EXHIBIT F

FD-302 (Rev. 10-6-95)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/04/2002

GARY CLARK DOLAN,

Also present during the interview was Assistant United States Attorney (AUSA) Andrew Weissmann and Securities and Exchange Commission (SEC) attorney Kevin Loftus. After being advised of the identity of the interviewing agent and the nature of the interview, DOLAN provided the following information:

DOLAN received a B.A. from University of Michigan in 1976 and a J.D. from Wayne State University in 1980. In September 1980, DOLAN worked at Merrill Lynch (ML) as an attorney in their Corporate Law department for eight years. DOLAN then transferred to ML's Municipal Markets department and worked their for two to three years. Then, DOLAN transferred to ML's Emerging Markets department where he worked for approximately three years. From April 1999 to present, DOLAN has worked at ML's Investment Banking (IB) department.

DOLAN's responsibilities in the IB department include providing legal advice to ML's private equity placement group, structured leasing finance group, and IB department. Specifically, DOLAN drafted private placement agreements, drafted engagement letters, drafted deal documents, and attended equity committee (ECC) meetings for the Private Equity Placement group. DOLAN attended Structured Leasing Committee meetings as well as drafted deal documents for the Structured Leasing group. Among other things, he drafted engagement letters for the IB department.

The first time DOLAN ever performed any work related to Enron was in the summer of 1999. The Enron work related to ML's Private Equity Placement group and an investment vehicle called LJM2. ML was hired as an underwriter by LJM2 to help place the fund. Regarding LJM2, DOLAN reviewed the engagement letter, drafted deal documents related to the formation of a feeder fund for ML employees which enabled them to invest in LJM2, reviewed the

Investigation on 10/24/2002 at Washington, D.C.

File # 196C-HO-59147 Date dictated not dictated

by SA Omer J. Meisel/ojm

private placement memorandum (PPM), and attended the ECC review meeting related to LJM2.

DOLAN organized a conference call (sometime between the summer of 1999 and the spring of 2000) between Enron and potential ML employees who were eligible to invest in LJM2. DAVID SULLIVAN, a ML banker, helped DOLAN organize the conference call. The call lasted less than one hour but more than five minutes. ML possibly recorded the conference call for potential ML investors who could not attend the call. If a tape was made, it would have been kept for only one week. FASTOW and someone else who DOLAN does not recall spoke on behalf of LJM2. The purpose of the conference call was to make a presentation to the potential ML investors about LJM2. DOLAN does not recall if there were any conversations about the possible conflict of interest related to FASTOW being the General Partner of LJM2 and Enron's CFO.

KATHY ZRIKE, DON SCHNEIDER (head of Human Resources for ML Investment Banking), and a couple of senior business people at ML decided who at ML could invest in LJM2. DOLAN's role was to prepare and review drafts of documents and E-mails related to ML's solicitation/indication of interest for the LJM2 investment. After the LJM2 investment closed, DOLAN received update letters from LJM2's General Partner and DOLAN forwarded these letters to the ML investors in LJM2. DOLAN worked on LJM2 issues at ML until approximately August 2002. EILEEN PORTER subsequently took over these functions from DOLAN.

In November 2001, various ML investors in LJM2 expressed concerns they had about LJM2 to DOLAN. DOLAN contacted a female employee (does not remember her name) at LJM2 a couple of times and she told DOLAN that the ML LJM2 investors are more nervous than they should be. DOLAN does not remember if this conversation happened before or after Enron declared bankruptcy.

In November or December 2001, MICHAEL KOPPER held a conference call for the ML LJM2 investors. This conference call was initiated because ML's LJM2 investors were concerned about LJM2's future prospects based on the collapse of Enron. KOPPER described what investments were being held in the LJM2 portfolio. KOPPER discussed the valuations of the assets being maintained in LJM2 and there was discussion about the prospect of the banks accelerating LJM2's loan obligations.

Nigerian Barge:

DOLAN first became aware of the prospect of ML investing in an Enron project in Nigeria sometime before Christmas 1999 when he attended a conference call. This conference call was held in ZRIKE's office and JIM BROWN was also present during the conference call. DOLAN took notes during this meeting and still maintains a copy of the notes. BROWN described the Nigerian Barge transaction to the group. BROWN stated that Enron approached ML about purchasing an interest in the Nigerian Barges and described the project as a floating power source for Nigeria. BROWN stated that Enron initially planned to sell an interest in the Nigerian Barges to a company called Marubeni, but Marubeni was not ready to purchase it until early 2000. Enron wanted to sell an interest in the Nigerian Barges by year end 1999 so they could generate earnings for the fourth quarter of 1999. Enron proposed that ML purchase an interest in the Nigerian Barges and that ML would only have to hold it for a short period of time. BROWN stated that the purchase price for ML would be small and that ML would earn a fee from Enron for entering into the transaction.

BROWN stated that there was going to be a conversation between ML executives (DAN BAYLY and ZRIKE) and Enron executives whereby ML was going to seek assurances from a senior officer at Enron that if ML purchased an interest in the Nigerian Barges, Enron would help ML find a buyer for their interest if Marubeni did not purchase ML's interest. Enron had told ML that Marubeni was going to purchase ML's interest in the Nigerian Barges by February 2000.

DOLAN stated that Enron was merely providing a "moral undertaking" to find a buyer for ML's interest in the Nigerian Barges. DOLAN stated that the agreement could not be in writing and it was an oral agreement that had no formal legal significance. DOLAN understood that ML would hold their investment in the Nigerian Barges for up to six month. Dolan had a sense that Enron would not give ML any assurances in writing and ML would not ask Enron for such a request.

DOLAN had a subsequent conversation with BROWN in which BROWN conveyed that he was concerned with the commercial risk ML was taking on the Nigerian Barge transaction. BROWN was worried about the potential environmental risk associated with owning power plants and ML's liability issues. BROWN wanted to ensure that the deal documents addressed these environmental and liability risks.

BROWN complained about the Nigerian Barge transaction. BROWN stated that it was not his transaction and he was being stuck with handling it because the transaction fit into the type of work his group handled. The Nigerian Barge transaction was a deal which was initiated by ML's bankers in Texas. BROWN also complained because his group was not earning any fees for handling the transaction and that the deal was being consummated close to the end of the year.

DOLAN stated that ML was not in the business of purchasing power plant barges in Nigeria and that is why they originally decided to place the deal in ML's leasing unit. DOLAN was not involved in ML's approval process or what internal ML committee should review this transaction.

DOLAN does not remember when he learned that ML's Debt Markets Committee (DMCC) either reviewed or was going to review the Nigerian Barge transaction. DOLAN did not attend the DMCC meeting and he does not know why it was being reviewed by the DMCC. Typically, BROWN took transactions he worked on to the Lease Advisory Committee. However, the Nigerian Barge transaction was taken to the DMCC.

DOLAN was shown a copy of notes (bate stamped MD037405) which DOLAN acknowledged was his notes. DOLAN read his notes to the agents as follows:

"Enron owns Nigerian Barge Co. has oil barges they will build power plants on top and would sell power to Nigeria. Enron wants to sell equity in project to book accounting gain. ML Houston to put $7 million into. $40 million in fees last year and this. ML to buy stock in BargeCo for $7 million and if goes into service earns 22% return. Approved by executive committee. Dan BAYLY, Kevin Cox, Kathy Z, and EVP (executive vice president) who promises we will be taken out within 6 month. Did LLC to be owned MLMLM. $7 million to buy stock in. LLC will borrow $21 million from different Enron subsidiary. No recourse. We to buy $28 million in stock. Pref A, Pref B, common - we buy 20% of voting rights (2/10). We get next 3 years cash flow from Barge operation. Book $12 million gain at year on the stock. Nigerian Co. is in existence. DMCC @ 12:00 today 12/22. 10:30 am (ML suggestion). Dan BAYLY business group at Enron. Cookies for Santa. $250 advisory fee."

The name "Cox" in DOLAN's notes refers to a ML employee who was a senior person at ML who dealt with commitment issues. The name "Cox" references that either Cox was on the call or that Cox was supposed to be on the call with Enron. The reference "EVP" refers to Executive Vice President at Enron. The word "promises" refers to the assurances made by Enron regarding finding a buyer for ML's interest in the Nigerian Barges. DOLAN explained that "promise" could mean that the conversation where Enron made assurances to ML already happened; not that it was going to happen in the future. "40M in fees" is a reference to the fees earned by ML from Enron.

DOLAN has no reason to believe that "DMCC @ 12:00 today 12/22" on bates stamp page ML037406 is not accurate with respect to the date the DMCC meeting was held. DOLAN is not sure if "Book $12M @ year on the stock" refers to the amount Enron was able to book due to ML's investment in the Nigerian Barges.

Sometime close to the end of the fourth quarter 1999, DOLAN reviewed and made comments to a draft of the Nigerian Barge engagement letter between ML and Enron. The purpose of the engagement letter was to memorialize the agreement between ML and Enron so if there were any questions about the deal in the future, it would be in writing. The engagement letter also insured that ML would receive their fee for entering into the Nigerian Barge transaction.

DOLAN also had a conversation with JEFF WILSON about the engagement letter. DOLAN believes WILSON helped draft the engagement letter. DOLAN requested that WILSON delete some of the language in the engagement letter. Generally, ML engagement letters use general terms to describe a deal because the deal terms can subsequently change. The Nigerian Barge engagement letter was too specific and DOLAN wanted the letter to be more general.

Furthermore, DOLAN made changes to some of the terms related to the deal that were provided in the engagement letter because DOLAN did not believe that those were the actual terms. DOLAN stated that the original draft of the engagement letter obligated Enron to eventually take ML out of the Nigerian Barge transaction. This was contrary to DOLAN's understanding of the transaction and DOLAN believed that such an agreement would be improper because such a transaction could be viewed as a "parking" transaction.

