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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RICHARD DECOSMIS,

Case No.: 08-5221

Plaintiff,

vs.

AMENDED COMPLAINT
JURY TRIAL DEMANDED

TOWNSHIP OF WEEHAWKEN; MAYOR
RICHARD F. TURNER, FRANK TATTOLI,
JORGE CHEMAS, JAMES MARCHETTI,
WILLIAM McLELLAN, and JEFFREY
WELZ

The Plaintiff RICHARD DECOSMIS, by and through his attorneys, LOUIS A. ZAYAS of the LAW OFFICES OF LOUIS A. ZAYAS, L.L.C. alleges the following upon information and belief:

INTRODUCTION

1. This is a civil action brought by the Plaintiff for damages and injunctive relief under Title 42 U.S.C. §1983.

PARTIES

2. Plaintiff Richard DeCosmis ("DeCosmis"), is a citizen of the State of New Jersey, residing in the Township of Weehawken.
3. Defendant Township of Weehawken is a municipality organized by virtue of New Jersey law and pursuant to that law, is to be known and distinguished by the name "Weehawken." Defendant Weehawken is sued to affect the full

declaratory, injunctive and compensatory damages demanded by the Plaintiff.

4. Defendant Mayor Richard F. Turner ("Mayor Turner") is the duly elected Mayor of Weehawken. Mayor Turner is the one of the final decision-makers responsible for setting official policy for Weehawken. Mayor Turner is sued in his official and individual capacity for purposes of effecting the full declaratory, injunctive, compensatory, and punitive damages demanded by the Plaintiff.

5. Defendant Building Employee Jorge Chemas ("Chemas") is a citizen of New Jersey, residing in Township of Weehawken. Chemas is employed by Weehawken. Chemas is sued in his official and individual capacity for purposes of effecting the full declaratory, injunctive, compensatory, and punitive damages demanded by the Plaintiff.

6. Defendant Building Inspector Frank Tattoli ("Tattoli") is a citizen of New Jersey, residing in the Township of Weehawken. Tattoli is employed by Weehawken. Tattoli is sued in his official and individual capacity for purposes of effecting the full declaratory, injunctive, compensatory, and punitive damages demanded by the Plaintiff.

7. Defendant Business Manager James Marchetti ("Marchetti") is a citizen of New Jersey. Marchetti was and still is the Business Manager for Weehawken. As such, Marchetti is sued in his official and individual capacity for purposes of effecting the full declaratory, injunctive, compensatory, and punitive damages demanded

by the Plaintiff.

8. Defendant Deputy Chief William McLellan ("Deputy Chief McLellan") is a citizen of New Jersey. Deputy Chief McLellan was and still is the Deputy Chief of the Weehawken Police Department. As such, Deputy Chief McLellan is sued in his official and individual capacity for purposes of effecting the full declaratory, injunctive, compensatory, and punitive damages demanded by the Plaintiff.
9. Defendant, Director of Public Safety Jeffrey Welz, ("Director Welz") is a citizen of New Jersey. Director Welz was and still is the Director of Public Safety of the Police Department. As such, Director Welz is sued in his official and individual capacity for purposes of effecting the full declaratory, injunctive, compensatory, and punitive damages demanded by the Plaintiff.

JURISDICTION

10. The jurisdiction of this Court is invoked by Plaintiffs pursuant to 28 U.S.C. §§1331 and 1343, which confers original jurisdiction upon the Court on the ground that the instant action arises under the First, Fourth and Fourteenth Amendments to Constitution to the United States and Title 42 U.S.C. §1983.
11. Plaintiff also invokes this Court's pendent jurisdiction with respect to Plaintiffs common law claims.
12. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b), in as much as the Township of Weehawken can be found in the District of New Jersey, and the cause of action occurred in the County of Hudson.

FACTS

12. Lieutenant DeCosmis is a long time resident of Weehawken and currently Police Lieutenant with the Weehawken Police Department. In addition to his employment with the Weehawken Police Department, Lieutenant DeCosmis own various properties and or real estate investments in Weehawken. Prior to his complaint of public corruption and filing of a federal lawsuit in 2007, Lieutenant DeCosmis did not experience any problems with regards to seeking construction permits to perform renovations or constructions on his properties in Weehawken.

