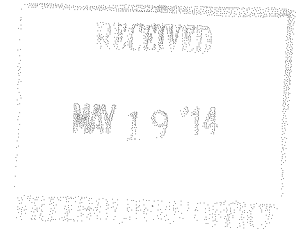


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May 16, 2014

VIA FEDERAL EXPRESS & EMAIL

Hunterdon County Board of Chosen Freeholders &
Shana Taylor, County Counsel
71 Main Street
Flemington, New Jersey 08822

RE: THE COUNTY OF HUNTERDON DISCIPLINARY HEARINGS PASQUA/BROWN
OUR FILE NUMBER: 1976.002

Dear Board of Chosen Freeholders & Ms. Taylor:

Enclosed please find the Final Report of the Disciplinary Hearing
in the Matter of Margaret Pasqua & Kimberly Browne.

By copy of this letter, I am forwarding a copy to Mr. Giacobbe &
Mr. DeSapio of same for their prospective clients.

Thank you for your attention to this matter.

Should you have any questions please do not hesitate to contact our
office.

Very truly yours,

FLORIO & KENNY, L.L.P.


EDWARD J. FLORIO, ESQ.

EJF/ap
Encl.

cc: Matthew Giacobbe, Esq. (via Federal Express & email)
Gaetano M. De Sapio, Esq. (via Federal Express & email)

DISCIPLINARY HEARING

IN THE MATTER OF

**MARGARET PASQUA
KIMBERLY BROWNE**

FINAL REPORT

HEARING OFFICER:
EDWARD J. FLORIO, ESQ.
FLORIO & KENNY, L.L.P.
5 MARINE VIEW PLAZA, SUITE 103
HOBOKEN, N.J. 07030

DATE: May 16, 2014

TABLE OF OFFENSES AS TO BOTH EMPLOYEES

1. Neglect of Duty
2. Serious Mistake Due to Carelessness Where There is a Financial Loss to the County
3. Failure to Complete Required Reports
4. Incompetency or Inability to Perform Assigned Duties
5. Insubordination
6. Conduct Unbecoming a Public Employee
7. Violation of a Rule, Regulation, Policy, Procedure, Order or Administrative Decision where there is a Financial Loss to the County
8. Other Sufficient Cause

TABLE OF EXHIBITS

- A. N.J.S.A. 40A: 9-25
- B. N.J.S.A. 40A:9-27
- C. N.J.S.A. 40A:9-28.4
- D. N.J.S.A. 40A:9-28.6
- E. HC2 - Independent Auditor's Report, September 16, 2013
- F. HC3 - Financial Statements and Supplementary Schedules from Wiss Accountants Consultants, December 31, 2012
- G. HC4 - County of Hunterdon Notice of Disciplinary Action Against Margaret Pasqua
- H. HC5 - County of Hunterdon Notice of Disciplinary Action Against Kimberly Browne
- I. HC7 - Email from Cynthia Yard, May 15, 2013
- J. HC8 - Email from Kimberly Browne, May 24, 2013
- K. HC9 - Email from Kimberly Browne, June 4, 2013
- L. HC10 - Email from Cynthia Yard, June 10, 2013
- M. HC13 - Written Memorandum to Margaret Pasqua from Cynthia Yard, September 9, 2013
- N. HC14 - Written Memorandum from Margaret Pasqua and Kimberly Browne to Cynthia Yard, September 10, 2013
- O. County Exhibits
- P. Respondent Exhibits

RE: In the Matter of Margaret Pasqua and Kimberly
Browne
TO: The Board of Chosen Freeholders of the County of
Hunterdon
DATE: May 16, 2014

Please be kind enough to accept this Final Report and Conclusion submitted in connection with the Notices of Disciplinary Action served upon Margaret Pasqua, County Treasurer and Kimberly Browne, Director of the Department of Administration and Finance. This report supplements my preliminary report dated December 27, 2013.