DOLAN's understanding was that ML purchased an interest in the Nigerian Barges with the expectation that Enron would help ML find a buyer for ML's interest in the Nigerian Barges. DOLAN stated that there was no obligation or commitment that Enron would find a buyer or that Enron purchase ML's interest if a buyer could not be found. This was merely an oral understanding between ML and Enron that if Marubeni did not purchase ML's interest then Enron would help ML find another buyer.

DOLAN was shown a copy of an E-mail from WILSON to DOLAN dated 12/23/1999 (bate stamped ML034707). This E-mail contained a copy of the proposed changes to the engagement letter made by DOLAN. DOLAN acknowledged that the handwriting on the page is his. DOLAN does not remember talking to anyone at Enron about the changes he made to the engagement letter. However, DOLAN did receive handwritten comments from someone from Enron. Enron did not object to the language in the original draft of the engagement letter which stated that "Enron will buy or find affiliate to buy. . ." However, DOLAN did object to this language and made the necessary changes.

DOLAN acknowledged that he had seen the interoffice memorandum bate stamped MD037390 through MD037395 at the time the Nigerian Barge transaction was being consummated. DOLAN does not remember seeing the appropriation request bate stamped MD037396 until he prepared for his interview with the FBI.

DOLAN did not remember what ML's rate of return was for the Nigerian Barge transaction. ML was also paid a fee by Enron for entering into the transaction. DOLAN did not believe there was a cap on how much money ML could make on their investment in the Nigerian Barges.

Sometime in January or February 2000, DOLAN had a meeting with ALLAN HOFFMAN, an attorney not from ML, where they discussed the formation of a ML entity which would house the Nigerian Barges. ML formed a Cayman company for tax purposes. DOLAN was in charge of forming the Cayman company for ML.

In June 2000, DOLAN was contacted by JOE VALENTI, or someone who worked for VALENTI, who told DOLAN that ML was selling their interest in the Nigerian Barges. DOLAN was asked to review the documentation and draft the resolutions. DOLAN does not remember if he knew that the purchaser was LJM2.

EXHIBIT G

U.S. Department of Justice

Enron Task Force

Washington, D.C. 20530

September 17, 2003

Robert S. Morvillo, Esq.
Morvillo, Abramowitz, Grand, Iason & Silberberg
565 Fifth Avenue
New York, NY 10022

Charles Stillman, Esq.
Stillman & Friedman
425 Park Avenue
New York, NY 10022

Re: Merrill Lynch & Co., Inc.

Dear Messrs. Stillman and Morvillo:

This letter sets forth the agreement between the Department of Justice, by the Enron Task Force (the "Department") and Merrill Lynch & Co., Inc. ("Merrill Lynch").

Introduction

1. The Department is conducting a criminal investigation into matters relating to the collapse of the Enron Corp. ("Enron"). During the course of the investigation, the Department notified Merrill Lynch that, in the Department's view, Merrill Lynch personnel have violated federal criminal law. In particular, the Department notified Merrill Lynch that certain Merrill Lynch employees: a) violated federal criminal law in connection with certain transactions initiated at year-end 1999 (the "Year-End 1999 Transactions");[1] b) aided and abetted Enron's violation of federal criminal law in connection with the same transactions; and c) knowingly made, and caused others to make, false statements before various tribunals, including a federal grand jury, the United States Congress, the United States Securities and Exchange Commission ("SEC") and a court-appointed bankruptcy examiner.

[1] These transactions relate to: a) Merrill's temporary "purchase" from Enron of Nigerian power barges (Enron Nigeria Barge Ltd.) and subsequent sale of the barges; and b) offsetting energy trades involving back-to-back options (the Enron Power Marketing, Inc. energy transactions).

2. Merrill Lynch acknowledges that the Department has developed evidence during its investigation that one or more Merrill Lynch employees may have violated federal criminal law. Merrill Lynch accepts responsibility for the conduct of its employees giving rise to any violation in connection with the Year-End 1999 Transactions. Merrill Lynch does not endorse, ratify or condone criminal conduct and, as set forth below, has taken steps to prevent such conduct from occurring in the future.

Agreement

3. Based upon Merrill Lynch's acceptance of responsibility in the preceding paragraph, its adoption of the measures set forth herein, its commitment to implement and audit such measures and its willingness to continue to cooperate with the Department in its investigation of matters relating to Enron, the Department, on the understandings specified below, agrees that the Department will not prosecute Merrill Lynch for any crimes committed by its employees relating to the Year-End 1999 Transactions. Merrill Lynch understands and agrees that if it violates this Agreement, the Department can prosecute Merrill Lynch for any crimes committed by its employees relating to the Year-End 1999 Transactions. This Agreement does not provide any protection to any individual or any entity other than as set forth above.

The understandings on which this Agreement is premised are:

4. Merrill Lynch shall truthfully disclose all information with respect to the activities of Merrill Lynch, its officers and employees concerning all matters relating to the Year-End 1999 Transactions about which the Department shall inquire, and shall continue to fully cooperate with the Department. This obligation of truthful disclosure includes an obligation upon Merrill Lynch to provide to the Department, on request, any document, record or other tangible evidence relating to the Year-End 1999 Transactions about which the Department shall inquire of Merrill Lynch. This obligation of truthful disclosure includes an obligation to provide to the Department access to Merrill Lynch's facilities, documents and employees. This paragraph does not apply to any information provided to counsel after July 31, 2000 in connection with the provision of legal advice and the legal advice itself.

5. Upon request of the Department, with respect to any issue relevant to its investigation of Enron, Merrill Lynch shall designate knowledgeable employees, agents or attorneys to provide non-privileged information and/or materials on Merrill Lynch's behalf to the Department. It is further understood that Merrill Lynch must at all times give complete, truthful and accurate information.

6. With respect to any information, testimony, document, record or other tangible evidence relating to Enron provided to the Department or a grand jury, Merrill Lynch consents to any and all disclosures to Governmental entities of such materials as the Department, in

its sole discretion, deems appropriate. With respect to any such materials that constitute "matters occurring before the grand jury" within the meaning of Rule 6(e) of the Federal Rules of Criminal Procedure, Merrill Lynch further consents to a) any order sought by the Department permitting such disclosure and b) the Department's ex parte or in camera application for such orders. To the extent that the Department provides material pursuant to this paragraph to non-governmental parties, the Department will provide Merrill Lynch with 10 days advance notice, to the extent practicable, of what materials are to be provided and to whom.

7. Merrill Lynch further agrees that it will not, through its attorneys, board of directors, agents, officers or employees make any public statement, in litigation or otherwise, contradicting Merrill Lynch's acceptance of responsibility set forth above. Any such contradictory statement by Merrill Lynch, its attorneys, board of directors, agents, officers or employees shall constitute a breach of this Agreement, and Merrill Lynch thereafter would be subject to prosecution as set forth in paragraph 3 of this Agreement. Upon the Department's notifying Merrill Lynch of such a contradictory statement, Merrill Lynch may avoid a breach of this Agreement by publicly repudiating such statement within 48 hours after notification by the Department. This paragraph is not intended to apply to any statement made by any Merrill Lynch employee who has been charged with a crime.

8. Merrill Lynch agrees to adopt and implement by December 1, 2003, specific new policies and procedures relating to the integrity of client and counterparty financial statements and year-end transactions (the "Policies and Procedures"). The Policies and Procedures to which Merrill Lynch agrees are described in Exhibit A to this Agreement. Nothing in this Agreement precludes Merrill Lynch from amending or changing its Policies and Procedures in the future so long as said amendments or changes do not diminish the policies and procedures as set forth in Exhibit A. During the 18 month period set forth in paragraph 9 below, no amendments or changes will be made to the Policies and Procedures without the approval of the auditing firm and the individual attorney referred to in paragraph 9 below.

9. Merrill Lynch also agrees that for a period of 18 months, it will retain an independent auditing firm to undertake a special review of the Policies and Procedures set forth in Exhibit A. Merrill Lynch also will retain an individual attorney selected by the Department, who shall be acceptable to Merrill Lynch, to review the work of the auditing firm. The auditing firm and the attorney shall:

    a) ensure that the Policies and Procedures are appropriately designed to accomplish their goals;
    b) monitor Merrill Lynch's implementation of and compliance with the Policies and Procedures; and
    c) report on at least a semi-annual basis to the General Counsel of Merrill Lynch and the Head of Corporate Audit as to the effectiveness of the

Policies and Procedures. The General Counsel shall then present a summary of this report to the Audit Committee of the Board of Directors for its review. Copies of these reports shall be submitted to the Department during this 18 month period.

10. It is further understood that should the Department, in its sole discretion, determine that Merrill Lynch has given deliberately false, incomplete, or misleading information under this Agreement, or has committed any crimes, or that Merrill Lynch otherwise violated any provision of this Agreement, Merrill Lynch shall, in the Department's sole discretion, thereafter be subject to prosecution for any federal criminal violation of which the Department has knowledge. Any such prosecutions may be premised on information provided by Merrill Lynch. Moreover, Merrill Lynch agrees that any prosecutions relating to Enron that are not time-barred by the applicable statue of limitations on the date of this Agreement may be commenced against Merrill Lynch in accordance with this Agreement, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and June 30, 2005. By this Agreement Merrill Lynch expressly intends to and does waive any rights in this respect.