13. Lieutenant DeCosmis' relationship with Mayor Turner took a turn for the worse when Lieutenant DeCosmis began to publicly complain about the misuse of state funds.

The Department of Transportation had granted funds for mixed use of property to develop a "park and ride" and provide parking for private use. However, Mayor Turner, despite the intended purpose of the funds, never created a "park and ride" and allocated the funds to develop a parking lot for Weehawken residents and to benefit a private building developer and political contributor to Mayor Turner and his allies.

14. In the Summer 2006, during a ribbon cutting ceremony, Lieutenant DeCosmis was approached by Bruce Noel, the developer who was renovating an industrial building into condominium units in Weehawken, called the Bella Vista Estates ("Bella Vista").

15. According to Mr. Noel, his business partner, Nate Salvermini, was connected with the "Town" through his business association with Weehawken Building Inspector

Frank Tattoli.

16. Lieutenant DeCosmis understood Mr. Noel to mean that Bella Vista would enjoy favorable treatment from town officials in any building code or official matter.

17. Lieutenant DeCosmis informed Mr. Noel that he needed to first sell his home before deciding whether to purchase a condo at Bella Vista.
18. In January 2007, Lieutenant DeCosmis sold his home and was in the market for another property. At this time, Mayor Turner approached Lieutenant DeCosmis and recommended that he buy a condo at Bella Vista adding that Mr. Salvemini was a "friend."
19. Lieutenant DeCosmis met again with Mr. Noel regarding the purchase of a condo unit at Bella Vista. Because of Weehawken's chronic problems with parking, Lieutenant DeCosmis inquired about Bella Vista's parking situation. Mr. Noel informed Lieutenant DeCosmis that Mr. Noel had purchased the land across the street for the purpose of providing parking for Bella Vista residents while also some parking spaces for Weehawken residents.
20. At no point did Mr. Noel advise Lieutenant DeCosmis that the property across the street was to be used as a "park and ride."
21. In March 2007, Lieutenant DeCosmis closed on the Bella Vista condo. Immediately after he purchased the condo, Lieutenant DeCosmis discovered that he did not have a deeded parking lot assigned to his Bella Vista condo unit.
22. As a result of the apparent misrepresentations by Mr. Noel, Lieutenant DeCosmis began to review public records regarding the true ownership of the parking lot across the street

from Bella Vista. As a result of his investigation, Lieutenant DeCosmis learned that Weehawken had purchased the property with state funds in part to develop a "park and ride." The state funds for the "park and ride" was administered by the New Jersey Department of Transportation ("DOT") to encourage public transportation in New Jersey.

23. According to the DOT records, Weehawken submitted an application in 2004 for funding in the amount of \$1,180,000.00 to ..."Acquire the Property/Right of Way and Construct Township Bus Park and Ride in Conjunction with other Local Urban Development within the Township of Weehawken...". According to the application, part of the property was to be used for private use, while the other portion of the property was to be developed for a "park and ride."
24. Lieutenant DeCosmis was extremely upset that he was misled and concerned that Weehawken was using public funds allocated for a "park and ride" for private use to benefit a developer and a political supporter of Mayor Turner. Around the same time that Weehawken agreed to provide Bella Vista with the aforementioned property to develop a parking lot for its condominiums residents, Mr. Noel and Mr. Salvemini, the developers of Bella Vista, were contributing substantial amount of money to Mayor Turner and his political allies as part of Weehawken's pay to play culture.
25. To this day, Weehawken has not used the monies provided by DOT to construct a "bus and ride" facility.
26. Lieutenant DeCosmis began complain publicly about the misrepresentation and the misuse of state funds, including speaking at Bella Vista board meetings. On one

occasion, Lieutenant DeCosmis called Mr. Noel and complained that he had been misled about the ownership of the parking lot.