I heard testimony over several days in October 2013, November 2013 and December 2013. I recommend that the County terminate the employment of both Margaret Pasqua and Kimberly Browne based upon the totality of the evidence presented at those hearings, which established that both Ms. Pasqua and Ms. Browne neglected their official duties, resulting in real financial consequences for the county, and were also insubordinate in refusing to cooperate with their superiors and to carry out the duties of their respective offices.

NEGLECT OF DUTY

Respondent Margaret Pasqua is the Hunterdon County Treasurer. N.J.S.A. 40A:9-27 sets forth Ms. Pasqua's duties, which include acting as custodian of all county funds and disbursing those funds only on a valid order of the County Board of Chosen Freeholders. The Treasurer "shall collect and receive all monies due the County. He shall keep adequate records and unless there is a county comptroller, at least once a month, report to the Board, the receipts and disbursements made by him ... The County treasurer shall maintain general books of account in accordance with the rules and regulations of the Local Finance Board in the Department of Community Affairs." N.J.S.A. 40A:9-27.

The testimony of Dave Gannon, CPA, showed that Ms. Pasqua's accounting of the County's funds contained significant inaccuracies, erroneously stating the balances of several trust funds and misstating those balances by hundreds of thousands of dollars by indicating that various departments were owed funds when in fact, there was no money due and owing. Mr. Tompkins also found, during his audit, that Ms. Pasqua, as well as Ms. Browne, could not answer questions regarding the source of these entries. Given the importance of Ms. Pasqua's role, and her

central involvement in the County's financial system, this performance is simply unacceptable.

As early as 2010, an outside audit pointed out significant errors and inadequacies in the County's management of its funds under Ms. Pasqua. In 2010, Ms. Pasqua, as she herself admitted in her testimony, was informed of these problem areas. She took no steps to correct these problems, even three years later. Ms. Pasqua admitted, under oath, that it was her responsibility to properly maintain the County's books and records. Despite her attempts to shift responsibility to other County employees, she and Ms. Browne were licensed professionals with the statutory responsibility to maintain accurate financial records. She and Ms. Browne did not carry out those responsibilities.

Conclusion as to Neglect of Duty: Margaret Pasqua failed to meet the requirements set forth in N.J.S.A. 40A:9-27.

The Director of the Department of Administration and Finance, Kimberly Browne similarly failed to competently and professionally execute the duties of her office including but not limited to establishing procedures that protected the interests of the taxpayers of the County of Hunterdon, allowed a situation to persist whereby the rating of the County became designated as a "high risk auditee", and placed the County's ability to obtain federal grants at risk. The duty of the

Director of Finance is to accurately maintain the books and records of the County's finances. Ms. Browne failed in this regard. Mr. Tomkins testified that in his professional opinion, as a CPA, the lack of internal controls, such as revenue tracking, in the finance department was unacceptable. He further testified that discrepancies of as large as \$600,000 and higher existed and were certainly material.

Part of a CFO's (and by extension, of a Director of Finance) responsibility, according to Mr. Tomkins, includes appropriate internal controls so that the governing body has an accurate picture of its finances and to ensure that the public's money is spent appropriately. This was simply not the case in Hunterdon County under Ms. Browne's tenure. As a result of her and Ms. Pasqua's inability to correctly state the County's finances, the County unwittingly submitted false information to the Federal Government. Like Ms. Pasqua, Ms. Browne attempted to shift responsibility onto other County employees for the multitude of failures in the County's financial accounting systems. However, like Ms. Pasqua, Ms. Browne also admitted that, as a licensed professional, it was her responsibility (along with Ms. Pasqua) to ensure proper financial accounting and proper oversight of the County's funds.

Conclusion as to Neglect of Duty: Kimberly Browne's conduct reflects a dereliction of her job responsibilities and neglect of her duty to the public.