11. It is further agreed that in the event that the Department, in its sole discretion, determines that Merrill Lynch has violated any provision of this Agreement; a) all statements made by or on behalf of Merrill Lynch to the Department, or any testimony given by Merrill Lynch before a grand jury, the United States Congress, the SEC, or elsewhere, whether prior or subsequent to this Agreement, or any leads derived from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings brought by the Department against Merrill Lynch and b) Merrill Lynch shall not assert any claim under the United States Constitution, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by or on behalf of Merrill Lynch prior to or subsequent to this Agreement, or any leads therefrom, should be suppressed.

12. The decision whether conduct and/or statements of any individual will be imputed to Merrill Lynch for the purpose of determining whether Merrill Lynch has violated any provision of this Agreement shall be in the sole discretion of the Department.

13. This Agreement expires on June 30, 2005. It is further understood that this Agreement is binding only on the Department and Merrill Lynch.

14. This Agreement may not be modified except in writing signed by all the parties.

Very truly yours,

LESLIE R. CALDWELL
Director, Enron Task Force

Andrew Weissmann
Deputy Director

MERRILL, LYNCH & CO., INC.

_____

_____
Robert Morvillo, Esq.
Counsel to Merrill, Lynch & Co.

_____
Charles Stillman, Esq.
Counsel to Merrill, Lynch & Co.

14. This Agreement may not be modified except in writing signed by all the parties.

Very truly yours,

LESLIE R. CALDWELL
Director, Enron Task Force

Andrew Weissmann
Deputy Director

MERRILL, LYNCH & CO., INC.

by Barry J. Mandel
Barry J. Mandel
SVP and General Counsel, Global Litigation and Employment

Robert Morvillo, Esq.
Counsel to Merrill, Lynch & Co.

Charles Stillman, Esq.
Counsel to Merrill, Lynch & Co.

EXHIBIT A

MERRILL LYNCH POLICIES AND PROCEDURES ON THE INTEGRITY OF CLIENT AND COUNTER-PARTY FINANCIAL STATEMENTS AND YEAR-END TRANSACTIONS

The following sets forth Merrill Lynch & Co. Inc.'s plan for addressing the integrity of client and counterparty ("Third Party") transactions and year-end transactions. All employees must comply with the policies and procedures and violation of these policies and procedures may lead to disciplinary action, including termination.

General Prohibitions and Rules

Misleading Third Party Activities. Merrill Lynch may not engage in any transaction where Merrill Lynch knows or believes that an objective of the Third Party is to achieve a misleading earnings, revenue or balance sheet effect.

- Undocumented Agreements. Merrill Lynch will not engage in any transaction in which any term of the transaction related to risk transfer (whether or not legally enforceable) is not reflected in the written contractual documentation for the transaction.

- Transactions With Agreed-Upon Early Terminations. Merrill Lynch will not engage in any transaction in which there is an agreement between the parties (whether or not legally enforceable) to unwind such transaction prior to its stated maturity at an agreed-upon price unless Merrill Lynch accurately reflects the agreed-upon unwind on its books and records and provides a written summary of such transaction and unwind to the independent auditor of the Third Party.

- Offsetting Transactions. Merrill Lynch will not engage in any transaction having a substantially contemporaneous off-setting "leg" which offsets, in whole or substantially all of, the economics of the other leg of the transaction and is transacted with the same Third Party (or affiliate, related party or special purpose entity of the Third Party), unless such transaction is specifically approved by the Special Structured Products Committee ("SSPC").

Individual Accountability. Each employee responsible for proposing that Merrill Lynch enter into any transaction covered by these policies shall satisfy himself/herself that he/she is fully knowledgeable about all terms and agreements related to such transactions and that all applicable provisions of these policies and procedures and other Merrill Lynch policies and procedures have been fulfilled prior to execution.

Special Restrictions Applicable to Year-End Transactions

In light of the heightened danger of abuse in connection with "Year-End Transactions," the following policies and procedures apply specifically to such transactions:

- Transactions Motivated by Accounting and Balance Sheet Considerations. Merrill Lynch will not engage in any Year-End Transaction where Merrill Lynch knows or believes that the Third Party's primary motivation is to achieve accounting (including off-balance sheet treatment) objectives, unless such transaction is specifically approved by the SSPC.

New Committee and New Committee Approval Process

- Merrill Lynch will create a new committee and new approval process by creating the SSPC.

- The SSPC will review the Year-End Transactions and Offsetting Transactions referred to above.

- The SSPC also will review all complex structured finance transactions effected by a Third Party with Merrill Lynch. A "Complex Structured Finance Transaction" means any structured transaction where:

  (i) a known or believed material objective of such transaction is to achieve a particular accounting or tax treatment, including the objective of transferring assets off-balance sheet ;

  (ii) there is material uncertainty with regard to the legal or regulatory treatment of such transaction; or

  (iii) the transaction provides the Third Party with the economic equivalent of a financing which, if characterized as a financing, would require relevant commitment committee approval.

- The SSPC will also review all early unwinds of any Complex Structured Finance Transaction and any Year End Transaction and any termination of such transaction prior to its originally contemplated maturity.

- The SSPC also will review any transaction, which any member of the SSPC determines is appropriate for SSPC review.

- Merrill Lynch will not engage in any transaction within the purview of the SSPC without the transaction receiving the approval of the SSPC.

- The SSPC will be composed of senior representatives (Head of group or experienced designee) of the various disciplines of the firm including Market Risk, Law and Compliance, Accounting, Finance, Tax and Credit. No transaction will be

deemed approved by the SSPC without the approval of all of the Heads of group (or experienced designee). The Committee will record each decision made in connection with any transaction and keep a record of the participants in any such meetings.

- The SSPC will be responsible for the effective management of all risks associated with transactions within its purview. As a result, the committee will ensure that an assessment of legal and reputational risk is undertaken with respect to each transaction. In this regard, the committee will review a variety of factors, including, without limitation, an assessment of whether financial, accounting, rating agency disclosure or other issues associated with a transaction are likely to create legal or reputational risks.

- To the extent the SSPC determines that any legal or reputational concern is present, it will review the overall customer relationship with the Third Party and shall obtain as a condition precedent to further review and approval, complete and accurate information about the Third Party's proposed accounting treatment of the contemplated transaction and the effect of the transaction on the Third Party's financial disclosure. To the extent the information provided is insufficient or unsatisfactory, the transaction will not be approved by the SSPC or executed by Merrill Lynch. If the SSPC determines that the proposed transaction is suspicious, it will refer the matter to Merrill Lynch's Global Money Laundering Reporting Officer.

- For each transaction considered, the SSPC will require the transaction sponsor to represent that such person is providing complete and accurate information regarding the transaction and the Third Party's purpose(s) for such transaction.

- In addition, a full description of each transaction approved by the SSPC will be communicated in writing to the independent auditor of the applicable Third Party.

Referrals to the SSPC

Merrill Lynch shall communicate to its GMI employees the substance of the following:

To ensure that all transactions that require approval of the SSPC are referred to that committee, these policies and procedures call for a broad category of transactions to be referred to the SSPC so that the SSPC can make the determination whether the transactions need the committee's approval. Accordingly, Merrill Lynch employees shall refer to the SSPC all transactions that

- An employee knows or believes may be motivated in whole or in part by the Third Party's desire to achieve a misleading earnings, revenue or balance sheet effect. Such referrals may be made anonymously, using the Merrill Lynch hotline (discussed below), or by other means.

- An employee knows or believes involve a contemplated agreement or understanding between the parties (whether or not legally enforceable) to unwind such transactions prior to its stated maturity at an agreed-upon price.

- Are Year-End Transactions as to which an employee knows or believes that the Third Party's primary motivation is to achieve accounting (including off-balance sheet treatment) objectives.

- Are transactions having a substantially contemporaneous off-setting "leg" which offsets, in whole or substantial aspects of, the economics of the other leg of the transaction and is transacted with the same Third Party (or affiliate, related party or special purpose entity of the Third Party).

Employees shall err on the side of referral to the SSPC if they have any question as to whether a transaction falls within the SSPC purview. Failure to refer transactions to the SSPC will be grounds for discipline, including dismissal.

- The formation and mandate of the SSPC, as well as the policies and procedures set forth herein, shall be communicated to all GMI employees and the various Product and Regional Chief Operating Officers shall be responsible for ensuring all applicable transactions are referred to the Committee for review. In this connection, Corporate Audit shall periodically monitor the referral process to ensure that it meets the objectives of the SSPC.

New Training Program

- Merrill Lynch will develop a comprehensive training program (to include computer training and formal training sessions) for all GMI personnel and all personnel supporting GMI (including all applicable Finance, Credit, Market Risk, Tax, Law and Compliance and Operations personnel) that will highlight issues/factors which, if present in a transaction, would warrant additional scrutiny. Among the specific issues to be addressed in the training are the new policies set forth above. Other issues/factors which may warrant additional scrutiny of the transaction and which will be included in the training program include but are not limited to the following;

    - Transactions where there is significant uncertainty with regard to the legal or regulatory treatment of the proposed transaction
    - Transactions with pre-agreed profit/loss sharing or return on equity/return on investment arrangements with the counter-party
    - Transactions known to be effected as a result of or in connection with changes to accounting principles or standards
    - Transactions with back-to-back (circular) cash flows between ML and the Third Party or its special purpose entity

Development of a Website

- Merrill Lynch will develop a GMI Policy and Approval Process Website that will articulate Merrill Lynch's applicable policies and the required approval process for the types of transactions described herein. This website will be available to all employees.

Employee Concerns, Ethics Hotline, Confidential Reporting

- The interactive website referenced above will provide opportunities for employees to communicate with the members of the SSPC concerning any reservations any such employee may have with any GMI transaction or the approval process related thereto.

