable cause to believe that Representative Figueroa violated the Code §19-4 and §19-5 when she participated in the discussion and vote at the Appointments Committee on June 25, 2019 as alleged in the 2019 Ethics Complaint¹⁷⁶." The 2021 ethics complaint, in *Figueroa II*, was filed by then-Representative Jonathan Jacobson¹⁷⁷.

The attorney for the Board of Ethics, who argued that Figueroa should have disclosed, recused and abstained, made an impassioned plea:

"We are before you because Rep. Figueroa violated the public trust placed in her. She used her public office for personal reasons to exact revenge. She's acting as though the Code of Ethics does not apply to her....She believes she should never be questioned. If you do, if you dare challenge her, she'll do everything in her power to punish you."¹⁷⁸

In response her lawyer argued that there was no evidence of retaliation:

"She was very specific in stating on the record that her vote had nothing to do with any one individual, but the board as a whole...The bottom line is, simply, experience does not equal conflict of interest (she) received absolutely no benefit from her vote" against the reappointment¹⁷⁹."

Figueroa's counsel was arguing that the Board of Ethics was being asked to "essentially preserve its members by effectively eliminating everyone who disagrees with it or anyone who thinks it's doing a poor job¹⁸⁰."

Among the factual findings of the Board of Ethics were the following:

¹⁷³ Unlike the Coppola decision the final Board of Ethics ruling contained a finding of fact with virtually no discussion of the underlying law.

¹⁷⁴ See, paragraph. #11 Board of Ethics Ruling, June-July 2021.

¹⁷⁵ See, paragraph. #5 Board of Ethics Ruling, June-July

¹⁷⁶ See, paragraph. #7 Board of Ethics Ruling, June-July

¹⁷⁷ "Figueroa saga a cautionary political tale. She 'essentially elected herself to the Connecticut General Assembly,'" John Breunig, Editorial Page editor, *CT Insider*, September 8, 2024. "She already had a shaky history with Jonathan Jacobson. Back in 2021, he filed an ethics complaint against Figueroa, claiming she retaliated against a Board of Ethics member who investigated a previous complaint against her. The earlier complaint involved Figueroa casting a vote related to a nominee for the city's police chief while her son served as a Stamford police officer and her husband was a member of the Stamford Police Commission.

¹⁷⁸ "Stamford's Board of Ethics investigate city representative – again," Brianna Gurciullo, *Stamford Advocate*. June 9, 2021.

¹⁷⁹ *Stamford Advocate*. June 9, 2021.

¹⁸⁰ *Stamford Advocate*. June 9, 2021.

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- At its meeting on July 28, 2020, the Appointments Committee of the Board of Representatives unanimously approved Myrna Sessa for reappointment to the Board of Ethics, subject to approval by the Board of Representatives;
- On August 3, 2020, Anabel Figueroa was an elected member of the Board of Representatives;
- On August 3, 2020, when the Board of Representatives met for its regular monthly meeting, the reappointment of Myrna Sessa to the Board of Ethics was one of several items included on the consent agenda for vote by the Board of Representatives; a consent agenda collects items grouped together to enable the Board of Representatives to approve the collected items without discussion or individual motions;
- On August 3, 2020, during the Board of Representatives monthly meeting, Representative Figueroa took Myrna Sessa's reappointment off the consent agenda which opened the floor to discussion on Myrna Sessa's reappointment;
- On August 3, 2020, when Myrna Sessa's reappointment was discussed by the Board of Representatives, Representative Figueroa was the first to speak and stated that the Board of Representatives should not vote to reappoint Myrna Sessa because Myrna Sessa cost the taxpayers money and rendered advisory opinions that were wrong and inconsistent;
- On August 3, 2020, at the Board of Representatives meeting, Representative Figueroa voted against reappointment of Myrna Sessa;
- On August 3, 2020, the vote by the Board of Representatives did not approve reappointment of Myrna Sessa;
- On August 3, 2020, when Myrna Sessa's reappointment was considered and decided by the Board of Representatives, Representative Figueroa's knowledge of Myrna Sessa was based on her personal experiences with Myrna Sessa which included an advisory opinion issued by the Board of Ethics that Representative Figueroa believed Myrna Sessa authored which Representative Figueroa suspected led to the 2019 Ethics Complaint against Representative Figueroa¹⁸¹;

During the course of the hearing, Ms. Sessa and Representatives Figueroa and Jacobson both testified.¹⁸² In the end, the Board found:

¹⁸¹ See, paragraph. #12 – 19 Board of Ethics Ruling, June-July 2021.

¹⁸² "Stamford Board of Ethics investigate city representative --- again," Brianna Gurciulla, *Stamford Advocate*, June 9, 2021.

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- On August 4, 2020, in a phone conversation with Jonathan Jacobson, Representative Figueroa explained to Jacobson that her vote against reappointment of Myrna Sessa was based upon her personal experiences with Myrna Sessa which included an advisory opinion issued by the Board of Ethics that Representative Figueroa believed Myrna Sessa authored and which Representative Figueroa suspected led to the 2019 Ethics Complaint against Representative Figueroa;¹⁸³
- On August 4, 2020, in her phone conversation with him, Jonathan Jacobson suggested that Representative Figueroa's conduct regarding Myrna Sessa's reappointment, may have been unethical or violated the Code;¹⁸⁴ and,
- On August 6, 2020, Representative Figueroa sent an email to the President of the Board of Representatives with the subject line "Formal complaint" regarding Jonathan Jacobson's comments made to Representative Figueroa during her phone conversation with Jonathan Jacobson on August 4, 2020.¹⁸⁵

The attorney for the Board of Ethics argued that Figueroa "wanted to retaliate against the ethics board....'she used her public office for personal reasons to exact revenge. She's acted as if the Code of ethics does not apply to her'." Her attorney, Alan Pickel, argued that "experience does not equal conflict of interest...(she) received no benefit from her vote...(the Board of Ethics acted "...to preserve its members by effectively eliminating everyone who disagrees with it or anyone who thinks it is doing a poor job."¹⁸⁶

Prior to bringing an action against her, Jacobson called Figueroa "...because it appeared to me that there was at least an appearance of --- for the lack of a better term ---- impropriety, based on the history as I knew it.' Figueroa complained to the President of the Board of Representatives about Jacobson's "questioning my votes or actions":

"...I feel harassed and disrespected...it is not clear to me if his behavior toward me is because of my gender or nationality." In retort Jacobson "interpreted (her complaint to the President) as an attempt by Representative Figueroa to dissuade, discourage or otherwise intimidate" him from "taking any official action."¹⁸⁷

Jacobson filed the complaint nearly five months after Sessa's appointment failed before the Board of Representatives. He took his action following Figueroa's subsequent

¹⁸³ See, paragraph. #20 Board of Ethics Ruling, June-July 2021.

¹⁸⁴ See, paragraph. #21 Board of Ethics Ruling, June-July 2021.

¹⁸⁵ See, paragraph. #22 Board of Ethics Ruling, June-July 2021.

¹⁸⁶ "City Rep. Anabel Figueroa violated Stamford's Code of Ethics, say members of Board of Ethics," Brianna Gurciulla, *Stamford Advocate*, June 25, 2021.

¹⁸⁷ "City Rep. Anabel Figueroa violated Stamford's Code of Ethics, say members of Board of Ethics," Brianna Gurciulla, *Stamford Advocate*, June 25, 2021.

