

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

Application for a Judgment under Article 78 of the
CPLR

RICHARD TAYLOR,

Petitioner,

v.

ST. JOHN’S UNIVERSITY, INTERIM DEAN
GINA M. FLORIO, AND KEATON WONG,

Respondents.

Index No.:

VERIFIED PETITION

Petitioner Richard Taylor, by and through his undersigned counsel, respectfully alleges as follows:

NATURE OF THE PROCEEDING

1. This is a special proceeding brought against Respondents St. John’s University (“SJU”); Gina M. Florio, Interim Dean of St. John’s College (“Florio”); and Keaton Wong, SJU’s Director of Equal Opportunity, Compliance, and Title IX (“Wong,” and collectively with SJU and Florio, “Respondents”), pursuant to Article 78 of the New York Civil Practice Law and Rules (“CPLR”). This case arises out of the Respondents’ craven and unlawful termination of Professor Taylor as an adjunct professor, based on their determination that statements he supposedly made in the course of teaching a history class violated an unspecified section of SJU’s “Policy against Bias, Discrimination, and Harassment,” known as Policy 704.

2. Professor Taylor’s September 7, 2020 class addressed the subject of trade and biodiversity in the context of a unit exploring the impact on the native populations of Columbus’s discovery of the Americas. Taylor used a Power Point presentation to facilitate

discussion. The final slides in the 46-slide deck posed the question whether the benefits of the Columbian Exchange—the process of globalization initiated by the 15th and 16th century European transatlantic voyages of exploration and conquest—were worth the costs. Students engaged with the question and a substantive discussion ensued. One student argued that slavery can never be justified; Professor Taylor responded that he was not trying to justify slavery but rather that students were being asked to form their own views on the historical events the class was discussing. On September 10 the Chair of the History Department called Professor Taylor to tell him the Dean would soon inform him that he would be suspended from teaching pending an investigation.

3. Shortly thereafter, a student group called SJURadicals posted a series of statements on social media calling Taylor a “racist predator” and falsely claiming he had forced students in his class to justify slavery. The SJURadicals demanded that SJU fire Taylor if the school wanted to be regarded as appropriately antiracist. The SJURadicals circulated a form letter attacking Professor Taylor and asked the readers of its website to submit it to SJU to demand that he be fired.

4. SJU designated Wong to conduct an “investigation” into the complaint, but she did so in name only as the University ultimately bowed to the Radicals’ demand to fire Taylor. At no time was Taylor informed of the specifics of the complaint against him, or the person making it, or any witnesses supposedly supporting it, or the evidence against him. At no time was he even informed how he had supposedly violated Policy 704. He was not permitted to present any witnesses to refute whatever allegation was being made against him.

5. SJU’s policies and statutes set forth a process SJU was required to follow if it was going to discipline Taylor for a violation of Policy 704—which included such basic procedural

protections as notice, an opportunity to submit a written response, an impartial adjudicator, and a right to confront witnesses and submit exculpatory evidence, and required specific findings reached by clear and convincing evidence. SJU completely disregarded these mandatory policies and procedures in its eagerness to appease the SJURadicals by purging Professor Taylor.

6. Wong even declined Taylor's request that she contact an African-American student in the class who had publicly posted a statement disputing the SJURadicals' false allegations. Instead, Wong relied on form letters gathered and submitted by the Radicals from people who were not present at the September 7 class and who had no first-hand knowledge of what had transpired in Taylor's classroom. Wong also told Taylor that he had no right to appeal her "findings."

7. The procedure used by SJU was not designed to discover the truth but rather to check a box that an "investigation" had been conducted.

8. Based on Wong's "investigation," Respondents Florio and SJU determined to terminate Taylor's teaching appointment for the fall semester, barred him from participating as a guest lecturer in any other courses offered at SJU, and refused to rehire him for the spring 2021 semester.

9. Florio's and SJU's termination of Taylor, based on a bogus investigation that cast aside the most basic procedural protections for the accused including those required by SJU's own policies and statutes, for leading a discussion of the Columbian Exchange protected by principles of academic freedom SJU professes to support, was arbitrary and capricious, an abuse of discretion, lacking in a rational basis, infected by an error of law, and unsupported by substantial evidence. This Court should set aside and nullify Respondents' findings and their

determination to terminate Taylor for the fall semester, to bar him from participating as a guest lecturer in other history courses and not to rehire him for the spring semester.

PARTIES

10. Until he was fired in October 2020, Petitioner Richard Taylor was employed as an adjunct professor by SJU in its History Department. He is also a fully matriculated graduate student at SJU working toward his Ph.D. in History. Earlier in his career Taylor had served for ten years as a police officer with the New York Police Department. He is also a former U.S. Marine.

11. Respondent SJU is a private Roman Catholic university in New York City with its main campus in Queens as well as additional New York City campuses in Manhattan and Staten Island.