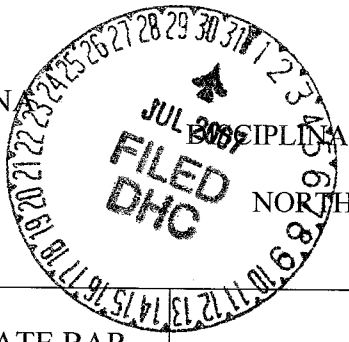
- Additionally, employees will be encouraged to utilize the firm's Ethics Hotline as a mechanism to report inappropriate behavior and/or any failure to properly abide by these policies. Such reports may be made on a confidential and anonymous basis, and Merrill Lynch will not tolerate retaliation against those reporting any suspected violation in good faith. Those found to have retaliated will be subject to immediate dismissal.

Definitions

- "Year-End Transaction" shall mean any transaction effected within twenty-one (21) days of a Third Party's fiscal year-end period where there are continuing obligations between the parties subsequent to the year end period.

- "Third Party", "client" or "counterparty" shall mean any U.S. corporation that is registered under the Securities Exchange Act of 1934, any domestic or foreign affiliate of such corporation, any entity directly or indirectly controlled by such corporation, and any special purpose entity set up by such corporation.

EXHIBIT H



STATE OF NORTH CAROLINA WAKE COUNTY	BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 06 DHC 35
THE NORTH CAROLINA STATE BAR, Plaintiff, v. MICHAEL B. NIFONG, Attorney, Defendant.	AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF DISCIPLINE

The Hearing Committee on its own motion pursuant to Rule of Civil Procedure 60(a) enters the following Amended Findings of Fact, Conclusions of Law and Order of Discipline in order to correct a factual mistake in Findings of Fact Paragraph 43 of its original Order in this cause, and to add an additional Conclusion of Law (b):

A hearing in this matter was conducted on June 12 through June 16, 2007, before a Hearing Committee composed of F. Lane Williamson, Chair, and members Sharon B. Alexander and R. Mitchel Tyler. Plaintiff, the North Carolina State Bar, was represented by Katherine E. Jean, Douglas J. Brocker, and Carmen K. Hoyme. Defendant, Michael B. Nifong, was represented by attorneys David B. Freedman and Dudley A. Witt. Based upon the admissions contained in the pleadings and upon the evidence presented at the hearing, this Hearing Committee makes, by clear, cogent and convincing evidence, the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Michael B. Nifong, (hereinafter "Nifong"), was admitted to the North Carolina State Bar on August 19, 1978, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Revised Rules of Professional Conduct.

3. During all times relevant to this complaint, Nifong actively engaged in the practice of law in the State of North Carolina as District Attorney for the Fourteenth Prosecutorial District in Durham County, North Carolina.

4. Nifong was appointed District Attorney in 2005. In late March 2006, Nifong was engaged in a highly-contested political campaign to retain his office.

5. In the early morning hours of March 14, 2006, an exotic dancer named Crystal Mangum reported that she had been raped by three men during a party at 610 North Buchanan Boulevard in Durham. Ms. Mangum asserted that she had been vaginally, rectally, and orally penetrated with no condom used during the assault and with at least some of the alleged perpetrators ejaculating.

6. Various pieces of evidence were collected for later DNA testing, including evidence commonly referred to as a "rape kit," which contained cheek scrapings, oral, vaginal, and rectal swabs, a pubic hair combing, and a pair of Ms. Mangum's underwear.

7. The Durham Police Department (DPD) initiated an investigation in what would come to be known as "the Duke Lacrosse case" and executed a search warrant on the house at 610 North Buchanan Boulevard on March 16, 2006. The investigation revealed that the residents of 610 North Buchanan were captains of the Duke University lacrosse team, and that a majority of the other attendees at the March 13, 2006, party were members of the team.

8. On March 16, 2006, the three residents of 610 North Buchanan voluntarily assisted DPD in executing a search warrant at their residence. During the search, numerous pieces of evidence were seized for later testing. The three residents also provided voluntary statements and voluntarily submitted DNA samples for comparison testing purposes. One of the three residents was David Evans, who was later indicted for the alleged attack on Ms. Mangum.

9. On March 22, 2006, Nifong's office assisted a DPD investigator in obtaining a Nontestimonial Identification Order (NTO) to compel the suspects in the case to be photographed and to provide DNA samples.

10. On March 23, 2006, DNA samples from all 46 Caucasian members of the Duke University 2006 Men's Lacrosse Team were obtained pursuant to the NTO.

11. When Nifong learned of the case on March 24, 2006, he immediately recognized that the case would garner significant media attention and decided to handle the case himself, rather than having it handled by the assistant district attorney in his office who would ordinarily handle such cases.

12. On March 24, 2006, Nifong informed DPD that he was assuming primary responsibility for prosecuting any criminal charges resulting from the investigation and directed the DPD to go through him for direction as to the conduct of the factual investigation of those matters.

13. On March 27, 2006, the rape kit items and DNA samples from the lacrosse players were delivered to the State Bureau of Investigation (SBI) lab for testing and examination, including DNA testing.

14. On March 27, 2006, Nifong was briefed by Sergeant Gottlieb and Investigator Himan of the DPD about the status of the investigation to date. Gottlieb and Himan discussed with Nifong a number of weaknesses in the case, including that Ms. Mangum had made inconsistent statements to the police and had changed her story several times, that the other dancer who was present at the party during the alleged attack disputed Ms. Mangum's story of an alleged assault, that Ms. Mangum had already viewed two photo arrays and had not identified any alleged attackers, and that the three team captains had voluntarily cooperated with police and had denied that the alleged attack occurred.

15. During or within a few days of the initial briefing by Gottlieb and Himan, Nifong acknowledged to Gottlieb and Himan that the Duke Lacrosse case would be a very hard case to win in court and said "you know, we're fucked."

16. Beginning on March 27, within hours after he received the initial briefing from Gottlieb and Himan, Nifong made public comments and statements to representatives of the news media about the Duke Lacrosse case and participated in

interviews with various newspapers and television stations and other representatives of news media.

17. Between March 27 and March 31, Nifong stated to a reporter for WRAL TV news that lacrosse team members denied the rape accusations, that team members admitted that there was underage drinking at the party, and that otherwise team members were not cooperating with authorities.

18. Between March 27 and March 31, 2006, Nifong stated to a reporter for ABC 11 TV News that he might also consider charging other players for not coming forward with information, stating "[m]y guess is that some of this stonewall of silence that we have seen may tend to crumble once charges start to come out."

19. Between March 27 and March 31, 2006, Nifong stated to a reporter for the New York Times, "There are three people who went into the bathroom with the young lady, and whether the other people there knew what was going on at the time, they do now and have not come forward. I'm disappointed that no one has been enough of a man to come forward. And if they would have spoken up at the time, this may never have happened."

20. Between March 27 and March 31, 2006, Nifong stated to a reporter for NBC 17 News that the lacrosse team members were standing together and refusing to talk with investigators and that he might bring aiding-and-abetting charges against some of the players who were not cooperating with the investigation.

21. Between March 27 and March 31, 2006, Nifong stated to a reporter for the Durham Herald Sun newspaper that lacrosse players still refused to speak with investigators.

22. Between March 27 and March 31, 2006, Nifong made the following statements to Rene Syler of CBS News: "The lacrosse team, clearly, has not been fully cooperative" in the investigation; "The university, I believe, has done pretty much everything that they can under the circumstances. They, obviously, don't have a lot of control over whether or not the lacrosse team members actually speak to the police. I think that their silence is as a result of advice with counsel"; "If it's not the way it's been reported, then why are they so unwilling to tell us what, in their words, did take place that

night?"; that he believed a crime occurred; that "the guilty will stand trial"; and "There's no doubt a sexual assault took place."

23. Between March 27 and March 31, 2006, Nifong made the following statements to a reporter for NBC 17 TV News: "The information that I have does lead me to conclude that a rape did occur"; "I'm making a statement to the Durham community and, as a citizen of Durham, I am making a statement for the Durham community. This is not the kind of activity we condone, and it must be dealt with quickly and harshly"; "The circumstances of the rape indicated a deep racial motivation for some of the things that were done. It makes a crime that is by its nature one of the most offensive and invasive even more so"; and "This is not a case of people drinking and it getting out of hand from that. This is something much, much beyond that."

24. Between March 27 and March 31, 2006, Nifong stated to a reporter for ESPN, "And one would wonder why one needs an attorney if one was not charged and had not done anything wrong."

25. Between March 27 and March 31, 2006, Nifong stated to reporter for CBS News that "the investigation at that time was certainly consistent with a sexual assault having taken place, as was the victim's demeanor at the time of the examination."

26. Between March 27 and March 31, 2006, Nifong made the following statements to a reporter for MSNBC: "There is evidence of trauma in the victim's vaginal area that was noted when she was examined by a nurse at the hospital"; "her general demeanor was suggested-suggestive of the fact that she had been through a traumatic situation"; "I am convinced there was a rape, yes, sir"; and "The circumstances of the case are not suggestive of the alternate explanation that has been suggested by some of the members of the situation."

27. Between March 27 and March 31, 2006, Nifong stated to a reporter for the Raleigh News and Observer newspaper, "I am satisfied that she was sexually assaulted at this residence."

28. Between March 27 and March 31, 2006, Nifong stated to a reporter for the USA Today newspaper, "Somebody's wrong about that sexual assault. Either I'm wrong, or they're not telling the truth about it."

29. Between March 27 and March 31, 2006, Nifong made the following statements to a reporter for ABC 11 TV News: "I don't think you can classify anything about what went on as a prank that got out of hand or drinking that took place by people who are underage"; "In this case, where you have the act of rape – essentially a gang rape – is bad enough in and of itself, but when it's made with racial epithets against the victim, I mean, it's just absolutely unconscionable"; and "The contempt that was shown for the victim, based on her race was totally abhorrent. It adds another layer of reprehensibleness, to a crime that is already reprehensible."