27. Soon after speaking with Mr. Noel, Tattoli called the police department looking to speak to Lieutenant DeCosmis. Tattoli left a message with the police desk requesting that Lieutenant DeCosmis come to his office immediately.
28. When Lieutenant DeCosmis arrived at Tattoli's government office, Tattoli and Richard Barsa, the Weehawken Finance Director, were present. As Lieutenant DeCosmis walked in his government office, Tattoli was on the telephone speaking to Mayor Turner. Upon seeing Lieutenant DeCosmis, Tattoli abruptly informed Mayor Turner that "he just got here, I'll call you back." and hung up the telephone. After hanging the telephone, Tattoli turned to Lieutenant DeCosmis in an exacerbated manner and said " Why are you causing everyone problems? ..."the Mayor Turner is upset."
29. Lieutenant DeCosmis initially did not know what Tattoli was referring to but soon understood that Tattoli was referring to Lieutenant DeCosmis' conversation with Mr. Noel. Lieutenant DeCosmis complained to Tattoli that Bella Vista did not own the parking lot as previously represented to him. Worse, Lieutenant DeCosmis complained that the property in question was supposed to be used, in large part, as a "park and ride", and not simply for private or residential use. Lieutenant DeCosmis complained that he and other Bella Vista owners were at risk of losing their parking lot,

if and when, the State discovers that state funds were inappropriately used by Weehawken.

30. Lieutenant DeCosmis told Tattoli that because of the aforementioned misrepresentation, Lieutenant DeCosmis and others over paid for the price of the Bella Vista condos since their condos were not worth the price paid without actual title to the parking space.
31. Lieutenant DeCosmis to Tattoli further complained that Weehawken had used state funds for an authorized purpose.
32. After Lieutenant DeCosmis left Tattoli's office, Tattoli called Lieutenant DeCosmis on his cell phone to inquire about Lieutenant DeCosmis' intentions. Lieutenant DeCosmis told Tattoli that he was thinking of complaining to the "State authorities." In a menacing and intimidating manner, Tattoli told Lieutenant DeCosmis that he "won't talk to him on the telephone" and hung up.

33. In that same month, Lieutenant DeCosmis appeared at a public fundraising event, a Taste of Weehawken. At that event, Mayor Turner approached Lieutenant DeCosmis in an attempt to dissuade him from complaining to the state authorities about the parking lot issue. Lieutenant DeCosmis told Mayor Turner that he was upset about the prolong delays with his Park Avenue applications before the Board of Adjustments and the use of state funds for private use.
34. Mayor Turner told Lieutenant DeCosmis "Not to worry about it." and "keep my opinions to myself." Mayor Turner then said that Lieutenant DeCosmis' "approvals would come at the end of the month." Mayor Turner then introduced Lieutenant DeCosmis to Mayor Stack. Mayor Turner asked if Plaintiff would support Union City Mayor Brian Stack in his election campaign for Senate by allowing posters to be placed on his properties. Lieutenant DeCosmis responded that he would not do that because he felt that the Board of Adjustment was unduly delaying his application for unknown reasons. Mayor Turner said that if you get your approvals, would you allow us to post signs on your properties? Lieutenant DeCosmis said that he "would think about it."
35. After several weeks of further delays in his applications before the Board of Adjustment, Lieutenant DeCosmis began to get harassed by building department

employees, especially Chemas, who was observed photographing his properties and his father's house in Weehawken.

36. Whereas Lieutenant DeCosmis seldom if ever had any building code violations before March 2007, Tattoli began to selectively target Lieutenant DeCosmis and his family's properties for minor building code violations.

37. When someone placed Mayor Brian Stack political signs on Lieutenant DeCosmis' properties, he called the Weehawken Police Department to report a "trespass." Lieutenant DeCosmis then began to campaign for another political candidate running against Mayor Turner's political faction. When Mayor Turner learned of Lieutenant DeCosmis' refusal to support him, Mayor Turner told Lieutenant DeCosmis' brother that: "He is dead to me."

38. Once Mayor Turner learned that Lieutenant DeCosmis would no longer support him or his political allies, he deliberately conspired with others to retaliate or otherwise punish Lieutenant DeCosmis because of his complaints.