12. Respondent Keaton Wong is an employee of SJU, and holds the position of Director of Equal Opportunity, Compliance, and Title IX. According to SJU's website:

Keaton Wong, Director of Equal Opportunity, Compliance and Title IX, serves as the Title IX Coordinator for overall campus compliance for the University. In this role, she monitors and maintains overall compliance with University policies and procedures in preventing, addressing, and remediating all forms of discrimination and harassment. Additionally, Ms. Wong works with the Title IX Deputy Coordinators, to investigate and respond to each complaint and monitor incidents to ensure remediation and continued compliance. The Title IX Deputy Coordinators also identify and address any patterns or systemic problems that arise during the review of such complaints. Thus, the Title IX Deputy Coordinators play an integral role in carrying out the University's commitment to providing a positive learning, teaching and working environment for the entire University community.

13. Respondent Gina M. Florio is an associate professor of chemistry and physics at SJU and Interim Dean of St. John's College.

FACTS

A. History 1000C And Professor Taylor's Extensive And Unblemished Teaching Record

14. Professor Taylor enrolled in SJU's Doctorate of Arts program in modern world history in the fall of 2013. When the Doctorate of Arts program became a Ph.D. program in 2016, Professor Taylor applied to and was accepted into the Ph.D. program.

15. In the fall of 2015 Professor Taylor began teaching History 1000C, a course entitled "Emergence of a Global Society." History 1000C was a mandatory course for SJU undergraduates and was typically taken in the freshman year.

16. History 1000C had been a mandatory undergraduate course at SJU before Professor Taylor began teaching it. SJU developed the content of the course and the syllabus. While Taylor was permitted over time to tweak the course content and syllabus, at the start of every semester SJU was required to, and did, approve Taylor's syllabus for History 1000C.

17. As the Fall 2020 syllabus explained, the "Emergence of a Global Society" course aimed to

provide[] students with the historical background they need to understand how the global society we now live in came into being, specifically exploring: the scientific, technological, and industrial revolutions; their world-wide dissemination and social effects; political thoughts and systems; the evolution of world religions; **the impact of Western domination (both positive and negative) on the non-Western world**; the historical conflicts between nationalism, internationalism, and multiculturalism.

Affidavit of Richard Taylor ("Taylor Aff."), dated February 3, 2021, ¶ 2 and Exhibit 1 (emphasis supplied).

18. Taylor's History 1000C course typically drew between 30 and 35 students.

19. The format for Taylor's course was a combination of lecture, discussion, and occasionally group work. Usually between a third to half of the students participated in any given discussion, making for lively discussions on many class days.

20. In addition to teaching either one or two sections of History 1000C, Professor Taylor taught other undergraduate courses at SJU before he was fired.

21. The Institute for Core Studies is a program "designed to help first-year students in their academic transition to University life" according to the SJU website. The program consists of three courses: First Year Writing, Scientific Inquiry, and Discover New York. According to the SJU website, "[t]his core course encourages students to engage both intellectually and personally with the remarkable city that not only provides the setting for St. John's University but is also home to people from all over the world. Faculty members develop Discover New York courses using their own disciplines as conceptual frameworks for teaching students to think critically, develop information literacy skills, and see New York City through the arts, business, social and political relationships, literature, and media." Professor Taylor developed and taught a Discover New York course at SJU.

22. Professor Taylor's Discover New York course focused on the military and policing history of New York City. As part of his course, Professor Taylor gave one class each semester addressing the terrorist attacks of September 11, 2001. Taylor was employed as a police officer when the September 11th attacks occurred and spent over 500 hours working on the recovery and clean-up at the World Trade Center site. Taylor also gave a guest lecture on the subject every semester at the request of another faculty member.

23. In addition, during the semesters he did not teach two sections of History 1000C, Professor Taylor taught a U.S. History course open to all SJU students.

24. By letter dated August 4, 2020, Taylor was appointed to the position of Adjunct Instructor for the fall 2020 semester, to teach two sections of History 1000C. *See* Taylor Aff. ¶ 3 and Exh. 2.

25. Before the events of September 7, 2020 described in this Petition, no student had ever complained about Professor Taylor or suggested that his teaching violated Policy 704.

26. SJU supervised Professor Taylor's teaching by having an administrator sit in on his courses once a semester. Professors whose teaching raised any problems were subject to additional supervision. Taylor was never subjected to the additional oversight reserved for problem teachers.

B. The September 7, 2020 History 1000C Class

27. Each of the two sections of History 1000C Professor Taylor was assigned to teach for the fall 2020 semester met twice a week, on Mondays and Thursdays. The earlier section met at 9:05 a.m. on Mondays and Thursdays; the later section met at 10:40 a.m. on Mondays and Thursdays. Due to Covid, the semester started in August 2020, several weeks earlier than usual, and students alternated between in-person and remote attendance. Approximately half the students would come in person one week and attend the live course remotely (via Zoom) the next week, then the groups would switch.