30. Between March 27 and March 31, 2006, Nifong stated to a reporter for ABC News, "It is a case that talks about what this community stands for."

31. Between March 27 and March 31, 2006, Nifong stated to a reporter for the New York Times, "The thing that most of us found so abhorrent, and the reason I decided to take it over myself, was the combination gang-like rape activity accompanied by the racial slurs and general racial hostility."

32. Between March 27 and March 31, 2006, Nifong stated to a reporter for CBS News, "The racial slurs involved are relevant to show the mindset . . . involved in this particular attack" and "obviously, it made what is already an extremely reprehensible act even more reprehensible."

33. Between March 27 and March 31, 2006, Nifong stated to a reporter for WRAL TV News, "What happened here was one of the worst things that's happened since I have become district attorney" and "[w]hen I look at what happened, I was appalled. I think that most people in this community are appalled."

34. On or after March 27, 2006, Nifong stated to a reporter for the Charlotte Observer newspaper, "I would not be surprised if condoms were used. Probably an exotic dancer would not be your first choice for unprotected sex."

35. On or about March 29, 2006, Nifong stated during an interview with a reporter for CNN that "[i]t just seems like a shame that they are not willing to violate this seeming sacred sense of loyalty to team for loyalty to community."

36. On March 30, 2006, the SBI notified Nifong that the SBI had examined the items from the rape kit and was unable to find any semen, blood, or saliva on any of those items.

37. On March 31, 2006, Nifong stated to a reporter for MSNBC, "Somebody had an arm around her like this, which she then had to struggle with in order to be able to breathe . . . She was struggling just to be able to breathe" and "[i]f a condom were used, then we might expect that there would not be any DNA evidence recovered from say a vaginal swab."

38. In March or April, 2006, Nifong stated to a representative of the news media that a rape examination of Ms. Mangum done at Duke Medical Center the morning of the alleged attack revealed evidence of bruising consistent with a brutal sexual assault, "with the most likely place it happened at the lacrosse team party."

39. In April 2006, Nifong stated to a reporter for Newsweek Magazine that the police took Ms. Mangum to a hospital where a nurse concluded that she had suffered injuries consistent with a sexual assault.

40. In April 2006, Nifong stated to a reporter for the Raleigh News and Observer newspaper, "I would like to think that somebody [not involved in the attack] has the human decency to call up and say, 'What am I doing covering up for a bunch of hooligans?'"

41. In April 2006, Nifong stated to a reporter, "They don't want to admit to the enormity of what they have done."

42. In an April 2006 conversation with a representative of the Raleigh News and Observer newspaper, Nifong compared the alleged rape to the quadruple homicide at Alpine Road Townhouse and multiple cross burnings that outraged the city of Durham in 2005 and stated "I'm not going to let Durham's view in the minds of the world to be a bunch of lacrosse players from Duke raping a black girl in Durham."

43. On April 4, 2006, DPD conducted a photographic identification procedure in which photographs of 46 members of the Duke Lacrosse team were shown to Ms. Mangum. Ms. Mangum was told at the beginning of the procedure that DPD had reason to believe all 46 of the men depicted in the photographs she would view were present at the party at which she contended the attack had occurred. The procedure followed in this photographic identification procedure was conceived and/or approved by Nifong. During the photographic identification procedure, Ms. Mangum identified Collin Finnerty and Reade Seligman as her attackers with "100% certainty" and identified David Evans as

one of her attackers with "90% certainty." Ms. Mangum had previously viewed photographic identification procedures which included photographs of Reade Seligman and David Evans and not identified either of them in the prior procedures.

44. On April 5, 2006, Nifong's office sought and obtained an Order permitting transfer of the rape kit items from the SBI to a private company called DNA Security, Inc. ("DSI") for more sensitive DNA testing than the SBI could perform. The reference DNA specimens obtained from the lacrosse players pursuant to the NTO were also transferred to DSI for testing, as were reference specimens from several other individuals with whom Ms. Mangum acknowledged having consensual sexual relations, including her boyfriend.

45. As justification for its Order permitting transfer of the evidence to DSI, the Court noted that the additional testing Nifong's office sought in its petition was "believed to be material and relevant to this investigation, and that any male cells found among the victim's swabs from the rape kit can be evidence of an assault and may lead to the identification of the perpetrator."

46. Between April 7 and April 10, 2006, DSI performed testing and analysis of DNA found on the rape kit items. Between April 7 and April 10, DSI found DNA from up to four different males on several items of evidence from the rape kit and found that the male DNA on the rape kit items was inconsistent with the profiles of the lacrosse team members.

47. During a meeting on April 10, 2006 among Nifong, two DPD officers and Dr. Brian Meehan, lab director for DSI, Dr. Meehan discussed with Nifong the results of the analyses performed by DSI to that point and explained that DSI had found DNA from up to four different males on several items of evidence from the rape kit and that the DNA on the rape kit items was inconsistent with the profiles of all lacrosse team members.

48. The evidence and information referred to above in paragraphs 46 and 47 was evidence or information which tended to negate the guilt of the lacrosse team members identified as suspects in the NTO.

49. After the April 10, 2006 meeting with Dr. Meehan, Nifong stated to a reporter for ABC 11 TV News that DNA testing other than that performed by the SBI had

not yet come back and that there was other evidence, including the accuser being able to identify at least one of the alleged attackers.

50. While discussing DNA testing at a public forum at North Carolina Central University on April 11, 2006, in the presence of representatives of the news media, Nifong stated that if there was no DNA found "[i]t doesn't mean nothing happened. It just means nothing was left behind."

51. On April 17, 2006, Nifong sought and obtained indictments against Collin Finnerty and Reade Seligman for first-degree rape, first-degree sex offense, and kidnapping. (The indicted members of the Duke lacrosse team are referred to collectively herein as "the Duke Defendants").

52. Before April 17, 2006, Nifong refused offers from counsel for David Evans, who was eventually indicted, to consider evidence and information that they contended either provided an alibi or otherwise demonstrated that their client did not commit any crime.

53. On April 19, 2006, two days after being indicted, Duke Defendant Reade Seligman through counsel served Nifong with a request or motion for discovery material, including, *inter alia*, witness statements, the results of any tests, all DNA analysis, and any exculpatory information.

54. By April 20, 2006, DSI had performed additional DNA testing and analysis and found DNA from multiple males on at least one additional piece of evidence from the rape kit.

55. By April 20, 2006, from its testing and analysis, DSI had determined that all the lacrosse players, including the two who had already been indicted, were scientifically excluded as possible contributors of the DNA from multiple males found on several evidence items from the rape kit.

56. On April 21, 2006, Nifong again met with Dr. Meehan and the two DPD officers to discuss all of the results of the DNA testing and analyses performed by DSI to date. During this meeting, Dr. Meehan told Nifong that: (a) DNA from multiple males had been found on several items from the rape kit, and (b) all of the lacrosse players, including the two players against whom Nifong had already sought and obtained indictments, were excluded as possible contributors of this DNA because none of their

DNA profiles matched or were consistent with any of the DNA found on the rape kit items.

57. The evidence and information referred to above in paragraphs 54 through 56 was evidence or information which tended to negate the guilt of the Duke Defendants.

58. At the April 21 meeting, Dr. Meehan told Nifong that DSI's testing had revealed DNA on two fingernail specimens that were incomplete but were consistent with the DNA profiles of two un-indicted lacrosse players, including DNA on a fingernail found in David Evans' garbage can which incomplete but which was consistent with David Evans' DNA profile, and DNA from the vaginal swab that was consistent with the DNA profile of Ms. Mangum's boyfriend.

59. During the April 21, 2006 meeting, Nifong notified Dr. Meehan that he would require a written report to be produced concerning DSI's testing that reflected the matches found between DNA on evidence items and known reference specimens. Nifong told Dr. Meehan he would let Dr. Meehan know when he needed the report.

60. Sometime between April 21 and May 12, Nifong notified Dr. Meehan that he would need for him to prepare the written report for an upcoming court proceeding. As requested by Nifong, Dr. Meehan prepared a report that reflected the matches found by DSI between DNA found on evidence items and known reference specimens. This written report did not reflect that DSI had found DNA on rape kit items from multiple males who had not provided reference specimens for comparison ("multiple unidentified males") and did not reflect that all 46 members of the lacrosse team had been scientifically excluded as possible contributors of the male DNA on the rape kit items.

61. In May, 2006, Nifong made the following statements to a reporter for WRAL TV News: "My guess is that there are many questions that many people are asking that they would not be asking if they saw the results"; "They're not things that the defense releases unless they unquestionably support their positions"; and "So, the fact that they're making statements about what the reports are saying, and not actually showing the reports, should in and of itself raise some red flags."

62. On or before April 18, 2006, Nifong stated to a reporter for Newsweek Magazine that the victim's "impaired state was not necessarily voluntary . . . [I]f I had a witness who saw her right before this and she was not intoxicated, and then I had a

witness who said that she was given a drink at the party and after taking a few sips of that drink acted in a particular way, that could be evidence of something other than intoxication, or at least other than voluntary intoxication?"

63. On May 12, 2006, Nifong again met with Dr. Meehan and two DPD officers and discussed the results of DSI's testing to date. During that meeting, consistent with Nifong's prior request, Dr. Meehan provided Nifong a 10-page written report which set forth the results of DNA tests on only the three evidence specimens that contained DNA consistent with DNA profiles from several known reference specimens. The three items in DSI's written report concerned DNA profiles on two fingernail specimens that were incomplete but were consistent with the DNA profiles of two unindicted lacrosse players, including DNA on a fingernail found in David Evans' garbage can which was incomplete but was consistent with David Evans' DNA profile, and DNA from the vaginal swab that was consistent with the DNA profile of Ms. Mangum's boyfriend. DSI's written report did not disclose the existence of any of the multiple unidentified male DNA found on the rape kit items, although it did list the evidence items on which the unidentified DNA had been discovered.