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vote against the reappointment of Board of Ethics member Monica Schlesinger-Smyth. The pattern "was alarming" to Jacobson.¹⁸⁸

The Board found probable cause as follows:

"That Representative Figueroa had a personal interest that created a divided loyalty which influenced or impaired the independence of her judgment as a Representative on the Board of Representatives, concerning the reappointment of Myrna Sessa for membership on the Board of Ethics."¹⁸⁹

The vote against Schlessinger-Smyth gave "further weight" to their finding of probable cause. "The investigating Board acknowledges that, because its Figueroa Advisory Opinion appears inconsistent with its Coppola Advisory Opinion and others may in good faith previously have believed that it would not constitute a violation of the Code for Figueroa to participate in the Vote" where Coppola's wife had a job in the Operations Department.¹⁹⁰

She rejected a stipulated judgment settlement and has reportedly incurred substantial legal fees to defend her case. The Board subsequently found her to be in violation of the Code of Ethics when she voted against reappointment of Board of Ethics members.¹⁹¹

Representative Jonathan Jacobson (2024)¹⁹². In the aftermath of the contretemps arising from Representative Figueroa's "antisemitic" statements in the 2024 campaign and in the context of the pending legislative action contemplated against Figueroa, then-Representative Jacobson sought guidance from the Board of Ethics regarding his ability to participate. It should be noted that Representative Jacobson subsequently resigned from the Board of Representatives in anticipation of his service as a State Representative in January 2025.

On October 9, 2024 the Board of Ethics approved then-Representative Jacobson's ability to participate in vote on the "potential disciplinary action (against Representative

¹⁸⁸ "City Rep. Anabel Figueroa violated Stamford's Code of Ethics, say members of Board of Ethics," Brianna Gurciulla, *Stamford Advocate*, June 25, 2021. See also, See, paragraph. #23 Board of Ethics Ruling, June-July 2021, as follows: ".That on December 29, 2020, Representative Figueroa, as member of the Appointments Committee of the Board of Representatives, voted against the reappointment of Monica Schlesinger-Smyth to the Board of Ethics. Monica Schlesinger-Smyth was a member of the three-member Investigating Board that determined there was probable cause to believe that Representative Figueroa violated the Code as alleged in the 2019 Ethics Complainant filed against Representative Figueroa."

¹⁸⁹ See, paragraph. #24 Board of Ethics Ruling, June-July 2021.

¹⁹⁰ "City Rep. Anabel Figueroa violated Stamford's Code of Ethics, say members of Board of Ethics," Brianna Gurciulla, *Stamford Advocate*, June 25, 2021.

¹⁹¹ "City Rep. Anabel Figueroa violated Stamford's Code of Ethics, say members of Board of Ethics," Brianna Gurciulla, *Stamford Advocate*, June 25, 2021.

¹⁹² "Stamford ethics board says Jonathan Jacobson can vote on removal of fell city rep. Anabel Figueroa," Brianna Gurciullo, *Stamford Advocate*, October 10, 2024.

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Figueroa), including removed from her position as a member of the BOR.¹⁹³ The Board summarized the question at hand, as follows:

“Whether (Jacobson), as the subject of the very comments that have exposed Ms. Figueroa to disciplinary action, may vote as a member of the BOR as to whether any such action shall be taken.”

In its analysis, the Board considered new language in Code §19-5 of the Code that was not in the Code during the proceedings against Representative Figueroa.¹⁹⁴ The following historical language remained, prohibiting “[a] city officer or employee” from “us[ing] such person’s official position to advance or impede private interests.” However, the Code now provided a new exception:

¹⁹³ Advisory Opinion of Board of Ethics, October 9, 2024. See also, “Stamford reps debate Ethics and Move to expel Figueroa,” Angela Carella, *CT Examiner*, October 3, 2024. “Jacobson cited the significant news coverage of Figueroa’s statements, which included that “a person who is of Jewish origin” cannot be permitted to represent Hispanics... ‘I was the victim of statements regarding my identity broadcast on an international stage,’ Jacobson said. ‘And now I’m in a position where I, as part of my obligations as a city official, can have a direct influence on the outcome of potential disciplinary proceedings’ against Figueroa. ‘From an ethical standpoint, is there an appearance of impropriety? I guess you can make that argument.’... Jacobson, an attorney, told the ethics board, ‘with my legal training, including my ethical obligation as an attorney, in my opinion my participation would not violate the ethics code as it is written.’... If the board issues an opinion that he should not participate in proceedings involving Figueroa, it’s possible ‘that I move forward and participate anyway,’ Jacobson said. On the other hand, ‘If this board tells me I’m free to participate, I may elect not to,’ he said... I feel that I am torn between a rock and a hard place,’ he said. ‘I don’t know if politically it’s in my best interest to be involved. I don’t know if it’s in the best interests of the city from a healing standpoint ... for me to be involved,’ Jacobson said. ‘On the other hand, I have a sworn duty to this city, to my constituency, to perform my job functions to the best of my ability ... I feel that I would be letting down a sizable portion of this city and ... the people that elected me if I choose not to vote.’... Board rules require a portion of total board membership, not just those present and voting, to advance any measures that may be brought against Figueroa, so he is concerned about what could happen if he does not vote, Jacobson said.”... For charges to move forward, a majority of the board, or 21 members, would have to vote yes. To remove Figueroa, 30 of the 40 board members would have to vote yes... ‘Regardless of whether I abstain or recuse myself, that action ... will affect the outcome,’ Jacobson said. ‘If I were to not participate, that is one fewer vote required to obtain 30. It affects the outcome all the same.’... Jacobson said he would imagine that Figueroa will take part in any vote... ‘If you assume I recuse or abstain, and assume further that Representative Figueroa votes against the expulsion, then only eight others have to vote no or abstain for it not to advance,’ Jacobson said. ‘So it’s not only my vote that may affect the outcome, my non-participation can affect the outcome.’... “Ethics board member Laura Indellicati said Jacobson’s comments ‘about whether or not our opinions need to be followed’ are ‘a little outside the scope and maybe that added a little bit of an uncomfortable sheen over the whole thing,’ but ‘the question ... at issue is fairly simple – does this violate Section 19-5 [of the ethics code] or does it not?’... The section states that private interest shall not prohibit constituent representation...” “To prevent him from voting because the comments at issue were directed at him would permit the comments ... contrary to this code, to have the effect of disenfranchising his constituents at the vote,” Indellicati said. ‘He is asking us, can he vote on behalf of his constituents? ... In my view, we have a pretty clear directive under the code.” See also, “Stamford ethics board says Jonathan Jacobson can vote on removal of fellow city rep. Anabel Figueroa,” Brianna Gurciullo, *Stamford Advocate*, October 10, 2024. Jacobson was quoted as follows: “I don’t feel I have any political points to gain or personal vendetta or scores to settle or anything of that nature.”

¹⁹⁴ It also appears that the basis for the conclusion in the action against Representative Figueroa was memorialized in the 2021 ethics revisions.

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"[f]or the avoidance of doubt," that "nothing in this provision shall prohibit constituent representation, notwithstanding that such representation may advance or impede private interests."

The Board recognized neither "constituent representation" nor "private interests" is defined by the Code.