39. Soon after his conversation with Mayor Turner at the Taste of Weehawken, Lieutenant DeCosmis began to experience a pattern of retaliation directed at his employment as a police officer and as a property owner, continuing to the present day.

40. In 2007, Lieutenant DeCosmis began to complain about Mayor Turner's frequent and unlawful interference with the day-to-day operation of the Weehawken police department, which threatens the public safety and morale of its police officers. In an effort to punish and silence DeCosmis, Mayor Turner retaliated against DeCosmis by causing his transfer to a less favorable assignment in the police department.

41. In November 2007, Lieutenant DeCosmis and Captain Thomas Earl filed a civil rights lawsuit in the District of New Jersey against Mayor Turner because his unlawful interference with the day-to-day interference with the Weehawken Police Department and public corruption. See Captain Thomas Earl & Lieutenant Richard DeCosmis et al. v. Township of Weehawken et al., Civil Action No. 07- 5547(WJM) (DeCosmis Lawsuit).

43. On November 24, 2008, Mayor Turner and Weehawken admitted to the factual allegations in the complaint filed by Lieutenant DeCosmis and Captain Thomas Earl when they extended an Offer of Judgment pursuant to Federal Rule 68.

44. On or about July 11, 2008, Chemas, acting under the direction and supervision of Tattoli, traveled to Lieutenant DeCosmis' home in Weehawken, which was under renovations, for the purpose of conducting an unannounced and illegal building code inspection.

45. Although Chemas is employed by Weehawken as a building code inspector, Chemas is not trained or licensed by the State of New Jersey to conduct such inspections. Although Weehawken knew or should have known that Chemas was not authorized to conduct such inspections, Weehawken gave Chemas a badge and an identification card indicating that he was a licensed building code investigator.
46. In addition, Weehawken failed to train Chemas to comply with the constitutional limitations of conducting home inspections under the Fourth Amendment.
47. Without prior written notice or permission to enter said premises, Chemas proceeded to walk into DeCosmis' home for the purpose of conducting search of his property.
48. Lieutenant DeCosmis was surprised by Chemas' unannounced so-called "inspection". In his capacity as a private citizen, DeCosmis asked Chemas to leave his property. Chemas insisted on conducting an inspection. Despite DeCosmis repeated request for Chemas to leave, Chemas refused to leave Lieutenant DeCosmis' home.
49. Lieutenant DeCosmis, who was off-duty, called the Weehawken police department to complain about Chemas' unlawful presence inside his home and

persistent refusal to leave.

50. In response to DeCosmis' telephone call, Weehawken police officers arrived to DeCosmis' home to investigate his complaint. DeCosmis advised the on-duty police lieutenant about Chemas' refusal to leave his home despite numerous requests.
51. After having conducted an on- the- scene investigation, the on-duty police lieutenant determined that probable cause existed to arrest Chemas for criminal trespass.
52. After Chemas was released from police custody, Chemas filed a cross-citizen's criminal complaint against Lieutenant DeCosmis. In violation of the state and federal law, and New Jersey statutory law, Weehawken failed to establish implement a policy or procedure or training to direct Chemas to a hearing officers to determine probable cause. Instead, Chemas was permitted to file his cross-complaint without a probable cause determination by a neutral and impartial magistrate or hearing officer.
53. After Chemas' arrest, Tattoli imposed a "stop order" on Lieutenant DeCosmis' home renovation thereby preventing DeCosmis to move into his home and thereby causing him unnecessary delay and expense.
54. Upon information and belief, Mayor Turner and Tattoli acting individually and in

concert, initiated selective enforcement against Lieutenant DeCosmis for minor and/or baseless violations of building code violations based on retaliatory or illegitimate or capricious or arbitrary motives.