64. Nifong personally received DSI's written report from Dr. Meehan on May 12, 2006, and later that day provided it to counsel for the two Duke Defendants who had been indicted and for David Evans, among others.

65. When he received DSI's written report and provided it to counsel for the Duke Defendants, Nifong was fully aware of the test results that were omitted from the written report, including the test results revealing the existence of DNA from multiple unidentified males on rape kit items.

66. Three days later, on May 15, 2006, Nifong sought and obtained an indictment against David Evans for first-degree rape, first-degree sex offense, and kidnapping.

67. On May 17, Duke Defendant Collin Finnerty served discovery requests on Nifong, which specifically asked that any expert witness "prepare, and furnish to the defendant, a report of the results of *any* (not only the ones about which the expert expects to testify) examinations or tests conducted by the expert."

68. On May 18, 2006, Nifong provided various discovery materials to all three Duke Defendants, including another copy of DSI's written report, in connection with a hearing in the case on that same day. The discovery materials Nifong provided on May 18 did not include any underlying data or information concerning DSI's testing and analysis. The materials Nifong provided also did not include any documentation or information indicating the presence of DNA from multiple unidentified males on the rape kit items. Nifong also did not provide in the discovery materials any written or recorded memorialization of the substance of Dr. Meehan's oral statements made during his meetings with Nifong in April and May 2006 concerning the results of all DSI's tests and examinations, including the existence of DNA from multiple unidentified males on the rape kit items ("memorializations of Dr. Meehan's oral statements").

69. DSI's tests and examinations revealing the existence of DNA from multiple unidentified males on rape kit items and Dr. Meehan's oral statements regarding the existence of that DNA were evidence that tended to negate the guilt of the accused; Collin Finnerty, Reade Seligman and David Evans.

70. Accompanying the discovery materials, Nifong served and filed with the Court written responses to the Duke Defendants' discovery requests. In these responses, Nifong stated: "The State is not aware of any additional material or information which may be exculpatory in nature with respect to the Defendant." In his written discovery responses, Nifong also identified Dr. Meehan and R.W. Scales, another person at DSI, as expert witnesses reasonably expected to testify at the trial of the underlying criminal cases pursuant to N.C. Gen. Stat. § 15A-903(a)(2). Nifong also gave notice in the written discovery responses of the State's intent to introduce scientific data accompanied by expert testimony. Nifong represented in the written discovery responses that all of the reports of those experts had been provided to the Duke Defendants.

71. At the time he made these representations to the Court and to the Duke Defendants in his written discovery responses, Nifong was aware of the existence of DNA from multiple unidentified males on the rape kits items, was aware that DSI's written report did not reveal the existence of this evidence, and was aware that he had not provided the Duke Defendants with memorializations of Dr. Meehan's oral statements regarding the existence of this evidence.

72. The representations contained in Nifong's May 18 written discovery responses were intentional misrepresentations and intentional false statements of material fact to opposing counsel and to the Court.

73. At the May 18, 2006 hearing, the Honorable Ronald Stephens, Superior Court Judge presiding, asked Nifong if he had provided the Duke Defendants all discovery materials.

74. In response to Judge Stephens' inquiry, Nifong stated: "I've turned over everything I have."

75. Nifong's response to Judge Stephens' question was a misrepresentation and a false statement of material fact.

76. On June 19, 2006, Nifong issued a press release to representatives of the news media stating, "None of the 'facts' I know at this time, indeed, none of the evidence I have seen from any source, has changed the opinion that I expressed initially."

77. On June 19, 2006, counsel for the Duke Defendants requested various materials from Nifong, including a report or written statement of the meeting between Nifong and Dr. Meehan to discuss the DNA test results. This request was addressed at a hearing before Judge Stephens on June 22, 2006.

78. In response to the Duke Defendants' June 19 discovery request and in response to Judge Stephens' direct inquiry, Nifong stated in open court that, other than what was contained in DSI's written report, all of his communications with Dr. Meehan were privileged "work product." Nifong represented to Judge Stephens, "That's pretty much correct, your Honor. We received the reports, which [defense counsel] has received, and we talked about how we would likely use that, and that's what we did."

79. At the time Nifong made these representations to Judge Stephens on June 22, Nifong knew that he had discussed with Dr. Meehan on three occasions the existence of DNA from multiple unidentified males on the rape kits items, which evidence was not disclosed in DSI's written report, and knew that Dr. Meehan's statements to him revealing the existence of DNA from multiple unidentified males on the rape kits items were not privileged work product.

80. Nifong's representations to Judge Stephens at the June 22 hearing were intentional misrepresentations and intentional false statements of material fact to the Court and to opposing counsel.

81. During the June 22 hearing, Judge Stephens entered an Order directing Nifong to provide Collin Finnerty and later all the Duke Defendants with, among other things, "results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant" and statements of any witnesses taken during the investigation, with oral statements to be reduced to written or recorded form.

82. Nifong did not provide the Duke Defendants with "results of tests and examinations, or any other matter or evidence obtained during the investigation of the offenses alleged to have been committed by the defendant" and did not provide the Duke Defendants with statements of any witnesses taken during the investigation, with oral statements reduced to written or recorded form.

83. Nifong did not comply with Judge Stephens' June 22 Order.

84. On August 31, 2006, the Duke Defendants collectively filed a Joint Omnibus Motion to Compel Discovery seeking, among other things, the complete file and all underlying data regarding DSI's work and the substance of any discoverable comments made by Dr. Meehan during his meetings with Nifong and two DPD officers on April 10, April 21, and May 12, 2006. The Joint Omnibus Motion was addressed by the Honorable Osmond W. Smith III, Superior Court Judge presiding, at a hearing on September 22, 2006.

85. At the September 22 hearing, counsel for the Duke Defendants specifically stated in open court that the Duke Defendants were seeking the results of any tests finding any additional DNA on Ms. Mangum even if it did not match any of the Duke Defendants or other individuals for whom the State had provided reference DNA specimens for comparison.

86. In response to a direct question from Judge Smith, Nifong represented that DSI's written report encompassed all tests performed by DSI and everything discussed at his meetings with Dr. Meehan in April and May 2006. The following exchange occurred

immediately thereafter on the Duke Defendants' request for memorializations of Dr. Meehan's oral statements:

> Judge Smith: "So you represent there are no other statements from Dr. Meehan?"
>
> Mr. Nifong: "No other statements. No other statements made to me."

87. At the time Nifong made these representations to Judge Smith, he was aware that Dr. Meehan had told him in their meetings about the existence of DNA from multiple unidentified males on the rape kit items, was aware that he had not provided the Duke Defendants with a written or recorded memorialization of Dr. Meehan's statements and was aware that the existence of that DNA was not revealed in DSI's written report.

88. Nifong's statements and responses to Judge Smith at the September 22 hearing were intentional misrepresentations and intentional false statements of material fact to the Court and to opposing counsel.

89. On September 22, Judge Smith ordered Nifong to provide the Duke Defendants the complete files and underlying data from both the SBI and DSI by October 20, 2006.

90. On October 19, 2006 counsel for David Evans faxed to Nifong a proposed order reflecting Judge Smith's September 22 ruling. The proposed order stated, in paragraph 4, "Regarding the defendants' request for a report of statements made by Dr. Brian Meehan of DNA Security, Inc., during two separate meetings among Dr. Meehan, District Attorney Mike Nifong, Sgt. Mark Gottlieb, and Inv. Benjamin Himan in April 2006 . . . Mr. Nifong represented that those meetings involved the State's request for YSTR testing, Dr. Meehan's report of the results of those tests, and a discussion of how the State intended to use those results in the course of the trial of these matters. Mr. Nifong indicated that he did not discuss the facts of the case with Dr. Meehan and that Dr. Meehan said nothing during those meetings beyond what was encompassed in the final report of DNA Security, dated May 12, 2006. The Court accepted Mr. Nifong's representation about those meetings and held that there were no additional discoverable statements by Dr. Meehan for the State to produce."

91. On October 24, 2006, Nifong responded by letter to defense counsel's October 19, 2006 letter and proposed order. In his response, Nifong identified two

changes he believed were appropriate to two portions of the proposed order, made no mention of any changes he believed were appropriate to paragraph 4, and said "the proposed order seems satisfactory" and "it seems to reflect with acceptable accuracy the rulings of Judge Smith on September 22."

92. On October 27, 2006, Nifong provided 1,844 pages of underlying documents and materials from DSI to the Duke Defendants pursuant to the Court's September 22, 2006 Order but did not provide the Duke Defendants a complete written report from DSI setting forth the results of all of its tests and examinations, including the existence of DNA from multiple unidentified males on the rape kit items, and did not provide the Duke Defendants with any written or recorded memorializations of Dr. Meehan's oral statements.

93. After reviewing the underlying data provided to them on October 27 for between 60 and 100 hours, counsel for the Duke Defendants determined that DSI's written report did not include the results of all DNA tests performed by DSI and determined that DSI had found DNA from multiple unidentified males on the rape kit items and that such results were not included in DSI's written report.

94. On December 13, 2006, the Duke Defendants filed a Motion to Compel Discovery: Expert DNA Analysis, detailing their discovery of the existence of DNA from multiple unidentified males on the rape kit items and explaining that this evidence had not been included DSI's written report. The motion did not allege any attempt or agreement to conceal the potentially exculpatory DNA evidence or test results. The Motion to Compel Discovery: Expert DNA Analysis was addressed by the Honorable Osmond W. Smith III, Superior Court Judge presiding, at a hearing on December 15, 2006.