With that background, the following were the conclusions of the Board:

- Jonathan Jacobson is "an elected member of Stamford's Board of Representatives (the "BOR")."
- Jacobson "...recently ran a competing primary for the Democratic Party's endorsement for the 148th State House District against fellow BOR member, Anabel Figueroa, which you won."
- "Public statements made by Ms. Figueroa regarding your religion came to light in the course of that contest that have subjected her to potential disciplinary action, including removal from her position as a member of the BOR."
- "Any disciplinary action by the BOR can only be approved by the vote of a certain percentage of the BOR's members."
- Jacobson's "vote in a proceeding to discipline a member of the BOR constitutes constituent representation'...Indeed, prohibiting you from voting would deprive your constituents of the full representation to which they are entitled in the BOR's vote on this important matter.
- "Accordingly, assuming without deciding that your vote in a proceeding to discipline Ms. Figueroa advances or impedes a 'private interest,' the Code nevertheless permits you to vote such that your constituents may be represented."¹⁹⁵

¹⁹⁵ The Advisory Opinion included the following passage: "The Board notes that given the clarity of the Code on this particular matter, it need not parse the statements made by Ms. Figueroa or assess the extent of any insult to you or others in the community in order to issue this Opinion. The Board's decision not to address these specifics is not for want of attention to the details and is not intended to reflect any judgment about them. Rather, the details are simply not relevant to our analysis as they pertain only to the question of whether you have a "private interest," which, in this case, has no bearing on your ability to vote. Therefore, on the narrow question presented of whether you can vote in a proceeding of the BOR to discipline Ms. Figueroa, we find that you may without violating Section 19-5 of the Code."

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Legal Issues

Questions presented in this Report and Opinion. We will now review the legal issues that will be taken into account in this Report and Opinion. The first question is whether an elected public official has First Amendment Free Speech Clause protections which may serve as a bar or limitation on the authority of the government to either remove such official from office or, in the alternative, censuring the conduct of the public official in question. The second question is whether certain the antisemitic statements we are reviewing may constitute hate speech, which might place those statements outside the protective scope of the First Amendment Free Speech Clause.

Removing an elected official under Sec. C1-90-1 of the Charter could be a valid exercise of authority. As discussed in more detail above, it is our opinion that the removal provisions contained in Charter Section C1-90-1 are rooted in a valid express grant of authority by the General Assembly. Under this section, a member of the Board of Representatives may be removed by a three-quarters vote of the entire membership of the Board following the levelling of charges affirmed by a majority vote of the Board and a hearing thereon.

"Such charges shall be for neglect or dereliction of official duty, or incompetency, or dishonesty or incapacity to perform official duties or some delinquency materially affecting that person's general character or fitness for office."

While some of the elected officials we interviewed raised the possibility of a "dishonesty" charge (which we will discuss), the vast majority (and the public turbulence that lead to this review) have pointed to the antisemitic remarks as the gravamen of the complaint against Representative Figueroa. The only provision that would apply to the conduct through words was the provision which allows for removal on the basis of "some delinquency materially affecting that person's general character or fitness for office" (the "general character clause").

The Free Speech Clause of the First Amendment of the United States Constitution stands as a bar or limitation of authority to remove Representative Figueroa from office. Notwithstanding the offensive nature of the statements made by Representative Figueroa and separate and distinct from whether or not they constitute sufficient grounds for her removal under Charter Section C1-90-1, we must consider whether an elected public official has protections under the Free Speech Clause of the First Amendment to the United States Constitution, which may serve to either bar or limit the authority of an instrumentality of the government from either removing or censuring that elected public official. As part of that analysis, we must also resolve the question of whether those statements made by Representative Figueroa may constitute hate speech

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or fall into some other category which places those statements outside the protective scope of the First Amendment Free Speech Clause.¹⁹⁶

As more fully detailed below, although the case law is limited, and there is a split of authority among the federal circuit courts on this issue, the Second Circuit Court of Appeals (which covers Connecticut) falls squarely on the side of affording First Amendment protections to elected officials who utter offensive words. In other words, a removal proceeding by the Board of Representatives against Representative Figueroa based *solely* on the offensive statements that she made, both publicly and privately, would not pass constitutional muster. Based upon a review of the case law, it is our opinion that her statements would be protected under the Free Speech Clause of the First Amendment to the United States Constitution. To the extent that the Board of Representatives does attempt to remove Representative Figueroa based on these statements, it would open the City of Stamford to a potential First Amendment retaliation claim.

Under the Free Speech Clause of the First Amendment to the United States Constitution, courts have held that a government employer may take adverse action against an employee for speech otherwise protected under the First Amendment if the employee occupies a "policymaking position." *Elrod v. Burns*, 427 U.S. 347, 367 (1976); *Branti v. Finkel*, 445 U.S. 507, 517 (1980)). In these two cases, the distinction was made between public employees whose positions involved policymaking and those which did not, and the conclusion was that dismissal of public employees in non-policymaking roles solely because of their political affiliation was a violation of First Amendment protections. This line of cases has formed the basis for the analysis of whether a governmental entity may take similar actions against elected officials as well as employees.

The Second Circuit has explained that city council legislators are "quintessential policymakers" and therefore may be subject to this *Elrod/Branti* carveout from First Amendment protection in some contexts. See *Velez v. Levy*, 401 F.3d 75 (2d Cir. 2005); *Camacho v. Brandon*, 317 F.3d 153 (2d Cir. 2003). In such contexts, the First Amendment does not protect these political actors from "retaliation by their foes for their position on matters of public concern." *Munoz-Feliciano v. Monroe-Woodbury Cent. Sch. Dist.*, No. 13-CV-4340 (CS), 2015 WL 1379702, at *10 (S.D.N.Y. Mar. 25, 2015) (internal quotations omitted), *aff'd*, 637 F. Appx 16 (2d Cir. 2016); see also *Blair v. Bethel Sch. Dist.*, 608 F.3d 540, 543-44 (9th Cir. 2010) ("[W]e expect political officials to cast votes in internal elections in a manner that is, technically speaking, retaliatory ...; the First Amendment does not succor casualties of the regular functioning of the political process.").

In two mid-2000s opinions, the Second Circuit in quick succession both endorsed and qualified this analysis. First, in *Camacho v. Brandon*, it found that, as a policymaker, a city council member could not invoke First Amendment protection where his fellow legislators had "retaliated against him for his political associations as well as his votes."

¹⁹⁶ We would note that the same or greater protections may be offered by the free speech clause of the Connecticut State Constitution. Because the analysis of the matter under federal law is sufficiently clear, we did not evaluate the parallel state constitutional protections.

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317 F.3d at 161–62. Camacho faced the question of whether legislators themselves count as “policymakers” within the meaning of *Elrod* and *Branti*. The plaintiff, a legislative aide to a Yonkers city council member, was fired by the city council, with the blessing of the mayor. He brought a First Amendment retaliation claim alleging that his termination was in retaliation for the First Amendment activity of his boss, who had cast dissenting votes on the council and who had invoked the political ire of the mayor and of the majority coalition in the council. *Camacho*, 317 F.3d at 156-58. The aide’s First Amendment claim failed because his asserted right was derived from, and therefore contingent upon, the claim of the council member.

However, just two years later, in *Velez*, the Second Circuit added further qualifications to this interpretation. *Velez* involved an elected school board member who had an ongoing series of political and policy conflicts with both school administrators and other members of the school board. At one point, Ms. Velez was accused of sprinkling pink “voodoo” powder outside of the office of the assistant superintendent and a cursory investigation was conducted which ultimately led to her removal from the school board. Finding that the flawed investigation was not a violation of her First Amendment rights but that her removal from the school board was, the Second Circuit held that while the First Amendment may not protect an elected official from certain forms of retaliation through the exercise of free speech by other elected officials—including actions that “undoubtedly *set into motion* plaintiff’s ouster” from their elected office—it does protect against state officials altogether “stripping elected representatives of their office on the political views of such representatives.” *Velez, supra*, 401 F.3d at 98-101 (emphasis added) (citing *Bond v. Floyd*, 385 U.S. 116, 137 (“[T]he disqualification of Bond from membership in the Georgia House [of Representatives] because of his statements [criticizing the policy of the federal government in Vietnam] violated [the State representative’s] right of free expression under the First Amendment.”)). The distinction between retaliation in *Camacho* and removal from office in *Velez* is relevant to the issue we are reviewing in this Report and Opinion.