SERIOUS MISTAKE DUE TO CARELESSNESS WHERE THERE IS A FINANCIAL LOSS TO THE COUNTY

Ms. Browne and Ms. Pasqua oversaw the administration of County health care benefits. The County adduced credible evidence from Mr. Fred Tomkins, a Certified Public Accountant whom the County contracted to oversee the Department of Administration and Finance that showed that under Ms. Brown and Ms. Pasqua's watch, the County paid over \$934,264.08 in benefits to ineligible persons in 2012 alone. An independent auditor confronted respondents as early as 2010 with the need to promptly remove former employees and others from the lists of those eligible to receive healthcare benefits, and Ms. Pasqua was informed of this fact. Despite this, she did not act and the lack of oversight continued for several years. Indeed, her own testimony established that despite the lack of effective corrective action, she nonetheless informed the State that the issues had been resolved. The recipients of these payments included people who were no longer County employees, individuals who were not entitled to health insurance coverage, and even, in some instances, dead people. This lack of oversight was not an isolated incident: it extended through several years. Nor was the lack of oversight limited to the area of health care benefits.

For example, the 2012 Audit revealed numerous other instances where internal policies either did not exist or were inadequate to protect the County's finances. For example, funds from the Parks and Recreation Department were not properly accounted for, so the auditor could not even determine in whose account the funds properly resided. Stale, or outdated, checks continued to be recorded on monthly bank reconciliations. This audit resulted in the imposition of a Corrective Action Plan. This conduct merits termination.

FAILURE TO COMPLETE REQUIRED REPORTS

The County produced ample evidence, both documentary and testimonial, that Ms. Pasqua and Ms. Browne refused to sign the 2012 Audit Management Letter as required by their offices and employment. Respondents admitted as much, although they claimed that they had been offered an option to explain their refusal rather than signing the letter. The County also showed that Ms. Pasqua and Ms. Browne further failed to complete or failed to timely file Federal Data Collection Forms, thereby putting the County's ability to obtain federal grants - a potentially significant source of funds - at risk. Hearing testimony further established that Ms. Pasqua and Ms. Browne also failed to implement internal controls leading to material weaknesses. The lack of internal controls caused the County to be designated a high risk auditee, as Mr. Gannon detailed at length during his testimony. As a high risk auditee, the County will be subject to heightened analysis of its books and records for several years. Ms. Browne and Ms. Pasqua's conduct will have a lasting, negative impact on the County's ability to do business. This conduct, particularly when considered in conjunction with the impact of Ms. Browne and Ms. Pasqua's more broad failure to maintain appropriate internal controls, points to a serious lack of attention to their duties which merits termination.

INCOMPETENCY OR INABILITY TO PERFORM ASSIGNED DUTIES

This charge requires an analysis similar to the analysis performed with respect to the Neglect of Duty charge. I find that both Ms. Pasqua and Ms. Browne demonstrated incompetency or inability to perform their assigned duties, providing further basis for their respective terminations.

INSUBORDINATION

Cynthia Yard, County Administrator directed Ms. Browne and Ms. Pasqua to develop a quality assurance program/internal controls to reconcile and resolve the aforementioned problem with payment of health insurance benefits bills. This directive was presented in writing by Ms. Yard, via email to Ms. Pasqua and Ms. Browne. Ms. Browne responded via email that she disagreed with the County Administrator's directive, effectively refusing an order from her superior. This is insubordinate conduct, which is made all the more significant by the department's lack of internal controls, which several witnesses testified were an important part of a properly functioning finance department. Ms. Pasqua admitted that she did not sign the letter.

Ms. Yard also explicitly directed Ms. Pasqua and Ms. Browne to sign the 2012 Audit Management Letter. This directive simply asked Ms. Pasqua and Ms. Brown to carry out their required job

duties, because, as considerable testimony presented at the hearing (including by Respondents themselves) established, proper internal controls are vital to the functioning of a County Finance Department. Not only did both Ms. Pasqua and Ms. Brown refuse to sign the Audit Management Letter, they memorialized their refusal in a memorandum dated September 10, 2013. This refusal represents insubordinate conduct on the part of each employee.