55. On April 9, 2010, the Union City Municipal Court acquitted DeCosmis of the criminal charge of obstruction. The Municipal Court specifically found that (1) Chemas was not a licensed building inspector despite his sworn allegations in his criminal complaint and (2) DeCosmis was off-duty at the time of the incident.
56. During the pretrial litigation and trial, Deputy Chief McLellan was present at every court appearance. Deputy Chief McLellan knew that Chemas was not a licensed building inspector based on his own testimony under oath.
57. Deputy Chief McLellan was also knew that the Municipal Court found that Lieutenant DeCosmis was not on-duty at the time that Chemas was arrested by the Weehawken police department.
58. Upon information and belief, Deputy Chief McLellan was present at every court appearance for the purpose to report to Mayor Turner the status of the criminal case and insure that Lieutenant DeCosmis was convicted.
59. Mayor Turner acting individually and in concerts with others, including Tattoli, Chemas, and McLellan, sought to interfere with the fair and impartial judicial proceedings by, among other things, interfering with the subpoenaing of witnesses favorable to Lieutenant DeCosmis, attempting to influence prosecutorial

discretion, and intimidating witnesses from appearing in court to provide favorable testimony on behalf of Lieutenant DeCosmis, thereby prolonging the criminal proceedings and causing unnecessary legal fees.

60 After Lieutenant DeCosmis' acquittal, Mayor individually and acting in concert with others, including Deputy Chief McLellan and Business Manager James Marchetti initiated baseless disciplinary charges against Lieutenant DeCosmis.

According to the Preliminary Notice of Disciplinary Action, James Marchetti alleges:

On July 9, 2008 Weehawken Building Inspector Jorge Chemas was lawfully performing his duties when he entered your residence. At the time of entry, you shouted profanities at him and acted in an intimidating manner. You were aware that Mr. Chemas was a Town employee and building inspector, and that he was carrying out his job duties. You exhibited a complete lack of respect for Mr. Chemas' position. When he attempted to demonstrate his authority to be present in your residence you stated, "fuck the badge." When Mr. Chemas further attempted to demonstrate his authority to be present in your residence by calling Code Enforcement Official Frank Tattoli, you refused to speak to him. You concluded the confrontation by causing Chemas' false arrest without proper cause, which constitutes an abuse of your position and authority as a Police Lieutenant. You took the above actions, attempting and succeeding in preventing Chemas from performing his duties, because you were engaged in construction activities without proper permits in an unlawful manner. You were improperly used your position to further your private interests."

61 Lieutenant DeCosmis, Chemas did not testified that he was a licensed building inspector or that Lieutenant DeCosmis' intimidated him. More importantly, Lieutenant DeCosmis was off-duty, according to Municipal Court Judge Munoz at the time of the incident. The decision to arrest Chemas was not made by Lieutenant DeCosmis, but rather by another ranking supervisory officer who excised his own discretion in making the arrest.

62 Acting in individually and in concert with each other, Mayor Turner, Business Manager Marchetti, Deputy Chief McLellan, and Director Welz knowing that the

allegations in the Preliminary Notice were blatantly false, initiated the filing of disciplinary charges against Lieutenant DeCosmis for the sole purpose of further retaliating against him. In particular, Director Welz knew that Lieutenant DeCosmis had not violated any laws, rules or regulation to justify the initiation of any internal affairs investigation, much less the filing of disciplinary charges.

I.
42 U.S.C. §1983
TOWNSHIP OF WEEHAWKEN

63. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.
64. Defendant Township of Weehawken, being a "person" within the meaning and intentment of 42 U.S.C. § 1983, acting under the color of the statutes, ordinances, regulations, customs, and/or usages of the State of New Jersey and Township of Weehawken, has infringed upon Plaintiff's constitutional rights under the First, Fourth, and Fourteenth Amendments to the United States Constitutions as follows:
- (a) malicious prosecution;
 - (b) abuse of process of law;
 - (c) freedom of speech;

(d) freedom of association;

(e) freedom to petition the government for relief Constitution.

65. Defendant intentionally, knowingly, or with deliberate indifference to the rights of Plaintiff failed to train, instruct, supervise, control and/or discipline Chemas, who Defendant knew or should have known, that Chemas was not trained or licensed to conduct home inspections.
66. As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his constitutional right secured by the First, Fourth and Fourteenth Amendments to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury.