28. On September 7, 2020, Professor Taylor was teaching the last week of a three-week unit in his Monday History 1000C class on the impact on the native populations of Christopher Columbus's discovery of the Americas. This topic is part of the subject referred to by historians as the "Columbian Exchange," defined as "the largest part of a more general process of biological globalization that followed the transoceanic voyaging of the 15th and 16th centuries. . . . The phrase 'the Columbian Exchange' is taken from the title of Alfred W.

Crosby's 1972 book, which divided the exchange into three categories: diseases, animals, and plants."¹

29. Of the 35 students enrolled in the 9:05 a.m. section of History 1000C for the fall 2020 semester, 30 were in attendance for the September 7 class—13 were present in person and 17 participated remotely.

30. The focus of the day's lesson was trade and biodiversity. To facilitate his lecture and the class discussion, Professor Taylor used the same power point presentation he had used in prior years, which touched on a variety of issues and themes within the broad subjects of trade and biodiversity. *See* Taylor Aff. ¶ 4 and Exh. 3. For example, of the 46 slides that made up his presentation, seven referenced the international silver trade, six identified the European conquistadores and the Aztec and Inca empires they conquered, five referenced the abuse of indigenous populations, four addressed the spread of disease, and three mentioned potatoes. Fourteen of the slides were maps. *See* Taylor Aff., Exh. 3. Taylor had taught this same lesson to multiple sections of History 1000C each year for at least the prior three years.

31. Toward the end of his presentation, Professor Taylor advanced to a slide asking the students, in substance, whether they believed the benefits from the Columbian Exchange were worth the costs.² During the discussion, many students participated and offered their views on the question. One student, for example, said that if Columbus hadn't sailed he wouldn't be here because, the student explained, he was the product of colonialism. Another student tapped

¹ J.R. McNeill, Columbian Exchange, <https://www.britannica.com/event/Columbian-exchange> (last visited Jan. 18, 2021).

² Several slides noted advantages derived from the Colombian Exchange, such as increased trade and access to new goods and foods. A slide entitled "Negatives to Globalization" listed the following bullet points: "Spread of disease and germs; Millions killed in Potosi mines; Millions more natives enslaved; Restructuring of Africa." The final slide asked the students: "Do the positives justify the negatives?" Taylor Aff., Exh. 3.

his head and said to Professor Taylor that Taylor had gotten him thinking about these issues.

Both of those students were non-white.

32. After about 20 minutes of discussion, one student objected, in substance, that the cost/benefit question assumed that anything could justify the wrongs visited upon the native populations, and opined that it was never possible to justify slavery. Professor Taylor replied that by posing the question about costs and benefits of the Columbian Exchange he was not justifying slavery (or anything else) but was instead asking the students to form and articulate their own views about the historical events and their consequences that gave rise to today's world.

33. Professor Taylor taught the same lesson on trade and biodiversity to his September 7, 10:40 am section of History 1000C without incident.

C. The Libeling Of Taylor And Warnings To SJU By A Student Group Known As "SJURadicals"

34. The night of his Thursday class (September 10), the Chair of the History Department, Associate Professor Nerina Rustomji, told Professor Taylor he was being investigated by SJU's Equal Employment, Compliance, and Title IX Department for comments he supposedly made during the 9:05 am History 1000C class on September 7, 2020. He was not provided any further information about the subject matter of the investigation.

35. On September 10 and in the following days, the Instagram account "SJURadicals" posted more than 20 items libeling Professor Taylor with false and defamatory statements, calling him a "racist predator," claiming he had "an extensive history of dangerous predatory behavior," and asserting that "Professor Taylor has had multiple biases reports [sic] filed against him in the last three months by both students and faculty." Taylor Aff. ¶ 5 and Exh. 4. The

group also asserted that during his September 7 History 1000C class, Professor Taylor made repeated positive comments about slavery and asked students to justify slavery. *See id.*

36. The SJURadicals warned the SJU administration through multiple posts that Professor Taylor was a “threat to the safety of the BIPOC [Black, Indigenous and People of Color] community” and that his discussion during the September 7 class was “an example of White saviorism and White privilege.” The group further warned the administration that “BIPOC students have a right to attend a University that does not employ professors who justify injustice and terminate professors who do,” and that “[i]f Professor Taylor continues to teach at this university, St. John’s University can never be anti-racist or claim it values Black lives.” Taylor Aff., Exh. 4.

37. Another SJURadicals post explained that

The Radicals have prepared a drafted [sic] email to be sent to the Chair of The History Department, amongst other university staff which expresses discontent with the actions committed by Professor Taylor, along with calling for the immediate termination of the professor. Through our Linktree in our bio, you can access this drafted email. You will only need to provide your email address and click send to join our efforts to bring meaningful justice to this heinous crime committed by Professor Taylor.

Taylor Aff., Exh. 4. Multiple other posts demanded that Taylor be terminated from teaching “immediately.” *See id.*

38. All postings by the SJURadicals about Professor Taylor were posted anonymously. Although the SJURadicals do not have a readily identifiable website, one student interviewed for a news story explained that the SJURadicals is “a non-university related student organization” whose mission is “to battle systematic injustice on campus.”³

³ Bill Parry, *EXCLUSIVE: St. John’s University investigating professor for suggesting there was ‘good’ to come from slavery* (Sept. 11, 2020), available at <https://qns.com/2020/09/exclusive-st->

39. On Monday September 14, Respondent Florio confirmed in an email to Taylor that he was being suspended from his teaching positions pending an investigation concerning an anonymous complaint.