In another more recent case that is factually similar to the matter at hand, the United States District Court for the Southern District of New York further analyzed the *Camacho* and *Velez* cases; see *King v. City of New York*, 581 F. Supp. 3d 559, 569 (S.D.N.Y. 2022); blending their approaches to establish a more workable rule:

[E]lected officials enjoy no First Amendment protection from retaliation for political speech unless that retaliation strips them of their office, or their fundamental ability to function in that office. In other words, courts weighing the extent of First Amendment protection against retaliation should distinguish between (allegedly) retaliatory legislative *speech* and retaliatory legislative *sanction*.” (Emphasis in original).

King v. City of New York, 581 F. Supp. 3d 559, 570 (S.D.N.Y. 2022), *aff’d*, 2023 WL 2398679 (2d Cir. Mar. 8, 2023).

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In *King*, an elected official, representing the 12th district in the Bronx of New York City, was ultimately removed from the New York City Council after numerous ethical violations were levied against him, only some of which related to several anti-LGBT statements allegedly made by King. *Id.* at 565-67. The New York City Council's Ethics Committee investigated the matter, held a hearing on those charges, and recommended the following actions to the Council: "(1) a 30-day suspension without pay; (2) a \$15,000 fine; (3) the loss of all committee memberships; and (4) the appointment of an independent monitor to oversee King's office." *Id.* at 566.

Shortly after King's return from suspension, the Ethics Committee levied new charges against him, held another hearing on those new charges, and ultimately recommended King's expulsion from the New York City Council. *Id.* Thereafter, the New York City Council voted, nearly unanimously, to ratify the Ethics Committee's recommendation, and King was thereby removed from his elected office. *Id.* at 567. King then brought suit against the City of New York alleging, *inter alia*, that his expulsion from the City Council was in retaliation for his anti-LGBT political views and therefore was in violation of the Free Speech Clause of the First Amendment to the United States Constitution. The City of New York moved to dismiss King's claim. *Id.* at 568.

The United States District Court for the Southern District of New York noted that to successfully plead such a claim, "a plaintiff must show that (1) his actions were protected by the First Amendment; and (2) the defendant's alleged conduct was in response to that protected activity"; *Id.* (quoting *Velez, supra*, 401 F.3d at 97); and finding that the only alleged actions in the Complaint which could give rise to a First Amendment retaliation claim were the City Council's actions in "adopting the Ethics Committee's recommended sanctions—including a 30-day suspension and the loss of committee membership and, later, to expel King from the Council entirely." *Id.* at 571. The court ultimately dismissed the complaint finding that, in light of the myriad ethical violations cited in King's complaint, only some of which related to those anti-LGBT statements allegedly made by King, King's claim was devoid of the "specific and detailed factual allegations" necessary to sustain such a claim. *Id.* at 572-73 (quoting *Velez, supra*, 401 F.3d at 97).

On appeal, the Second Circuit affirmed the Southern District of New York and, in summary fashion, described the controlling law on this issue, stating in relevant part:

The First Amendment "*bars state officials from stripping elected representatives of their office based on the political views of such representatives.*" *Velez v. Levy*, 401 F.3d 75, 98 (2d Cir. 2005). In the unusual context of intra-legislative retaliation, we evaluate a plaintiff's claim "as a more basic sort of retaliation claim" rather than "as a straightforward employment retaliation suit." *Id.* at 97 (emphasis omitted). Accordingly, an elected official plaintiff may state a claim for such retaliation by pleading that "(1) his actions were protected by the First Amendment; and (2) the defendant's alleged conduct was in response to that protected activity." *Id.* at 98 (citing *Friedl v. City of New York*, 210 F.3d 79, 85 (2d Cir. 2000)). We

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consider as actionable a defendant's alleged retaliatory conduct that triggers official discipline or expulsion, but not expressive conduct that may "set into motion" those actions. *Id.* at 99; *cf. Houston Cmty. Coll. Sys. v. Wilson*, 142 S. Ct. 1253 (2022) (holding the censure of an elected official non-actionable, without reaching the question of expulsion or other punishment)¹⁹⁷.

With respect to the Figueroa matter, it is evident and virtually impossible to ignore that the essence of the opprobrium and anger are the antisemitic statements. For that reason, removing her from office based on her "political views," as referred to in the *Velez v. Levy*, would be subject to legal challenge, as discussed below.

It is equally clear and relatedly important that, in our opinion, *Representative Figueroa's statements would not constitute actionable "hate speech," "true threats," "fighting words," or any other form of speech which would take such statements outside of First Amendment protections.* It is well established that "[d]iscussion of public issues and debate on the qualifications of candidates are integral to the operation of our system of government. ... As a result, the First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office." *Markley v. State Elections Enft Comm'n*, 349 Conn. 67, 87, 1181–82 (2024). "While political speech receives the highest form of protection under the First Amendment, hate speech also can receive First Amendment protections." *Am. Freedom Def. Initiative v. Washington Metro. Area Transit Auth.*, 898 F. Supp. 2d 73, 79 (D.D.C. 2012) (citing *R.A.V. v. City of St. Paul*, 505 U.S. 377, 396 (1992)); see e.g., *Matal v. Tam*, 582 U.S. 218 (2017) (Alito, J.) ("[s]peech that demeans on the basis of race, ethnicity, gender, religion, age, disability, or any other similar ground is hateful; but the proudest boast of our free speech jurisprudence is that we protect the freedom to express the thought that we hate.") (Internal quotations omitted.)

The requirements for such speech to fall outside First Amendment protection is a high standard, usually requiring a direct, specific, and imminent threat to a person or group of persons. See generally, *State v. Parnoff*, 329 Conn. 386 (2018) (addressing requirements for speech to constitute "true threats" or "fighting words" and thus fall outside of First Amendment protections). "'Fighting words' are defined as speech that has a direct tendency to cause acts of violence by the person to whom, individually, the remark is addressed.... 'True threats' encompass those statements in which the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group" *Id.* at 394. Here, Representative Figueroa's statements, although deplorable, are not threatening in nature and, moreover, consistently seem to relate to matters of public concern—i.e., when certain antisemitic comments are made by Representative Figueroa, they are couched in the context of her perception of a person's ability to represent her constituency. Therefore, under the current Supreme Court and Second Circuit jurisprudence, it is highly unlikely that Representative Figueroa's

¹⁹⁷ *King v. City of New York*, 2023 WL 2398679, at *1 (2d Cir. Mar. 8, 2023) (emphasis added).

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statements, albeit reprehensible, are of such a specific and threatening nature so as to fall outside First Amendment protections.

Moreover, as we will discuss below, there does not seem to be sufficient evidence of unethical and/or improper conduct by Representative Figueroa, as some have suggested for an alternative ground for removal based upon the “dishonesty clause,” based upon the rulings of the Board of Ethics or the rescission of her resignation from the Board of Representatives.

Therefore, insofar as the potential “cause” for any potential removal proceedings would relate only to the above-noted statements by Representative Figueroa, in our view, the Board of Representatives would open itself (and the City) up to a potential First Amendment retaliation claim, and—in the absence of other causal factors cited by the Board in any potential charges leading to a removal proceeding—a reviewing court would likely find that removal of Representative Figueroa from the Board based solely on those statements is violative of the First Amendment.