95. At the December 15 hearing, both in chambers and again in open court, Nifong stated or implied to Judge Smith that he was unaware of the existence of DNA from multiple unidentified males on the rape kit items until he received the December 13 motion and/or was unaware that the results of any DNA testing performed by DSI had been excluded from DSI's written report. Nifong stated to Judge Smith in open court: "The first I heard of this particular situation was when I was served with these reports -- this motion on Wednesday of this week."

96. Nifong's representations that he was unaware of the existence of DNA from multiple unidentified males on the rape kit items and/or that he was unaware of the exclusion of such evidence from DSI's written report, were intentional misrepresentations and intentional false statements of material fact to the Court and to opposing counsel.

97. During the December 15 hearing, Dr. Meehan testified under oath to the following statements:

a. he discussed with Nifong at the April 10, April 21, May 12 meetings the results of all tests conducted by DSI to date, including the potentially exculpatory DNA test results;
b. he and Nifong discussed and agreed that "we would only disclose or show on our report those reference specimens that matched evidence items";
c. DSI's report did not set forth the results of all tests and examinations DSI conducted in the case but was limited to only some results;
d. the limited report was the result of "an intentional limitation" arrived at between him and Nifong "not to report on the results of all examinations and tests" that DSI performed;
e. the failure to provide all test and examination results purportedly was based on privacy concerns; and
f. he would have prepared a report setting forth the results of all DSI's tests and examinations if he had been requested to do so by Nifong or other representatives of the State of North Carolina at any time after May 12.

98. Immediately after the December 15 hearing, Nifong stated to a representative of the news media: "And we were trying to, just as Dr. Meehan said, trying to avoid dragging any names through the mud but at the same time his report made it clear that all the information was available if they wanted it and they have every word of it."

99. On January 12, 2007, Nifong recused himself from the prosecution of the Duke Defendants

100. On January 13, 2007, the Attorney General of North Carolina took over the Duke Lacrosse case and began to review evidence and undertake further investigation.

101. After an intensive review of the evidence, the Attorney General concluded that Ms. Mangum's credibility was suspect, her various inconsistent allegations were incredible and were contradicted by other evidence in the case, and that credible and

verifiable evidence demonstrated that the Duke Defendants could not have participated in an attack during the time it was alleged to have occurred.

102. Based on its finding that no credible evidence supported the allegation that the crimes occurred, the Attorney General declared Reade Seligman, Collin Finnerty, and David Evans innocent of all charges in the Duke Lacrosse case. The cases against the Duke Defendants were dismissed on April 11, 2007.

103. Nifong had in his possession, no later than April 10, 2006, an oral report from Dr. Meehan of the reports of test results showing the existence of DNA from multiple unidentified males on rape kit items.

104. From at least May 12, 2006 through January 12, 2007, Nifong never provided the Duke Defendants a complete report setting forth the results of all examinations and tests conducted by DSI and never provided the Duke Defendants with memorializations of Dr. Meehan's oral statements concerning the results of all examinations and tests conducted by DSI in written, recorded or any other form.

105. On or about December 20, 2006, Nifong received a letter of notice and substance of grievance from the Grievance Committee of the North Carolina State Bar alleging that: (a) he failed to provide the Duke Defendants with evidence regarding the existence of DNA from multiple unidentified males on the rape kit items; (b) he agreed with Dr. Meehan not to provide those results; and (c) he falsely represented to the Court that he was unaware of these results or their omission from DSI's report prior to receiving the Duke Defendants' December 13 motion to compel discovery.

106. Nifong initially responded to the Grievance Committee in a letter dated December 28, 2006, and supplemented his initial response, at the request of State Bar counsel, in a letter dated January 16, 2007.

107. In his responses to the Grievance Committee, Nifong: (a) acknowledged that he had discussed with Dr. Meehan during meetings in April and May 2006 the results of all DSI's testing, including the existence of DNA from multiple unidentified males on the rape kit items; (b) denied that he had agreed with Dr. Meehan to exclude the potentially exculpatory DNA test results from DSI's report; (c) stated that he viewed the evidence of DNA from multiple unidentified males on the rape kit items as "non-inculpatory" rather than as "specifically exculpatory"; and (d) represented that the

discussion and agreement with Dr. Meehan to limit the information in DSI's report was based on privacy concerns about releasing the names and DNA profiles of the lacrosse players and others providing known reference specimens.

108. DSI's written report listed DNA profiles for Ms. Mangum, Ms. Mangum's boyfriend, and David Evans and Kevin Coleman, two lacrosse players who had not been indicted at the time the report was released, and listed the names of all 50 persons who had contributed reference DNA specimens for comparison.

109. Nifong further represented in his responses to the Grievance Committee that he did not realize that the existence of DNA from multiple unidentified males on the rape kit items was not included in DSI's report when he provided it to the Duke Defendants or thereafter, until he received defense counsel's December 13 motion to compel.

110. Nifong's representation to the Grievance Committee that he did not realize that the existence of DNA from multiple unidentified males on the rape kit items was not included in DSI's report from May 12 until he received the December 13 motion to compel was a false statement of material fact made in connection with a disciplinary matter, and was made knowingly.

111. Nifong also represented in his responses to the Grievance Committee that, by stating to the Court at the beginning of the December 15 hearing that the motion was the "first [he] heard of this particular situation," he was referring not to the existence of DNA from multiple unidentified males on the rape kit items but to the Duke Defendants' purported allegation that he had made an intentional attempt to conceal such evidence from them.

112. Counsel for the Duke Defendants did not allege any intentional attempt by Nifong to conceal the DNA evidence from them in either their December 13 motion to compel or their remarks to the Court prior to Nifong's statement.

113. Nifong's responses to the Grievance Committee set forth in paragraph 111 concerning his representations to the Court at the December 15, 2006, hearing were false statements of material fact made in connection with a disciplinary matter, and were made knowingly.

114. Nifong was required by statute and by court order to disclose to the Duke Defendants that tests had been performed which revealed the existence of DNA from multiple unidentified males on the rape kit items.

115. Nifong knew or reasonably should have known that his statements to representatives of the news media set forth in paragraphs 17-35, 37-42, 49-50, 61-62, and 76 above would be disseminated by means of public communication.

116. Nifong knew or reasonably should have known that his statements to representatives of the news media set forth in paragraphs 17-35, 37-42, 49-50, 61-62, and 76 above had a substantial likelihood of prejudicing the criminal adjudicative proceeding.

117. Nifong knew or reasonably should have known that his statements to representatives of the news media set forth in paragraphs 17-35, 37-42, 49-50, 61-62, and 76 above had a substantial likelihood of heightening public condemnation of the accused.

Based upon the preceding FINDINGS OF FACT, the Hearing Committee makes the following

CONCLUSIONS OF LAW

(a) By making statements to representatives of the news media including but not limited to those set forth in paragraphs 17-35, 37-42, 49-50, 61-62, and 76, Nifong made extrajudicial statements he knew or reasonably should have known would be disseminated by means of public communication and would have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter, in violation of Rule 3.6(a), and made extrajudicial statements that had a substantial likelihood of heightening public condemnation of the accused, in violation of Rule 3.8(f) of the Revised Rules of Professional Conduct.

(b) By instructing Dr. Meehan to prepare a report containing positive matches, Nifong knowingly disobeyed an obligation under the rules of a tribunal in violation of Rule 3.4(c) of the Revised Rules of Professional Conduct.

(c) By not providing to the Duke Defendants prior to November 16, 2006, a complete report setting forth the results of all tests and examinations conducted by DSI, including the existence of DNA from multiple unidentified males on the rape kit items and including written or recorded memorializations of Dr. Meehan's oral statements, Nifong:

i. did not make timely disclosure to the defense of all evidence or information known to him that tended to negate the guilt of the accused, in violation of former Rule 3.8(d) of the Revised Rules of Professional Conduct; and

ii. failed to make a reasonably diligent effort to comply with a legally proper discovery request, in violation of former Rule 3.4(d) of the Revised Rules of Professional Conduct;

(d) By never providing the Duke Defendants on or after November 16, 2006, and prior to his recusal on January 12, 2007, a report setting forth the results of all tests or examinations conducted by DSI, including the existence of DNA from multiple unidentified males on the rape kit items and including written or recorded memorializations of Dr. Meehan's oral statements, Nifong:

i. did not, after a reasonably diligent inquiry, make timely disclosure to the defense of all evidence or information required to be disclosed by applicable law, rules of procedure, or court opinions, including all evidence or information known to him that tended to negate the guilt of the accused, in violation of current Rule 3.8(d) of the Revised Rules of Professional Conduct; and

ii. failed to disclose evidence or information that he knew, or reasonably should have known, was subject to disclosure under applicable law, rules of procedure or evidence, or court opinions, in violation of current Rule 3.4(d)(3) of the Revised Rules of Professional Conduct.

(e) By falsely representing to the Court and to counsel for the Duke Defendants that he had provided all discoverable material in his possession and that the substance of all Dr. Meehan's oral statements to him concerning the results of all examinations and tests conducted by DSI were included in DSI's written report, Nifong made false statements of material fact or law to a tribunal in violation of Rule 3.3(a)(1), made false statements of material fact to a third person in the course of representing a client in violation of Rule 4.1, and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) of the Revised Rules of Professional Conduct.

(f) By representing or implying to the Court that he was not aware of the existence on rape kit items of DNA from multiple unidentified males who were not members of the lacrosse team and/or that he was not aware of the exclusion of that evidence from DSI's written

report at the beginning of the December 15, 2006, hearing, Nifong made false statements of material fact or law to a tribunal in violation of Rule 3.3(a)(1) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) of the Revised Rules of Professional Conduct.