D. SJU's Pro Forma Investigation, Which Completely Disregarded The University's Own Published Procedures, And Its Secret "Evidence"

40. SJU policies and statutes establish specific procedures for adjudicating claims against faculty members, including adjunct faculty members such as Professor Taylor.

41. Thus, Policy 704, at Point V, states that "[i]n taking any disciplinary action, the University will follow applicable University procedures, including those provided in the Student Code of Conduct and the Collective Bargaining Agreement and University Statutes." Taylor Aff. ¶ 9 and Exh. 8.

42. The collective bargaining agreement ("CBA") between SJU and its faculty union provides in relevant part, at Article 22 ("Discrimination And Harassment Complaints Against Faculty Members", emphasis supplied):

§ 22.01 Scope. **This provision and the procedures set forth herein shall apply to complaints made against faculty members governed by St. John's University Policy #704**, last revised April 4, 2013 (Policy against Discrimination and Harassment and Related Complaint Procedures). . . . **The faculty member's academic freedom shall be respected in all instances.**

§ 22.02 Procedure. In accordance with University Policy # 704, any complaint shall be filed with, or if received by any other University representative, immediately forwarded to the Human Resources Compliance Officer of St. John's University. . . . Human Resources shall perform an investigation into the complaint in a prompt, thorough and impartial manner. . . . Upon completion of the investigation, Human Resources shall provide the faculty member with appropriate written notice of the investigation findings. . . . **If any of the allegations shall be determined to be**

[johns-university-investigating-professor-for-suggesting-there-was-good-to-come-from-slavery/](#)
(last visited Jan. 20, 2021).

founded and a mutually agreeable resolution was not reached as part of the investigation process, **the complaint and the complete investigation file, including any exculpatory evidence, shall be referred to the University Administration for action under and pursuant to University Statutes Article 10.04 and subsequent subsections.**

Taylor Aff. ¶ 11 and Exh. 10 (emphasis supplied).

43. At all relevant times, Taylor was entitled to the CBA's benefits and protections.

44. SJU's procedures and statutes, as applicable to the complaint against Professor Taylor, provided for, among other things, investigation by a committee, notice of the alleged violation, an opportunity to respond, a hearing, and proof by clear and convincing evidence. *See* Taylor Aff. ¶ 10 and Exh 9.

45. Even without those published procedures as guideposts or requirements, the "process" used by Respondents to adjudicate the complaint against Professor Taylor was palpably insufficient to be even minimally fair or to seek the truth about what happened in the September 7 class.

46. On September 15, 2020, Professor Taylor met with Respondent Wong. At the meeting, Wong informed Taylor that there were over 300 complaints of misconduct about him relating to his September 7 class. Taylor expressed surprise given that there were only 30 students in attendance for the 9:05 a.m. class. Wong then explained that there had been only one complaint from a student in the 9:05 a.m. class, and that the remaining complaints were form letters submitted via a link promoted by SJURadicals on social media.

47. Taylor explained to Wong that he had received communications from a number of his students who said they could not understand what he did that could have given rise to a complaint. Taylor asked Wong to contact the students who had attended his 9:05 am History 1000C class on September 7, 2020, to obtain first-hand accounts of the relevant events rather

than relying upon hundreds of form-letter complaints from “radicals” who were not even present in his classroom and had only read the SJURadicals’ libelous statements about him.

48. Wong did not say whether she would contact any of the students in Taylor’s class. On information and belief, she did not contact any of the individuals (students and faculty) that Taylor asked Wong to contact as relevant witnesses.

49. For example, the University declined to interview a student who was present for the September 7 class and posted a message on social media (*not* anonymously) stating that whoever was making the assertions against Professor Taylor was taking the statements out of context and the event was being blown out of proportion. *See* Taylor Aff. ¶ 6 and Exh. 5.

50. As noted, none of the 300 form letters solicited by the SJURadicals were from students who had attended the 9:05 a.m. History class or had any personal knowledge of the facts. Nonetheless, Wong told Taylor that SJU intended to treat each of the identical form letters as a stand-alone complaint.

51. When Taylor asked for information about the specific accusations against him, Respondent Wong declined to provide any details and told him that SJU could find him in violation of University policy without identifying what aspect of SJU’s policies he had violated or what conduct by him violated the policy.