The “general character clause” of the Charter does not provide an alternate legal foundation for the removal of Representative Figueroa on the basis of Board of Ethics rulings. The case law is clear that substantive charges and findings of misconduct, even by a legislative Ethics Committee, could be the basis for a removal proceeding. In the *King* case, cited above, there were charges of:

- Retaliation against staff who cooperated with an investigation;
- Creating a hostile work environment;
- Allowing a spouse to use resources of the office for personal gain;
- Failing to reimburse staff members for appropriate incurred expenses;
- Harassment;
- Soliciting kickbacks; and,
- Failure to comply with earlier disciplinary sanctions ethics rulings.

In *King* removal was permitted. These were serious charges. Many of Councilmember King’s transgressions were clear violations of the rules of the Council and may have violated other laws as well. The Figueroa cases, and the drifting findings of the Board of Ethics, is not even close to comparison with *King*.

Those ethics charges against Councilmember King were intermingled in his case because he tried to argue that his removal had nothing to do with ethics charges but rather with his outspoken embrace of the First Amendment and his homophobic

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nostrums. His game plan did not fool the courts. Likewise, those who have us seek refuge in the “dishonesty” clause of the removal provision will find no safe harbor.

It is noteworthy that then-Representative Jacobson brought the ethics cases to our attention as an alternate approach to the “general character” clause because it might provide an alternative basis for removal charges that are not protected by the First Amendment. We were not aware at the time that Mr. Jacobson gave a powerful defense of censure, as opposed to removal, during the McGarry censure proceeding on the issue of Islamophobia because of his sensitivities to the First Amendment. In our view, under the law the comments of Representative Figueroa are entitled to the same First Amendment analysis that Mr. Jacobson embraced during the McGarry censure. Yet, as requested, we have reviewed the various ethics cases.

The first series of cases involved an analysis of whether a member of the Board of Representatives could participate in confirmation proceedings for department heads where a spouse (“Coppola”) or child (“DePina”) was employed and, therefore under the jurisdiction and direction of the department head. In one case the Board of Ethics permitted Representative Coppola to vote on the appointment; in the other, the Corporation Counsel, citing the Coppola case, allowed Representative DePina to vote. Inexplicably, when Representative Figueroa (“Figueroa I”) sought an opinion from the Board of Ethics, following her vote against the hiring of a particular Police Chief she was informed that she was in violation of the Code of Ethics.

The opinion rested on the fact that her son was employed by the department. A second case involving a second vote was brought by her colleague, Representative Miller, after she “abstained.” Inexplicably, the Board of Ethics found probable cause against her, despite the inconvenient fact that Representatives Coppola and DePina’s wife and son were similarly employed.

The question, then, beckons: is it responsible to rely upon an erratic and shifting rationale or standard of what constitutes appropriate behavior as a basis of removing an elected official for “dishonesty”? We do not believe so.

The second series of “ethics” cases involved the ability of a Representative to participate in a case where there had been a personal involvement. In “Figueroa II”, a complaint was filed by then-Representative Jacobson challenging Representative Figueroa’s right to oppose and vote against the re-nomination of Ethics Board member Myrna Sessa and, later Schlessinger-Smyth (Sessa chaired the panel finding probable cause in the case brought by Representative Miller). The Board of Ethics found that Figueroa’s actions were “retaliatory” and found probable cause for pursuing a “personal interest that created a divided loyalty which influenced or impaired the independence of her judgment.”

The “Jacobson” case was commenced in relation to the instant case. The Board of Ethics granted Jacobson the ability to participate in any proceedings that involved the antisemitic attack citing a new provision of the ethics ordinance that included the following

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language: "...nothing in this provision shall prohibit constituent representation, notwithstanding that such representation may advance or impeded private interests." In other words, had Jacobson remained on the Board of Representatives he would have been able to vote on any sanction or disciplinary action against Figueroa.

We don't take issue with the finding in the "Jacobson" case and the embrace of the "constituent representation" provision. We do question the analysis of the Board of Ethics in Figueroa II, since the Board of Ethics failed to take into account a number of relevant factors. What exactly was the private interest? There was no pending matter involving Figueroa before the body. Assume, for the sake of argument, that a member of the Board of Representatives had, on behalf of his or her neighbors (even if the member shares such interest) unsuccessfully pursued a special exception before a planning or zoning entity, and several years later, the member voted against the board or commission members who denied the request. Would that past action preclude the ability of the Representative to vote because they had a "private interest" at one point in the past? We ask this question even if there was no "constituent representation" provision.

In Figueroa II the question is what personal benefit was to be derived by a vote against two Board members by the Representative? Of course, it would be different if there was an active matter before the Board of Ethics at the time. On the Police Chief vote the Board of Ethics did not consider that, had the Police Chief been confirmed, her vote could have been construed to be against the interest of her son.

It is hard to reconcile the decisions in the Figueroa II and Jacobson cases, even taking into account the "constituent representation" provision. This record of ethics findings is entirely insufficient to undertake a removal proceeding based on "dishonesty."¹⁹⁸ As stated earlier, it is extremely difficult to reconcile the "ethical" findings in any of the cases involving Representative Figueroa with the level of venality in the King case.

A Resolution of Censure is not barred by the First Amendment. Notwithstanding the above, as the United States Supreme Court recently held in *Houston Community College System v. Wilson*, 595 U.S. 468 (2022), and the Second Circuit more recently cited to in *King v. City of New York*, 2023 WL 2398679, (2d Cir. Mar. 8, 2023), the Board of Representatives would not offend the First Amendment guarantees of Representative Figueroa should it decide to publicly censure her behavior. Under the current Supreme Court interpretation of this issue, a public censure does not give rise to an actionable First Amendment retaliation claim.

The United States Supreme Court's unanimous opinion in *Houston Community College System v. Wilson*, 595 U.S. 468 (2022) includes a lengthy discussion of the

¹⁹⁸ We will admit that our review was not exhaustive. This review, requested by then-Representative Jacobson, was within the scope of our engagement. Looking beyond these cases would not be. However, based upon this brief review, we believe that the Board of Representatives might want to ask the Legal Department to review ethics cases to determine whether the Board of Ethics is serving its legal functions under the Charter within the letter of the law..

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history of governmental bodies censuring their own members. In relevant part, it states that:

“The First Amendment prohibits laws “abridging the freedom of speech.” One obvious implication of that rule is that the government usually may not impose prior restraints on speech. See *Near v. Minnesota ex rel. Olson*, 283 U.S. 697, 718–720, 51 S.Ct. 625, 75 L.Ed. 1357 (1931). But other implications follow too. Relevant here, no one before us questions that, “[a]s a general matter,” the First Amendment prohibits government officials from subjecting individuals to “retaliatory actions” after the fact for having engaged in protected speech. *Nieves v. Bartlett*, 587 U. S. 391, 398, 139 S.Ct. 1715, 1722, 204 L.Ed.2d 1 (2019) (internal quotation marks omitted); see also *Hartman v. Moore*, 547 U.S. 250, 256, 126 S.Ct. 1695, 164 L.Ed.2d 441 (2006). Mr. Wilson argues that the Board's censure resolution represents exactly that kind of impermissible retaliatory action.