CONDUCT UNBECOMING A PUBLIC EMPLOYEE

Both Ms. Pasqua and Ms. Browne are licensed Certified County Finance Officers. In their capacity as County Treasurer, Chief Financial Officer and Director of the Department of Finance, these employees had a duty to meet their statutory and procedural responsibilities. Moreover, as a condition of their licensure, both individuals completed substantial amounts of education detailing their statutory and professional obligations. For years, neither Ms. Pasqua nor Ms. Browne met those responsibilities. As outlined above, and particularly with regard to their insubordinate conduct, I find that both Ms. Pasqua and Ms. Browne demonstrated conduct unbecoming a public employee.

VIOLATION OF A RULE, REGULATION, POLICY, PROCEDURE, ORDER OR ADMINISTRATIVE DECISION WHERE THERE IS A FINANCIAL LOSS TO THE COUNTY

I find that the County Treasurer violated her duties under *N.J.S.A.* 40A: 9-27. Similarly, I find that the Chief Financial Officer violated her duties as set forth in *N.J.S.A.* 40A:9-28.4. These statutory requirements are well-established. Both respondents are licensed professionals. They acknowledged completing many hours of professional training. They cannot claim ignorance of their responsibilities, nor can they shift blame to other County employees, as they each repeatedly

attempted to do in their hearing testimony. The final authority and responsibility for safeguarding public funds in Hunterdon County resided with Ms. Pasqua and Ms. Browne at all relevant times.

Ms. Pasqua and Ms. Browne refused to impose internal controls as directed by the County Administrator, thereby leading to continued financial loss to the County, particularly in regard to the issue of health insurance and medical benefits coverage. During Ms. Pasqua's testimony, she repeatedly attempted to place blame on other County personnel before acknowledging that she, as Treasurer, bore the ultimate responsibility for the County's financial management. Statutorily, only Ms. Pasqua could legally certify many reports prior to submission to the State, undercutting her attempts to place blame elsewhere. Some of these internal controls were as simple as properly reconciling stale checks and determining the status of those checks. Bills that required Ms. Pasqua or Ms. Browne to "sign off" frequently lacked any signatures. Ms. Pasqua and Ms. Browne were notified of the need for improvement in the County's financial management systems as early as 2010. Despite this clear mandate, Respondents changed nothing in their management of the County's finances. The financial loss to the County for improperly paid health care benefits in 2012 alone

was \$934,264.08. Having been designated a high-risk auditee, the County is subject to enhanced auditing requirements which will impose an unnecessary financial burden on the County in the form of increased auditing bills for several years going forward, even after Ms. Pasqua and Ms. Browne have left the County. The taxpayers of Hunterdon County will ultimately bear the cost of these employees' refusal and/or inability to properly oversee their department, and this conduct merits termination.

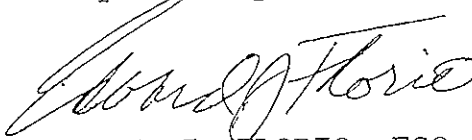
OTHER SUFFICIENT CAUSE

In light of the totality of the evidence in charges One through Seven, I find that it is unnecessary to reach a determination with respect to other sufficient cause.

CONCLUSION

The County has presented clear and convincing evidence that Ms. Pasqua and Ms. Browne, both of whom are duly-licensed professionals, failed in significant respects to meet the statutory requirements of their job responsibilities, and placed the County's financial well-being in substantial peril. Together, they shared primary responsibility for safeguarding the public's funds. Instead, they put those funds, paid by the hard-working taxpayers of Hunterdon County and entrusted to their safekeeping for the public good, at risk, and further engaged in insubordinate conduct. Based upon the foregoing ample evidence, it is my recommendation that the employment of Margaret Pasqua and Kimberly Browne with the County of Hunterdon be terminated.

Respectfully Submitted,



EDWARD J. FLORIO, ESQ.

Dated: May 16, 2014