E. The University's Strikingly Different Approach When The SJURadicals Came After Wong

52. Two weeks after Wong's September 15 meeting with Taylor, the SJURadicals turned their sights on three current and former SJU administrative employees, including Keaton Wong. On or about October 1, 2020, the SJURadicals posted accusations against former Associate Dean for Student Engagement Mary H. Pelkowski who, according to the Radicals, "throughout her ten year career abused enrolled students sexually, verbally, emotionally, physically, and financially according to student testimonies."⁴ The post further sought an investigation and termination of Senior Associate Dean of Student Services Jackie Lochrie and Keaton Wong—the employee then "investigating" Taylor based on allegations from the same group—for "failing to report allegations of child abuse to authorities."⁵

53. The SJURadicals' attack on Wong drew an immediate and forceful denunciation from the University, quite unlike SJU's response to the Radicals' attack against Professor Taylor. The day after the attack on Wong was posted, counsel for the University sent a letter to the Radicals rejecting the postings as defamatory and demanding that the Radicals "immediately remove two posts . . . that recklessly malign" Lochrie and Wong. The general counsel's letter called the attacks baseless and devoid of evidence, even though the Radicals claimed to have offered testimony by four individuals.⁶ The lawyer's letter noted pointedly that the Radicals had failed to present evidence that "a court of competent jurisdiction or regulatory authority has ever made [] a finding" that the Lochrie and Wong committed the wrongs alleged.

⁴ <https://drive.google.com/file/d/1d1VqOXmS2KBS3zSoCv0aFuXOI0HuIf2d/view> (last visited Jan. 20, 2021).

⁵ *Id.*

⁶ *See id.*

54. Thus, when defending Wong the University required her accusers to demonstrate that there had been a court finding proving the accusations, otherwise the Radicals' complaints would be regarded as defamatory. In Taylor's case, by contrast, form letter submissions from Radicals who were not present for the events they complained about were accepted as probative evidence of wrongdoing.

F. SJU's Treatment Of Taylor Violated Its Stated Commitment To Academic Freedom

55. In a number of policies and public pronouncements, SJU professes a commitment to academic free inquiry and the search for truth.

56. For example, in its statement "Academic Freedom and the Catholic University" SJU states:

St. John's University is committed to academic freedom of inquiry. Since 1968 we have endorsed the "1940 Statement of Principles on Academic Freedom and Tenure." This commitment is specifically incorporated into the University Statutes and the Collective Bargaining Agreement (CBA) between the University and the AAUP-FA (CBA, Section 2.02).

St. John's University believes that there is no compromise whatsoever between Catholic identity and freedom of inquiry. Similarly, these values insist upon academic integrity in all scholarly endeavors. The heritage of all Catholic universities coincides with the historical origin of the European University, which developed from the medieval cathedral schools. This heritage reflects a search for truth which is both a religious quest and a secular aim. These aims are the root of the disciplines of the liberal arts and sciences.

Taylor Aff. ¶ 12 and Exh. 11.

57. In a similar profession of commitment to academic freedom, SJU's Mission Statement states:

As a university, we commit ourselves to academic excellence and the pursuit of wisdom, which flows from free inquiry, religious values, and human experience. We strive to preserve and enhance an atmosphere in

which scholarly research, imaginative methodology, global awareness, and an enthusiastic quest for truth serve as the basis of a vital teaching-learning process and the development of lifelong learning.

Taylor Aff. ¶ 13 and Exh. 12.

58. Policy no. 1009 in SJU's Human Resources Manual states:

St. John's University is committed to standards promoting speech and expression that foster the responsible exchange of ideas and opinions which enables the pursuit of knowledge and truth. As embodied in the University's Mission Statement, "We commit ourselves to academic excellence and the pursuit of wisdom which flows from free inquiry, religious values, and human experience."

All members of the St. John's University community, which includes students, faculty, staff and administrators enjoy the right to freedom of speech and expression that is consistent with the University mission and its Catholic character and Vincentian tradition. St. John's seeks to foster an environment of global harmony and the incorporation of diverse perspectives.

Taylor Aff. ¶ 14 and Exh. 13.

59. The SJU Employee Handbook states, under "Your Right to Free Speech and Expression":

All members of the St. John's University community enjoy the right to freedom of speech and expression that is consistent with the University Mission and its Catholic character and Vincentian tradition. St. John's seeks to foster an environment of global harmony and to incorporate diverse perspectives.

The right of free speech and expression does not include unlawful activity or activity that endangers or threatens to endanger the safety of any member of the University community or any of the University's physical facilities, or any activity that disrupts or obstructs the functions of the University or immediately threatens such disruption or obstruction. Expression that is indecent, obscene or grossly offensive on matters such as race, ethnicity, religion or gender violates the expectations of professional conduct at the University.

Taylor Aff. ¶ 15 and Exh. 14.

60. Reality, however, is otherwise. As Professor Taylor's case shows, in practice SJU cowers at the mere allegation of purported racism, and quickly surrendered to bogus demands to dismiss a longstanding faculty member, in the hope that it would not be accused of failing to sign onto the "antiracist" agenda advanced by the SJURadicals -- many of whom, on information and belief, are not even students at SJU.