“Almost immediately, however, this submission confronts a challenge. When faced with a dispute about the Constitution's meaning or application, “[l]ong settled and established practice is a consideration of great weight.” *The Pocket Veto Case*, 279 U. S. 655, 689, 49 S.Ct. 463 (1929). Often, “a regular course of practice” can illuminate or “liquidate” our founding document's “terms & phrases.” Letter from J. Madison to S. Roane (Sept. 2, 1819), in 8 Writings of James Madison 450 (G. Hunt ed. 1908); see also *McCulloch v. Maryland*, 4 Wheat. 316, 401, 4 L.Ed. 579 (1819); *The Federalist* No. 37, p. 229 (C. Rossiter ed. 1961) (J. Madison). That principle poses a problem for Mr. Wilson because elected bodies in this country have long exercised the power to censure their members. In fact, no one before us has cited any evidence suggesting that a purely verbal censure analogous to Mr. Wilson's has ever been widely considered offensive to the First Amendment.”

Therefore, it is our opinion that the controlling Supreme Court and Second Circuit case-law, as applied to the facts here, does provide the Board with authority to censure Representative Figueroa based *solely* on those statements. If the Board chooses to proceed in this manner, we believe its potential liability for a successful First Amendment retaliation claim by Representative Figueroa is negligible based upon the recent and controlling Supreme Court and Second Circuit's rulings on this issue.

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Recommendations

An opening explanatory statement. This Report and Opinion represents our effort to review the facts and applicable law in the instant case. There are several points we would like to make at the outset.

First, our client is a legislative body of one of the major municipalities in the State of Connecticut.

Second, the members of the Board of Representatives are both public servants and politicians.

Third, the authors represent many municipalities throughout the state and understand the delicate balance that one must strive to achieve when undertaking a sensitive public policy matter.

Fourth, at the risk of being defensive, we will be somewhat self-protective when we state that neither of us has a political affiliation with any of the principals in the instant case.

Fifth, we were not hired as political advisors or consultants, but rather, as lawyers addressing a volatile issue in a highly stratified and competitive political environment. Our immersion in this particular political eco-system during the 2023 charter revision process means that we are familiar with the challenges posed by the various factions, which might seek political advantage into this process, which, in turn, might stand in the way of an effective repudiation of the antisemitic statements that are at issue here.

Sixth, we are acutely aware that not everyone will be pleased with our work product, others will reluctantly accept our advice because it is based on sound legal footing. We are hopeful that some will come to embrace our findings.

In the last analysis, we are hopeful that we are providing the Board of Representatives with a framework to effectively address that which must be addressed: the exposure and condemnation of antisemitic statements.

Setting a Context. We are in this place because Representative Anabel Figueroa made antisemitic statements against her opponent and colleague at the time, then-Representative Jonathan Jacobson. Representative Figueroa resigned from the Board of Representatives on August 16, 2024 following internal and public pressure; yet rescinded her resignation with the acquiescence of the Law Department, on August 23, 2024.¹⁹⁹ She remains a member of the Board of Representatives at the time of this Report and Opinion.

¹⁹⁹ According to the Law Department Representative Figueroa should have tendered her resignation to the Mayor and did not. See, Charter Sec. C5-20-19

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We were retained by the Board of Representatives in mid-October of 2024,²⁰⁰ pursuant to Sec. C1-90-1 of the Charter; the vote margin also comports with the provisions of Sec. C5-20-3. In our retainer letter we agreed to review and advise on:

“...the issues raised by the statements, including due diligence review of any and all information pertinent to the issue and a recommendation of appropriate action by the Board of Representatives, if any, under Sec. C1-90-1 of the Charter or other legislative actions”.

As we stated then and earlier in this Report and Opinion, a removal proceeding is serious. It should not be taken lightly as it would effectively reverse the decision of the voters who elected Representative Figueroa. For many other communities, “removal” of elected officials, like recall, is not an expressly granted power.²⁰¹ Thus, it should not be wielded cavalierly or as a political tool. We reiterate that this is a serious matter both for those sitting in judgment as well as for your colleague, who will presumably speak for herself.

One more look at the comments and statements of Representative Figueroa. In order to facilitate the process we are, again, listing her comments as they were made, as follows:

July 28, 2024²⁰²

“The Hispanic vote is going to determine on August 13th who will win to represent or who will continue to represent you. We cannot permit a person who is of Jewish origin, of Jewish origin, to represent our community. It’s impossible.”

August 3, 2024²⁰³

“He [Jonathan Jacobson] is a man that comes from the Jewish community, *a community that is obviously starting to gain a lot of power in Stamford*²⁰⁴ and it starts with the Mayor.”

“I say this with respect. I think if this person were running to represent people from their community or if

²⁰⁰ The vote was 31- 1-5 as set forth in the Proceedings of the Board of Representatives, October 16, 2024.

²⁰¹ We will discuss the Special Act authority of the Stamford removal provisions in the body of this opinion.

²⁰² Video Interview of State Representative Anabel Figueroa on a program called *Hispanic International Show* on July 28, 2024.

²⁰³ Video interview with State Representative Anabel Figueroa on *La Voz Hispana de Connecticut* on August 3, 2024.

²⁰⁴ This comment falls within the perception or stereotype of the Jews having “too much power” whether it is in the business world or international financial markets or global affairs or the United States government. In this case Representative Figueroa confined her accusation or critique to the City of Stamford. His also deals with the issue of “...making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.”

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they were mixed, I would respect it. But *in my community, we don't have people like him, from his community.*"²⁰⁵

"We're mixed, we have a large Hispanic population, but *I also have a lot of African Americans in the community that are with me, because they know who better to represent us than someone within the same minority? But a Jewish person? Never.*"²⁰⁶

August 13, 2024²⁰⁷

"[Anabel] came over to where Jonathan was standing and said to him, 'Jonathan, does it offend you when someone calls you Jewish'..."

"...after a lull in the conversation, Anabel once again addressed Jonathan and said, 'Jonathan, *do you know any poor Jewish people?*' Jonathan was clearly confused by her question and said, 'I'm sorry, what?' To which Anabel repeated her question. Jonathan responded, 'Well, yes, I do, but I don't know what that has to do with anything.' Anabel then responded by saying, '*Well, Jewish people could clearly never understand or represent my people in the district.*'"²⁰⁸

August 16, 2024²⁰⁹

"[Figueroa] said she used the phrase not only in Spanish-language interviews that were posted online in the two weeks before the primary, but also while campaigning to keep her seat in state House District 148... Figueroa said that when she was knocking on doors in Glenbrook, the East Side and the Cove, where many households are Latino, she told people, '*we cannot have a person from the Jewish community represent the Hispanic community.*'"²¹⁰

August 22, 2024²¹¹

"'Of course, my words were taken out of context and manipulated,' Figueroa said. 'This entire situation has been orchestrated by the mayor and the Democratic Party.'"

²⁰⁵ This comment illustrates the antiemetic trope that "Jews don't care about what happens to anyone but their own kind."

²⁰⁶ Another illustration of the "Jews don't care about what happens to anyone but their own kind."

²⁰⁷ Letter from DCC member, Jim Fleischer, to DCC chairwoman Druckman.

²⁰⁸ One more illustration of the "Jews don't care about what happens to anyone but their own kind."

²⁰⁹ Article from *CT Examiner*, with quote from Representative Figueroa

²¹⁰ Again, another illustration of the "Jews don't care about what happens to anyone but their own kind."

²¹¹ Interview with *Connecticut Public*.

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“They went after me right now and they want to go after those who support me,” Figueroa said. “When is the Democratic town community, when is the mayor, when are they going to stop the harassment.”