II.

**42 U.S.C. §1983
MAYOR TURNER**

67. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.
68. Defendant Mayor Turner was, and still is, the elected official and decision-maker for the Township of Weehawken. Acting individually and in concert with others, Mayor Turner deliberately and willfully infringed upon Plaintiff's constitutional rights to free speech, association and to petition the government for relief afforded to him under the First Amendment to the United States Constitution as alleged herein.

69. As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his constitutional right secured by the First and Fourteenth Amendments to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury. Because of Mayor Turner's willful and malicious conduct, Plaintiff seeks punitive damages in his individual capacity to be determined by a jury.

III.
42 U.S.C. §1983
BUILDING CODE INSPECTOR TATTOLI

70. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.
71. Defendant Tattoli was, and still is, the Building Code Inspector for the Township of Weehawken. Acting pursuant to policy, custom, and practice, Tattoli, deliberately and willfully infringed upon Plaintiff's right to free speech, freedom of political association, and to petition the government for relief under the First and Fourteenth Amendments to the United States Constitution.
72. Further, Tattoli, acting individually and in concert with others, including Chemas, deliberately and willfully infringed upon Plaintiff's right to free from unlawful searches and seizures, i.e. malicious prosecution and abuse of process, secured under the Fourth and Fourteenth Amendments to the United States Constitution.

73. As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his constitutional rights as alleged herein. These constitutional rights are secured by the First, Fourth, and Fourteenth Amendments to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury. Because of Tattoli's willful and malicious conduct, Plaintiff seeks punitive damages in his individual capacity to be determined by a jury.

IV.
42 U.S.C. § 1983
CHEMAS

74. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

75. Defendant Chemas was, and still is, an employee for the Township of Weehawken. Acting pursuant to Mayor Turner's direction, control, and supervision, deliberately and willfully infringed upon Plaintiff's constitutional rights to free speech, association and to petition the government for relief afforded to him under the First Amendment to the United States Constitution as alleged herein.

76. Moreover, acting individually and in concert with others, including Tattoli, Chemas deliberately and willfully infringed upon Plaintiff's constitutional rights to free unlawful searches and seizure, i.e. malicious prosecution and abuse of

process, secured under the Fourth and Fourteenth Amendment to the United States Constitution as alleged herein.

77. As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his constitutional rights secured by the First, Fourth, and Fourteenth Amendments to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury. Because of defendant's willful and malicious conduct, Plaintiff seeks punitive damages in his individual capacity to be determined by a jury.

V.
42 U.S.C. § 1983
JAMES MARCHETTI

78. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.
79. Defendant Marchetti was, and still is, the Business Manager for the Township of Weehawken. Acting individually and in concert with others, including Mayor Turner, Tattoli, Chemas, and Deputy Chief McLellan, Marchetti deliberately and willfully infringed upon Plaintiff's constitutional rights to free speech, political association, and freedom to petition the government and courts for relief, secured under the First Amendment, by initiating the filing of baseless disciplinary

charges against Lieutenant DeCosmis, knowing said disciplinary charges to be completely without merit and designed to punish Plaintiff for engaging in such constitutionally protected activities.

78. As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his constitutional rights secured by the First, Fourth, and Fourteenth Amendments to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury. Because of defendant's willful and malicious conduct, Plaintiff seeks punitive damages in his individual capacity to be determined by a jury.

VI.

**42 U.S.C. § 1983
DEPUTY CHIEF MCLELLAN**

79. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.
80. Defendant Deputy Chief McLellan was, and still is, the Deputy Chief of the Weehawken Police Department. Acting individually and in concert with others, including Mayor Turner, Tattoli, Chemas, and James Marchetti, Deputy Chief McLellan deliberately and willfully infringed upon Plaintiff's constitutional rights to free speech, political association, and freedom to petition the government

and courts for relief, secured under the First Amendment, by participating in the initiating of baseless disciplinary charges against Lieutenant DeCosmis, knowing said disciplinary charges were completely without merit and retaliatory in nature and purpose.