G. Wong's October 5, 2020 Letter Informing Taylor That He Violated An Unspecified Provision Of Policy 704

61. By letter dated October 5, 2020, Respondent Wong issued her determination concluding that Taylor had violated Policy 704. *See* Taylor Aff. ¶ 7 and Exh. 6. Policy No. 704 is a 2300-plus word policy that establishes "prohibited conduct" in four categories: "Bias Incidents," "Discrimination," "Discriminatory Harassment," and "Sexual Harassment." *See id.* The three-paragraph letter did not state what aspect of Policy 704 Taylor supposedly violated or how he had done so.

62. Wong's letter stated that during his September 7 class, Professor Taylor "asked students to justify slavery and discuss the positives and negatives of slavery; positively attributed slavery to diversity in America; singled out Black students; and stated that Black students would not be present without slavery." Taylor Aff., Exh. 6. This was untrue. The letter claimed that "a thorough investigation has been conducted, which included speaking with several students who were present during the 9:05 a.m. History 1000C class on September 7." *Id.*

63. Wong's letter stated that her investigation "was and shall remain, confidential" but that "the investigation yielded sufficient information to substantiate the allegations and conclude that the University's Policy against Bias, Discrimination, and Harassment (No. 704) was violated." *Id.*

64. A no time was Professor Taylor told what “the allegations” referred to in Wong’s letter were; who had complained; who the witnesses were or what they said; what he had done to violate Policy No. 704 or what aspect of Policy No. 704 he had violated. At no time did Respondents ever try to square the “findings” in Wong’s October 5th letter with the written presentation by Professor Taylor, including particularly the slides he used during the class that plainly state the question Professor Taylor actually asked his students to consider.

65. Respondent Wong further stated “the investigation’s finding is final and non-appealable.” Taylor Aff., Exh. 6.

H. SJU’s Termination Of Taylor On October 9, 2020 Via A Zoom Meeting

66. Wong’s October 5, 2020 letter informed Taylor that Respondent Florio and Nerina Rustomji, the Chair of the History Department, would be in touch with him “regarding next steps.” *Id.* A few days later, Taylor was summoned to attend a Zoom meeting with Respondent Florio on October 9, 2020.

67. On October 9, 2020, Florio held a meeting via Zoom with Taylor and Taylor’s union representative (a tenured faculty member). An attorney from the SJU legal department also attended the meeting with Florio; Taylor was not allowed to have an attorney attend the meeting on his behalf. At that meeting, Florio informed Taylor that he was being removed from teaching his fall classes, would be barred from participating as a guest lecturer in any other courses offered at SJU and would not be hired to teach in the spring semester. Florio emphasized that Taylor was not allowed to set foot in any SJU class as a guest lecturer or any kind of instructor. The meeting lasted approximately five minutes. At the direction of the SJU attorney, Florio declined to answer Taylor’s questions about the accusations against him or the “investigation” conducted by SJU.

68. Respondents never sent Taylor any writing reflecting the decision conveyed at the October 9 zoom meeting or the sanctions imposed on Taylor at that meeting. The sanctions imposed on October 9 against Professor Taylor were the final action taken by SJU with respect to the complaint against Professor Taylor.

69. The Radicals later boasted about how they rose up to bring about Taylor's removal. Taylor Aff. ¶ 5 and Exh. 4 (last two pages).

I. The Grossly Deficient, Fundamentally Unfair, Ethically Compromised Process Used To Terminate Taylor Was Motivated By SJU's Fear Of Appearing Insufficiently Committed To The "Antiracist" Agenda

70. The procedures used by Respondents in addressing the complaint against Taylor were calculated to, and did in fact, deny Taylor a fair and impartial hearing. SJU's process reflected Respondents' complete lack of interest in discovering the truth about what was said during the September 7 History 1000C class.

71. For example, Wong failed to seek evidence from the students who had attended Petitioner's 9:05 am History 1000C class on September 7, 2020 and who had personal knowledge of the relevant facts. Instead of relying on witnesses having personal knowledge – *i.e.*, the students who attended Taylor's class -- Respondents relied on form letters with no evidentiary value. As noted above, on information and belief, Wong intentionally declined to interview an African-American student who said in a public social media post that the claims against Taylor distorted what he actually said.

72. In addition, Wong declined to seek out any of the students who signed a petition via change.org in support of Professor Taylor and asking SJU to bring him back as a teacher. Of the more than 450 signers, some were students who attended the September 7 class and therefore had personal knowledge of what happened. *See* Taylor Aff. ¶ 8 and Exh. 7.

73. Respondents denied Taylor access to the complaint against him, denied Taylor access to the evidence against him, denied Taylor the opportunity to submit a written response to the unspecified charges, denied Taylor an opportunity to submit exculpatory evidence, and denied Taylor any opportunity to interview (much less question under oath) the witnesses Respondents claimed had presented evidence the University was relying on in finding that Professor Taylor had violated Policy 704.

74. The process employed by Respondents to determine that Taylor violated Policy 704 failed to follow the University's own applicable procedures provided in the Employee Handbook, the Human Resources Policy Manual, the applicable Collective Bargaining Agreement, and University Statutes. Even in the absence of such provisions, the process used by Respondents was manifestly arbitrary and irrational. Rather than seeking truth Respondents merely went through the motions of an "investigation."