(g) By falsely representing to the Grievance Committee of the State Bar that: (i) he did not realize that the test results revealing the presence of DNA from multiple unidentified males on the rape kit items were not included in DSI's report when he provided it to the Duke Defendants or thereafter, and (ii) his statements to the Court at the beginning of the December 15 hearing referred not to the existence of DNA from multiple unidentified males on the rape kit items but to the Duke Defendants' purported allegation that he had engaged in an intentional attempt to conceal such evidence, Nifong made knowingly false statements of material fact in connection with a disciplinary matter in violation of Rule 8.1(a), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) of the Revised Rules of Professional Conduct.

(h) Each of the violations set forth above separately, and the pattern of conduct revealed when they are viewed together, constitutes conduct prejudicial to the administration of justice in violation of Rule 8.4(d) of the Revised Rules of Professional Conduct.

Based upon the foregoing findings of fact and conclusions of law, the Hearing Committee makes by clear, cogent, and convincing evidence, the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. Nifong's misconduct is aggravated by the following factors:

   a. dishonest or selfish motive;

   b. a pattern of misconduct;

   c. multiple offenses;

   d. refusal to acknowledge wrongful nature of conduct in connection with his handling of the DNA evidence;

   e. vulnerability of the victims, Collin Finnerty, Reade Seligman and David Evans; and

   f. substantial experience in the practice of law.

2. Nifong's misconduct is mitigated by the following factors:

   a. absence of a prior disciplinary record; and

   b. good reputation.

3. The aggravating factors outweigh the mitigating factors.

4. Nifong's misconduct resulted in significant actual harm to Reade Seligman, Collin Finnerty, and David Evans and their families. Defendant's conduct was, at least, a major contributing factor in the exceptionally intense national and local media coverage the Duke Lacrosse case received and in the public condemnation heaped upon the Duke Defendants. As a result of Nifong's misconduct, these young men experienced heightened public scorn and loss of privacy while facing very serious criminal charges of which the Attorney General of North Carolina ultimately concluded they were innocent.

5. Nifong's misconduct resulted in significant actual harm to the legal profession. Nifong's conduct has created a perception among the public within and outside North Carolina that lawyers in general and prosecutors in particular cannot be trusted and can be expected to lie to the court and to opposing counsel. Nifong's dishonesty to the court and to his opposing counsel, fellow attorneys, harmed the profession. Attorneys have a duty to communicate honestly with the court and with each other. When attorneys do not do so, they engender distrust among fellow lawyers and from the public, thereby harming the profession as a whole.

6. Nifong's misconduct resulted in prejudice to and significant actual harm to the justice system. Nifong has caused a perception among the public within and outside North Carolina that there is a systemic problem in the North Carolina justice system and that a criminal defendant can only get justice if he or she can afford to hire an expensive lawyer with unlimited resources to figure out what is being withheld by the prosecutor.

7. Nifong's false statements to the Grievance Committee of the North Carolina State Bar interfered with the State Bar's ability to regulate attorneys and therefore undermined the privilege of lawyers in this State to remain self-regulating.

8. This Hearing Committee has considered all alternatives and finds that no discipline other than disbarment will adequately protect the public, the judicial system and the profession, given the clear demonstration of dishonest conduct, multiple violations, the pattern of dishonesty established by the evidence, and Nifong's failure to recognize or acknowledge the wrongfulness of his conduct with regard to withholding of the DNA evidence and making false representations to opposing counsel and to the Court. Furthermore, entry of an order imposing discipline less than disbarment would fail to acknowledge the seriousness of the offenses committed by Nifong and would send the wrong message to attorneys regarding the conduct expected of members of the Bar in this State.

Based upon the foregoing findings of fact, conclusions of law and additional findings of fact regarding discipline, the Hearing Committee hereby enters the following

ORDER OF DISCIPLINE

1. Michael B. Nifong is hereby DISBARRED from the practice of law.

2. Nifong shall surrender his law license and membership card to the Secretary of the State Bar no later than 30 days from service of this order upon him.

3. Nifong shall pay the costs of this proceeding as assessed by the Secretary of the N.C. State Bar, including DHC costs and including costs of the transcription and depositions taken in this case as follows: court reporter costs; videographer and videotaping costs; transcription costs; shipping, handling, and transmittal costs; and witness costs. Defendant must pay the costs within 90 days of service upon him of the statement of costs by the Secretary.

4. Nifong shall comply with all provisions of 27 NCAC 1B § .0124 of the North Carolina State Bar Discipline & Disability Rules ("Discipline Rules").

Signed by the Chair with the consent of the other hearing committee members, this the 24th day of July, 2007.

F. Lane Williamson
Chair, Disciplinary Hearing Committee

EXHIBIT I

ABC NEWS

Charges Dropped in Duke Lacrosse Case

North Carolina Attorney General Describes Nifong's Case as Driven by 'Bravado'

By LARA SETRAKIAN
ABC News Law & Justice Unit

April 11, 2007 —

After the three former Duke lacrosse players were exonerated of all charges today, the lawyer for Durham District Attorney Mike Nifong, who first moved to prosecute, gave ABC News an exclusive reaction to the dismissal.

"He pushed the case as long as he did because at that point he believed in this case," David Freedman said, referring to Nifong. "Sometimes it takes time for false accusations to get resolved through the legal system, if that is what happened in this case. It doesn't mean the prosecutor was wrong to go forward."

North Carolina Attorney General Roy Cooper announced that all charges were dropped today at a press conference.

Reade Seligmann, David Evans and Collin Finnerty were indicted last year on charges of rape, kidnapping and sexual assault tied to an alleged attack at a lacrosse team party March 13, 2006.

In the hours after the party, one of the two black dancers hired to perform for the players claimed she had been violently raped in a bathroom by white members of the lacrosse team.

A team of attorneys for the newly exonerated players held a press conference shortly after the attorney general announced that the case was officially over. The families of the three young men were on hand, as were members of the Duke lacrosse team and their supporters. All three players have maintained their innocence since the allegations emerged last year.

Evans, who has already graduated from Duke and vowed shortly after his indictment to disprove the accuser's "fantastic lies," was the first of the three to speak.

"It's been 395 days since this nightmare began and finally, today it's come to a closure," Evans said. "Nothing has changed. The facts don't change, and we have never wavered in our stories."

Evans spoke about the need to address problems within the justice system that were revealed during the state's unsuccessful case. He even cited the financial successes of his parents as one of the reasons the trio was able to escape a false prosecution. It was a sentiment echoed by Finnerty and Seligmann in their remarks.

"I hope these allegations don't come to define me," Evans said. "My family and I can sleep at night knowing we did everything we could do. … I can walk with my head held high."

The rape charges, brought forward by Nifong, were dropped in December. In January, Nifong recused himself amid charges of unethical conduct filed against him by the North Carolina Bar Association. The two other counts -- both felonies -- had been pending until Cooper's announcement.

While the three accused lacrosse players may find some closure with the charges dropped, Nifong's fate remains unclear. He could lose his license to practice law in North Carolina because of the ethics charges, and he could face civil charges from the accused players and their families. Cooper's public statements Wednesday are unlikely to help Nifong, a publicly elected official he described as a "rogue prosecutor" whom the state needed to stop.

After the state accepted control of the case, Nifong's attorney told ABC News that the prosecutor understood he would be "more a hindrance than a help" as the case proceeded. Still, Freedman also denied that Nifong dropped the case because he had lost faith in the merit of the charges. From the early days after the party, Nifong was outspoken in his confidence that the accused Duke players had committed a crime.

Under special prosecutors Jim Coman and Mary Winstead, the state examined the evidence from scratch, interviewing key witnesses in an explosive case that combined sensitive issues of race and class.

"The result is that these cases are over and no more criminal proceedings will occur," Cooper said, calling the original prosecution a "rush to judgment" and describing Nifong as driven by "bravado."

"We have no credible evidence that an attack occurred in that house on that night," he said.

Cooper also said that he did not expect any charges to be filed against the accuser, whose account has changed multiple times in the last year. Cooper said that the accuser may be suffering mentally and may actually believe some of the stories she told prosecutors.

In addition to the dismissal decision, Cooper also proposed a law that would give the North Carolina Supreme Court the power to remove rogue prosecutors under certain circumstances.

Cooper's decision comes almost exactly one year after Seligmann and Finnerty were indicted on April 17, 2006. Evans was indicted two weeks later.

Former Duke lacrosse coach Mike Pressler, who stepped down from his post shortly after the alleged incident, celebrated the news at a press conference at Bryant University in Rhode Island, where he now serves as head coach.

"I am thrilled, overjoyed and relieved," said Pressler. "They have suffered greatly and unjustly."

The university also responded, with Duke President Richard Brodhead issuing a written statement that welcomed the news and praised the three players' families for carrying themselves with "dignity through an ordeal of deep unfairness."

The Duke campus was bitterly divided after the three players were charged, with some students coloring the lacrosse program as thuggish and others rallying around the nationally ranked athletic program.

"The attorney general did not dismiss the allegations on narrow, equivocal or legalistic ground," Brodhead wrote. "He determined our students to be innocent of the charges and said they were 'the tragic result of a rush to accuse.' In short, he used the strongest language of vindication."

Defense attorneys had released a series of documents detailing how the accuser changed key details in her story in the weeks and months after the alleged assault.

Legal analysts and forensic experts also criticized what they called a critically flawed photo identification lineup -- a lineup that led to the identification and indictment of Evans, Finnerty and Seligmann.

No DNA evidence was found matching any lacrosse players with samples from the rape kit, while DNA from unidentified men was found on the accuser's body and clothing.