81. As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his constitutional rights secured by the First and Fourteenth Amendments to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury. Because of defendant's willful and malicious conduct, Plaintiff seeks punitive damages in his individual capacity to be determined by a jury.

VII.

**TORTIOUS INTERFERENCE WITH
PROSPECTIVE ECONOMIC ADVANTAGE**

(ALL DEFENDANTS)

82. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.
83. Commencing on or about March 2007 and continuing to the present date, defendants and other known and unknown individuals utilized their government positions to unlawfully interfere with, obstruct and/or undermine Plaintiff's current and prospective economic advantage. Defendants' continuous and tortious interference with Plaintiffs' real estate investments and properties located in

Weehawken was designed to cause economic harm to Plaintiff.

83. Plaintiff had business relationships with potential bona fide third parties who were interested in his properties.
84. Plaintiff's business relationship gave rise to a reasonable expectancy of economic gain on the part of the Plaintiff.
85. Defendants engaged in the aforementioned conduct that interfered with those relationships.
86. Defendants deliberately and willfully intended the conduct to result in the impairment or destruction of the aforementioned business relationships.
87. Defendants' conduct was the proximate cause of the loss or impairment of the Plaintiff's prospective economic advantages.
88. Defendants' actions were unjustified, unreasonable, and intended to interfere with Plaintiffs' ability to conduct his legitimate business affairs in Weehawken.
89. As a direct and proximate result of defendant's actions, Plaintiff suffered economic and emotional damages in an amount to be determined by a jury.

VIII.
42 U.S.C. § 1983
DIRECTOR WELZ

90. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.
91. Defendant Director Welz was, and still is, the Director of Public Safety responsible for setting policy for and supervising the day-to-day operations of the Weehawken Police Department. Acting individually and in concert with

others, including Mayor Turner, James Marchetti, and Deputy Chief McLellan, Director Welz deliberately and willfully infringed upon Plaintiff's constitutional rights to free speech, political association, freedom to petition the government and courts for relief, secured under the First Amendment to the United States Constitution, by authorizing the initiation of retaliatory disciplinary charges.

92. As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his constitutional rights secured by the First and Fourteenth Amendments to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury. Because of defendant's willful and malicious conduct, Plaintiff seeks punitive damages in his individual capacity to be determined by a jury.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that this Court enter an Order finding as follows:

- (a) That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;
- (b) that Mayor Turner and Weehawken violated Plaintiff's civil rights;
- (c) that the Plaintiff recover from the Defendants, jointly and severally, compensatory damages, exemplary and punitive damages, attorney's fees, and such other monetary relief as

may be deemed appropriate in amounts to be determined at trial;

(d) that the Plaintiff recover from the Defendants, jointly and severally, prejudgment interest to the maximum extent permitted by law;

(f) and that the Court grant such other and further relief as it deems just and proper.

JURY TRIAL DEMANDED

Plaintiffs request a trial by jury on all issues so triable.

DATED: October 24, 2011

LAW OFFICES OF LOUIS A. ZAYAS, L.L.C.

By: /S/LOUIS A. ZAVAS, ESQ.

LOUIS A. ZAYAS, ESQ
8901 Kennedy Boulevard
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(201) 977-2900

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is made and entered into by and between Richard DeCosmis ("DeCosmis" or "Plaintiff"), and the Township of Weehawken ("Township" or "Defendant"), in full settlement of all claims brought by Plaintiff against the Township of Weehawken, Jeff Welz, James Marchetti, Richard Turner, William McLellan, Jorge Chemas, and Frank Tattoli, Defendants, pending in the following forums:

- (1) DeCosmis v. Township of Weehawken, et. al.
Civil Action No. 08-5221 (MCA-JAD)
- (2) Richard DeCosmis v. Township of Weehawken, et. al.
Docket No: HUD-L-2990-13
- (3) DeCosmis v. Town of Weehawken, Department of Public Safety
OAL Docket No. CSV 10084-12
(Demotion from Lieutenant to Sergeant)
Agency Reference No. CSC-2013-101
- (4) DeCosmis v. Township of Weehawken, et. al.
OAL. Dkt. No. CSV-10673-2014N
(15 Day Suspension without Pay)
Agency Ref. No. CSC Dkt. No. 2015-470

It is also intended to resolve the employment relationship between DeCosmis and the Township.

