

DISCIPLINARY HEARING

IN THE MATTER OF

**MARGARET PASQUA
KIMBERLY BROWNE**

PRELIMINARY REPORT

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

DATE: DECEMBER 27, 2013

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

RE: In the Matter of Margaret Pasqua and Kimberly Browne
TO: The Board of Chosen Freeholders of the County of Hunterdon
DATE: December 27, 2013

Please be kind enough to accept this Preliminary 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. A more formal final report shall be presented in January 2014. However, due to the transition of government that will take place on January 1, 2014, I present this report in order for the Freeholders to consider my recommendation and undertake whatever action they deem appropriate.

Hearings were held over a period of days in October 2013, November 2013 and December 2013. Based upon the totality of the evidence, it is my recommendation that the employment of Margaret Pasqua and Kimberly Browne with the County of Hunterdon should be terminated.

NEGLECT OF DUTY

As County Treasurer, the duties of Margaret Pasqua are set forth in N.J.S.A 40A: 9-27. Among those duties, the County Treasurer shall be the custodian of all county funds and disburse said funds only on the Order of the Board.

“He 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.”

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.

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

The issue of health insurance benefits payments to persons not eligible therefore and the manner by which those payments were overseen by Ms. Browne and Ms. Pasqua is fatal to their continued employment.

Testimony presented by Mr. Tomkins, a CPA under contract with the County for the purpose of overseeing the Department of Administration and Finance showed that in 2012 alone, the improper execution of their duties cost the County \$934,264.08. These payments were made to persons who were no longer County employees, persons not entitled to health insurance coverage, and in some cases, persons who were deceased.

FAILURE TO COMPLETE REQUIRED REPORTS

Margaret Pasqua and Kimberly Browne refused to sign the 2012 Audit Management Letter. This is a requirement of their offices and their employment.

Margaret Pasqua and Kimberly Browne failed to complete or failed to timely file Federal Data Collection Forms. This failure put the County's ability to obtain federal grants at risk.

Margaret Pasqua and Kimberly Browne failed to implement internal controls leading to material weaknesses. such failure caused the County to be designated as a high risk auditee.

INCOMPETENCY OR INABILITY TO PERFORM ASSIGNED DUTIES

The analysis in this charge is similar to that which was presented under the charge of Neglect of Duty. I find that both Ms. Pasqua and Ms. Browne demonstrated incompetency or inability to perform their assigned duties.

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 directive of the County Administrator, effectively refusing an order from her superior. This is insubordinate conduct.

Ms. Pasqua and Ms. Browne were directed by Ms. Yard to sign the 2012 Audit Management Letter. They refused to do so, such refusal being presented in writing in a memo dated September 10, 2013. This refusal represents insubordinate conduct by both employees.

CONDUCT UNBECOMING A PUBLIC EMPLOYEE

Both Ms. Pasqua and Ms. Browne hold the licenses of Certified County Finance Officer. 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. 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.

Ms. Pasqua and Ms. Browne refused to initiate 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. The financial loss to the County for 2012 alone was \$934,264.08.

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

Based upon the foregoing, it is my recommendation that the employment of Margaret Pasqua and Kimberly Browne with the County of Hunterdon be terminated.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Edward J. Florio".

EDWARD J. FLORIO, ESQ.

Dated: December 27, 2013