August 24, 2024²¹²

“I [Representative Figueroa] said that a person from that community, you know, from the Jewish community, represents us, and I said why? Because *they don’t understand our language. They don’t understand our needs. They don’t understand what it means to come here as an immigrant.*”²¹³

August 29, 2024²¹⁴

“Since the election, Figueroa has said it was also her message when she knocked on doors that: “We cannot allow a person from that community, from the Jewish community, to represent us. And I would tell them why: Because *they don’t understand our language. They don’t understand our needs. They don’t understand what it is to arrive here as an immigrant,*” Figueroa said, in Spanish, in an interview [in August of 2024] with *La Voz Hispana de Connecticut*.²¹⁵

The various public comments can be fairly deemed “antisemitic”. In our view, it is fair to conclude that all of the statements fall squarely within the rubric of the IHRA definition of antisemitism: “...a certain perception of Jews, which may be expressed as hatred toward Jews” including ‘rhetorical...manifestations of antisemitism...directed toward’ a Jewish individual.²¹⁶

Did Representative Figueroa mean the things she said?²¹⁷ It makes no difference. She said these things. A public official made comments that could be categorized and

²¹² Interview with *La Voz Hispana de Connecticut*.

²¹³ It is hard to categorize this statement in light of the relationship of Jews and immigration. Is it an example of “Jewish citizens being more loyal to the “priorities of Jews worldwide” rather than the interests of others?

²¹⁴ “Stamford Democratic City Committee moves to expel Anabel Figueroa,” Brianna Gurciullo, *Stamford Advocate*, August 29, 2024.

²¹⁵ It is hard to categorize this statement in light of the relationship of Jews and immigration. Is it an example of “Jewish citizens being more loyal to the “priorities of Jews worldwide” rather than the interests of others?

²¹⁶ Handbook for the practical use of the IHRA Working Definition of Antisemitism,” International Holocaust Alliance, November 2020, p. 9. See also, “Report on Policies, Programs, and Actions Across the Globe to Combat Antisemitism,” Report of the Office of the Special Envoy to Monitor and Combat Antisemitism, of the Department of State, September 27, 2023.

²¹⁷ The following quote probably comes closer to what she was trying to convey: “I am deeply sorry to those in the Stamford and Jewish communities that I have offended...I have multiple Jewish people working on my campaign, and antisemitism has no place in Stamford – again, I apologize. My message is that we need leaders who represent our districts. There is almost no Latino representation in Hartford, and I am currently the only Latina State representative in Southern Connecticut. There is a strong Latino community in the 148th district, and I will ensure their voice is at the table and never leave it. This has nothing to do with religion, and as a bilingual speaker, I misspoke when describing my opponent’s

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were characterized, without question, as antisemitic. That is all that matters in rendering the determination that the statements were antisemitic.

Recommendation #1. While removal from office is permitted by the Charter, the Free Speech Clause of the First Amendment of the United States Constitution poses a legal challenge that restricts the Board of Representatives' ability to use that provision to effectively condemn the antisemitic statements. Section C1-90-1 of the Stamford Charter permits the removal of a member of the Board of Representatives based on charges for the following violations:

- Neglect or dereliction of official duty;
- Incompetency;
- Dishonesty;
- Incapacity to perform official duties; or,
- Some delinquency materially affecting that person's general character or fitness for office.

In order to remove an elected official, there must be: (1) charges leveled by affirmation of a majority of the Board of Representatives; (2) a hearing conducted by the Board; and (3) a removal vote by "a three-quarters (3/4) vote of the entire membership of the Board."

For the reasons stated, above, removing an elected official for "some delinquency materially affecting that person's general character or fitness for office" would be a very steep hill to climb when confronted with the relevant federal jurisprudence on the Free Speech Clause. Similarly, the "dishonesty" approach recommended by those concerned about the "First Amendment defense" does not appear to pass muster under the case law, particularly under the inconsistent application of local ethics laws and erratic decision-making of the Board of Ethics in the cases involving Representative Figueroa.

While some members of the Board of Representatives may want to reject our advice and proceed, we believe that the objective of fighting antisemitism would be frustrated in one of two ways. First, if the Board of Representatives failed to achieve a three-quarters vote, the objective of "beating back" and "overwhelming hateful and antisemitic speech" would be impeded. Members would have an opportunity to state their case to no avail.

Second, a veneer of frustration would dry and wither in the sun, if the three-quarters vote was achieved and a court restored Representative Figueroa to her position. The only winners would be a faction of the Board of Representatives who would use a

background. I am deeply and sincerely sorry." See, "Stamford Democrat Loses Primary Following Anti-Semitic Remarks," Jamil Ragland, *CT News Junkie*, August 14, 2024. Yet, as we have said it makes no difference to the decision to reprimand. Redemption comes after the dawn of the new day.

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vote against "removal" as a tool against fellow Representatives in the 2025 primaries. In our opinion, that cynical result would be a pernicious and cynical perversion of the fight against antisemitism.²¹⁸

Recommendation #2. Censure is the most effective tool available to the Board of Representatives both to expose and condemn the antisemitic comments in this case. During the McGarry censure, the following statement was made on the floor of the Board of Representatives:

- "When one of our fellow representatives deviates from (the 'responsibility' incumbent upon a local legislator)...by endorsing racially charged and bigoted sentiment towards Muslims and Hispanics²¹⁹ on social media, **it is our duty as elected officials to formally denounce such sentiment.**"
- "The way I propose that we do so is through censure. We are empowered to censure a member of our Board under Robert's Rules of Order²²⁰ and Stamford's Code of Ethics. **The motion to censure is a main motion expressing a strong opinion of disapproval that can be debated by the assembly and be adopted by a majority vote.**"
- ((The censure motion)...formally condemns actions by a member of our Board. **It is not a motion to remove from office, or to censor, as in to silence or suppress.**"
- **"We are all free to say what we feel, as is our right under the First Amendment."**
- "But when those statements contradict the values of our elective body the rest of us have the exact same First Amendment right to condemn those statements. In fact, I believe that we have the duty to do so..."
- "An elected member of the Stamford Board of Representatives who publicly endorses racist, xenophobic, and Islamophobic sentiment on social media

²¹⁸ While we counsel against this approach and believe that the objective of combatting antisemitism would be thwarted either by the failure to achieve the three-quarters vote or the rejection of such action by the courts, we would be obliged to prepare charges if so requested by a majority of the Board members. Of course, we would prefer they heed our warnings and concerns about the law as well as the issues we raised about politicization of this serious issue.

²¹⁹ As we noted earlier, Representative Figueroa challenged Representative Jacobson's inclusion of "Hispanics" in his resolution.

²²⁰ "Censure" is addressed in Chapter XX of Robert's Rules entitled "Disciplinary Proceedings." A motion of censure can be adopted "without formal disciplinary procedures." Robert's Rules says: "'In most societies it is understood that members are required to be of honorable character and reputation. An organization or assembly has the ultimate right to make and enforce its own rules and to require that its members refrain from conduct injurious to the organization or its purpose'".

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violates our values and undermines the public's trust and confidence in the municipal government of our City."²²¹

We agree with the conclusions of then-Representative Jonathan Jacobson. Whether he knew it or not, he conveyed the findings of the Supreme Court in *Houston Community College System v. Wilson*, supra, in plain and direct terms.