75. In addition to using a grossly deficient process designed to hide rather than illuminate the facts, in disciplining Taylor Respondents violated SJU's stated commitment to academic freedom and the "responsible exchange of ideas and opinions which enables the pursuit of knowledge and truth." (Policy 1009, *supra*) (Taylor Aff., Exh. 13). The written slides Taylor used to frame the class discussion on September 7th contradict any suggestion that he made the statements the October 5 letter attributes to him, or asked the students to "justify" slavery. Rather, the written slides strongly support Taylor's assertion that he asked his students to form their own views about whether the benefits of the Columbian Exchange outweighed the costs, including particularly costs in the form of the death of some 90% of the indigenous population and enslavement of millions of natives and Africans.

76. But even if he had asked students to consider whether there were justifications for slavery, the Columbian Exchange is an historical fact and gave rise to the world in which all of us, including the students in Taylor's class, now live. Whether the benefits from the Columbian Exchange outweighed the costs -- the question posed by Professor Taylor's concluding slides for the September 7th class, *see* Taylor Aff., Exh. 3 -- is clearly an example of a controversy within the scope of the "free academic inquiry" SJU professes to support.

77. As shown above, SJU's own policies protect Taylor's freedom to challenge his students to think for themselves about complex historical phenomena. In terminating Taylor for his supposed statements during a discussion of the Columbian Exchange and its consequences, Respondents breached every such policy and commitment SJU had made to academic freedom and free inquiry.

78. As a target of the SJURadicals herself, Wong had every incentive to try to protect herself by appeasing the Radicals. She did this by caving to their demands to purge Taylor.

79. Wong, in other words, was not a neutral factfinder. Instead she had a personal stake in having the investigation's "findings" come out against Taylor, in an effort to appease the SJURadicals so as to avoid being purged herself for being insufficiently supportive of the Radicals' goals. Once the Radicals posted their accusations against Wong on or about October 1, Wong should have been removed from investigating Taylor due to her manifest conflict of interest, as University policies in fact required.

80. At the same time, Wong's determination against Taylor fully aligned with the administration's goals of protecting itself from accusations of racism by the Radicals—a goal advanced by appeasing the Radicals in their repeated libels of and false accusations against Taylor, a white male with a police and Marine background. This goal well explains the

differential treatment SJU gave to two employees who were similarly situated in being attacked and smeared by the SJURadicals, Wong and Taylor.

81. In short, SJU tolerated libel against Professor Taylor, and credited baseless allegations by the SJURadicals, because the subject of the allegations involved supposed racism committed by a white male and former police officer, and occurred against the background of widespread protests and urban unrest associated with the Black Lives Matter (“BLM”) movement.

82. Respondents’ treatment of Taylor as set forth in this Petition greatly harmed Taylor’s reputation, libeled him, and caused him significant emotional distress and financial harm.

FIRST CAUSE OF ACTION
(CPLR 7803 - Against All Respondents: Failure To Follow SJU’s Own Procedures)

83. Petitioner repeats and realleges each and every one of the foregoing paragraphs as if fully set forth in this paragraph.

84. As a state chartered, private university subject to the jurisdiction of the New York State Board of Regents, SJU is accountable under CPLR Article 78 for the lawful, non-arbitrary discharge of its obligations.

85. The process Respondents used to impose discipline on Professor Taylor disregarded and grossly violated SJU’s own published disciplinary procedures. Among other infirmities, the process used by Respondents failed to give Taylor notice of the complaint against him, failed to allow him to submit a written response or exculpatory evidence, failed to allow him to confront witnesses or submit exculpatory evidence, and permitted Respondent Keaton Wong to continue as SJU’s lead investigator while acting under a disabling conflict of interest

that precluded her from acting fairly to investigate Taylor, and gave her an incentive to make baseless “findings” against him.

86. As a result, Respondents’ findings that Professor Taylor violated Policy 704, the termination of Professor Taylor’s teaching appointment in the middle of the semester, and the bar on a spring 2021 teaching position and any appearance as a guest lecturer were arbitrary and capricious, made in violation of lawful procedure, were an abuse of discretion, were unsupported by substantial evidence, lacked a rational basis and were affected by an error of law.

87. Respondents’ actions have caused Petitioner severe harm.

SECOND CAUSE OF ACTION
(CPLR 7803 - Against All Respondents: Failure To Use *Any* Rational Procedures)

88. Petitioner repeats and realleges each and every one of the foregoing paragraphs as if fully set forth in this paragraph.

89. By conducting a sham investigation of Professor Taylor devoid of the most fundamental procedural protections for the accused; that credited fake “evidence” submitted by self-described Radicals with no personal knowledge of the facts; and that knowingly declined to seek out exculpatory evidence from students with personal knowledge of the matters at issue, Respondents relied on a disciplinary procedure that was not intended to get at the truth.