If the collective desire of the Board of Representatives is to condemn or speak out against antisemitic comments, censure is the path that will ensure the most formidable repudiation of those comments. *If you want to "reverse the normalization of antisemitism" you must "counter such behavior and discrimination, forcefully and clearly. Silence is not an option."*²²² *This would be equally true of racism, ethnicity discrimination, sexism, homophobia, Islamophobia, or any other form of discrimination.* As per the 2023 White House strategy to counter antisemitism:

- "Beat back and overwhelm hateful and antisemitic speech....especially when spread by public figures"
- "Antisemitism and all forms of hate and violence can have no safe harbor in America"
- "To roll back the normalization of antisemitism....there should be meaningful accountability for antisemitic conduct"²²³

The characterization of "censure" by the courts and the reason that it isn't viewed as a threat to the First Amendment is because the accusers and the accused are both exercising their First Amendment rights.²²⁴ While, with the exception of the Stamford experiences and the 2024 Bridgeport censure, there are relatively few instances of censure in Connecticut. On the other hand, throughout the nation this form of legislative reprimand has been "long exercised" as a means of disciplining members.²²⁵ This procedure allows for the members to set forth an argument for discipline while the accused can defend, apologize, critique, rationalize or express remorse or ignorance.

²²¹ Minutes of Special Meeting of Board of Representatives, March 12, 2019, p. 2-3 ("March 12th Special Meeting").

²²² "The U.S. National Strategy To Counter Antisemitism, May 2023), The White House, p. 35.

²²³ "The U.S. National Strategy To Counter Antisemitism, May 2023), The White House, p. 35.

²²⁴ *Houston Community College System v. Wilson*, supra, at 1260: "Yet we have before us no evidence suggesting prior generations thought an elected representative's speech might be "abridg[ed]" by that kind of countervailing speech from his colleagues. U. S. Const., Amdt. 1. Instead, when it comes to disagreements of this sort, history suggests a different understanding of the First Amendment—one permitting "[f]ree speech on both sides and for every faction on any side." *Thomas v. Collins*, 323 U.S. 516, 547, 65 S.Ct. 315, 89 L.Ed. 430 (1945) (Jackson, J., concurring)."

²²⁵ *Houston Community College System v. Wilson*, supra, at 1260: "As early as colonial times, the power of assemblies in this country to censure their members was "more or less assumed." M. Clarke, *Parliamentary Privilege in the American Colonies* 184 (1943). It seems, too, that assemblies often exercised the power to censure members for views they expressed and actions they took "both within and without the legislature." D. Bowman & J. Bowman, *Article I, Section 5: Congress' Power to Expel—An Exercise in Self-Restraint*, 29 *Syracuse L. Rev.* 1071, 1084-1085 (1978)."

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This can be accomplished within the constitutional order and, when the debate is over, you will have made a statement, and then may move on to the other business before the Board of Representatives.

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Conclusion.

As we were working toward the final edits of this Report and Opinion the conservative opinion writer David French wrote an interesting column. French explored the distinction between what he calls the “MAGA morality” as contrasted with a concept of “personal virtue” that he associates as the driving force of the founding fathers. In his view it reflects a difference between the bright line distinction of a political philosophy espoused in the early 1930s called “friend-enemy politics” and our revolutionary generation called the “pursuit of happiness²²⁶.”

The “friend-enemy” theory rests on the notion that “an enduring political community can exist only when it draws this distinction. It is *this contrast with outsiders* that creates the community” (emphasis added). In other words, enemies matter to be trampled on the path to power. French quotes a Wesleyan pastor Benjamin Cremer as follows: ““When you worship power, compassion and mercy will look like sins.” Those are words worth considering in our current circumstance.

French contrasts this notion of a hard dividing line between us with the notion of a pursuit of happiness that is “not...a pursuit of pleasure or wealth, but rather...(a)... ‘pursuit of virtue – as being good, rather than feeling good²²⁷.’” Neither French nor we believe that there won’t be adversaries or rivals in politics because that can never be the case in our winner take all system. Yet, the contrast of philosophies or political interests does not have to be a battle to the death, because “the pursuit of virtue” or “virtue ethics” as he calls it “imposes moral obligations on our treatment of our foes.” That is the “social compact of pluralism” where “no defeat is ultimate defeat and no victory is ultimate victory...fundamental human rights must be preserved.” We ask that you ponder that notion as you begin this debate.

During our current experience in Stamford one of us was gifted a beautiful book which asks a number of questions of the reader. “How do you want to be remembered?” “What courageous choices have you made in your life?” Is it possible to create a life of legacy?” “What is your purpose in the world?” The author asks of the reader to live each day to build a lasting legacy of virtue and civility and substance and compassion²²⁸. In the more contemporary words of the author now is the time for the “political leadership to engage in constructive conversations and collaborate on initiatives to strengthen Stamford’s unity. It is important for us to recognize that, while misunderstandings can occur, our focus should be on coming together and working toward a better future for Stamford²²⁹.”

At the risk of being presumptuous, as your counselors, we urge each of you in your role as members of a local legislative body to leave your political objectives at the door.

²²⁶ “How a German Thinker Explains MAGA Morality” David French, *New York Times*, January 26, 2025.

²²⁷ The internal quote is from a fine book by Jeffrey Rosen called “The Pursuit of Happiness.”

²²⁸ “What will they say about you when you are gone?” Rabbi Daniel Cohen (HCI 2016).

²²⁹ “After antisemitism incident, Stamford State Rep. Figueroa speaks out,” Maricarmen Cahahuaringa, *Connecticut Public Radio*, August 27, 2024.

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This is a serious issue that requires contemplation and a well thought out approach. Based upon our review of the law, we believe that censure is the best way to achieve the objective of "rolling back" the normalization of antisemitism, overwhelming the antisemitic speech by a public figure and, finally, closing off any safe harbor for those who would make such statements.

We also believe that it is the best path to start a healing process for all who have been part of this sad event in the history of Stamford politics.

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Proposed Resolution of Censure

WHEREAS, in the days leading up to her August 13, 2024 State Representative primary election contest with Representative Jonathan Jacobson, Representative Anabel Figueroa made certain antisemitic statements, to wit:

- “The Hispanic vote is going to determine on August 13th who will win to represent or who will continue to represent you. We cannot permit a person who is of Jewish origin, of Jewish origin, to represent our community. It’s Impossible.”
- “He [Jonathan Jacobson] is a man that comes from the Jewish community, a community that is obviously starting to gain a lot of power in Stamford and it starts with the Mayor.”

“I say this with respect. I think if this person were running to represent people from their community or if they were mixed, I think I would respect it. But in my community, we don’t have people like him, from his community.”

“We’re mixed, we have a large Hispanic population, but I also have a lot of African Americans in the community that are with me, because they know, who better to represent us than someone within the same minority? But a Jewish person? Never.”

- “Since the election, Figueroa has said it was also her message when she knocked on doors that: “We cannot allow a person from that community, from the Jewish community, to represent us. And I would tell them why: Because they don’t understand our language. They don’t understand our needs. They don’t understand what it is to arrive here as an immigrant”; and

WHEREAS, the making of such statements and the sentiments behind them are unacceptable coming from an elected public official in a community as diverse as Stamford, and

WHEREAS, the public outcry ensuing following the discovery of those statements and the subsequent statements and actions of Representative Figueroa have tended to delegitimize her continued service as a member of the Board of Representatives, and have undermined public confidence in the Board as a whole, which serves as the legislative body of the City of Stamford, and

WHEREAS, unacceptable antisemitic statements such as these must be condemned publicly in unambiguous terms in order to maintain faith in our government institutions and to promote civility in public discourse, and

WHEREAS, many members of the Board of Representatives believe that the statements constitute a sufficient basis for institution of removal proceedings under Section C1-90-1 of the Charter but recognize that there may be federal and state free speech protections which could be interposed as a defense to such an action,

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NOW, THEREFORE, the Board of Representatives does hereby formally censure Representative Anabel Figueroa for her antisemitic statements and encourages Representative Figueroa, the remaining members of the Board of Representatives, the Mayor, and the community at large to engage in conversations designed to heal the divisions created by those statements.

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