90. Instead, Respondents’ highest priority in investigating Professor Taylor was to appease the SJURadicals so as to insulate Respondent Wong from the Radicals’ pending complaint against her, and to insulate the University against attacks against it for being insufficiently supportive of the “antiracist” agenda during the time of widespread BLM protests.

91. As a result of the absence of any fundamentally fair process and Respondents’ hidden agenda, Respondents’ findings that Professor Taylor violated Policy 704, the termination of his teaching appointment in the middle of the semester, and the bar on a spring teaching

position and any appearance as a guest lecturer were arbitrary and capricious, made in violation of lawful procedure, were an abuse of discretion, were unsupported by substantial evidence, lacked a rational basis and were affected by an error of law.

92. Respondents' actions have caused Petitioner severe harm.

**THIRD CAUSE OF ACTION
(CPLR 7803 - Against All Respondents: Violation Of Policies
Protecting Academic Freedom)**

93. Petitioner repeats and realleges each and every one of the foregoing paragraphs as if fully set forth in this paragraph.

94. SJU's multiple policies and statements affirming the University's commitment to free inquiry in the pursuit of knowledge and truth protected Professor Taylor's decision to conclude his September 7 class discussion by asking the students to consider the costs versus the benefits of the Columbian Exchange. As his slides for that class showed, Taylor asked his students to consider whether there the benefits of the Columbian Exchange outweighed the costs, including particularly the costs of widespread disease and slavery. By asking the students to form their own views of complex historical phenomena which undeniably included slavery, Professor Taylor was putting into practice SJU's policies favoring free and open inquiry. By sanctioning Professor Taylor, Respondents have breached SJU's promised commitment to academic freedom, which required Respondents to protect Professor Taylor from baseless accusations because he challenged his students to consider the costs and benefits of complex historical phenomena in a history class.

95. By investigating and disciplining Professor Taylor for statements protected by SJU's policies on academic freedom, Respondents' findings that Professor Taylor violated Policy 704, the termination of his teaching appointment in the middle of the semester, and the

bar on a spring teaching position and any appearance as a guest lecturer, were arbitrary and capricious, made in violation of lawful procedure, were an abuse of discretion, were unsupported by substantial evidence, lacked a rational basis and were affected by an error of law.

96. Respondents' actions have caused Petitioner severe harm.

97. Petitioner has no adequate remedy other than this proceeding, and no previous application for the relief requested herein has been made.

WHEREFORE, Petitioner respectfully requests that judgment in his favor be entered:

- (a) Declaring that Respondents' determinations set forth in Florio's imposition of sanctions at the October 9, 2020 meeting with Taylor, and Wong's October 5, 2020 letter finding that Taylor violated SJU's Policy Against Bias, Discrimination, and Harassment (No. 704), were arbitrary and capricious, an abuse of discretion, lacking in a rational basis, affected by an error of law, and unsupported by substantial evidence;
- (b) Declaring that Respondents' termination of Taylor's employment as an adjunct professor for the fall 2020 semester, and its decision not to re-hire him for the spring 2021 semester, was arbitrary and capricious, an abuse of discretion, lacking in a rational basis, affected by an error of law, and unsupported by substantial evidence;
- (c) Vacating, setting aside, and annulling Respondents' determination set forth by Florio in the October 9, 2020 meeting imposing sanctions against Taylor, and in Wong's October 5, 2020 letter finding that Taylor violated SJU's Policy Against Bias, Discrimination, and Harassment (No. 704);
- (d) Vacating, setting aside, and annulling Respondents' decisions to (i) terminate Taylor's employment, (ii) not rehire him for the spring 2021 semester, and (iii) bar him from guest lecturing in any SJU class; and
- (e) Directing Respondents to expunge all entries of the adverse determinations, findings, discipline, and employment actions against Petition from all of Petitioner's records, and restore Petitioner in all respects to the status he enjoyed prior to the commencement of the Respondents' "investigation;"
- (f) Awarding Petitioner his costs in bringing this proceeding, including reasonable attorneys' fees; and
- (g) Awarding Petitioner such other and further relief as the Court deems just and proper.

Dated: New York, New York
February 3, 2021

Respectfully submitted,

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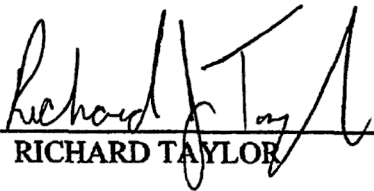
Attorneys for Petitioner

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF QUEENS)

RICHARD TAYLOR, being duly sworn, deposes and says:

I am the Petitioner in the within proceeding and am fully familiar with the facts of this matter. I have reviewed the foregoing Verified Petition and verify that the statements contained in the Petition are true and accurate to my knowledge, except as to matters in the Petition stated to be alleged upon information and belief, and as to these matters I believe them to be true and accurate.



RICHARD TAYLOR

Sworn to before me this
3rd day of February, 2021



Notary Public

Notary Public, State of New York
No. 31-4979612
Qualified in New York County
Commission Expires April 1, 2023