WHEREAS, the Township, and the individual Defendants deny all allegations of wrongful conduct in the two pending Complaints and the two pending administrative proceedings listed above (the "Lawsuit"); and

WHEREAS, DeCosmis and the Township, and the individual Defendants wish to enter into a full and final compromise and settlement of the pending Complaints and all other potential claims DeCosmis may have against Defendants and any and all of its affiliated entities, successors in interest, attorneys, insurance carriers, employees, agents or representatives, without the necessity of further proceedings.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and intending to be legally bound, it is AGREED as follows:

1. DeCosmis Retirement. DeCosmis agrees to submit, upon signing of this Agreement, an irrevocable letter retiring from his position with the Township effective November 1, 2017. (copy attached)

2. Dismissal of Disciplinary Charges and Withdrawal of OAL Proceedings. Within 10 days of the execution of this Agreement, the Township will issue two letters of reprimand to DeCosmis as resolution of the pending disciplinary charges before the Office of Administrative Law which DeCosmis shall not challenge, and DeCosmis agrees to withdraw all pending OAL appeals with prejudice and.
3. Salary. Effective October 26, 2016, DeCosmis shall receive a salary increase reflecting a 15% salary differential over his present salary. This increase is based on the allegation concerning the failure to promote set forth in DeCosmis v. Township of Weehawken, et. al., HUD-L-2990-13. In addition, DeCosmis shall receive salary increases as set forth in the Collective Bargaining Agreement.
4. Insurance Company Payment. Defendants' Insurance company shall make the following payments within 35 days after DeCosmis has provided a standard signed release and a signed stipulation of dismissal with prejudice:

\$747,000 to the attorney trust account of Louis Zayas, as attorney for Richard DeCosmis, which includes all of DeCosmis' attorney fees claimed in the above cases and as compensation for all claims asserted by DeCosmis and any other claims DeCosmis may have against any Releasee, hereinafter defined.

Plaintiff's counsel is to provide a W-9 for his firm.

5. Creditable Salary. The Township recognizes that DeCosmis intends to retire with a "creditable salary" that includes the payments under Paragraph 3 above concerning DeCosmis' claim concerning his promotion as alleged in the state court case. DeCosmis will submit his regular retirement application by November 1, 2017. If he does not, or does not receive his pension, he will have been deemed to have resigned his employment with Weehawken. If he does submit a timely application, the parties recognize that the decision regarding creditable salary is exclusively within the province of the Police & Firemen's Retirement System ("PFRS."), DeCosmis agrees to be bound by that decision and this agreement survives, without modification or change, whatever determination is made by PFRS. DeCosmis further agrees that he will not apply for unemployment benefits against the Township at any time in the future.
6. Cessation of Police Duties/Terminal Leave. As of the date of execution of this Agreement, DeCosmis shall cease performing any police duties whatsoever, inclusive of any special duty and/or detail assignment. He will return all duty weapons issued to him by Weehawken. He shall be placed on terminal leave on

that date and shall immediately begin using his accumulated vacation, sick, compensatory time and any other time he may have accrued. Following the exhaustion of that time, DeCosmis will continue to receive his regular salary as terminal leave until his termination of employment on November 1, 2017. On and after the date all parties have executed this Agreement, Decosmis shall not be permitted to perform any special duty and/or extra duty off-duty assignments or hold himself out as an active officer of the Township. Terminal leave shall cease immediately and prior to November 1, 2017 in the event DeCosmis receives a disability retirement pension from the PFRS. The cessation shall be effective on the date that PFRS determines that he is disabled and the amount of any terminal leave paid after that date shall be promptly returned to the Township. DeCosmis shall not accrue any further vacation, sick time, personal or compensatory time and shall not receive any additional terminal leave after September 10, 2015, except as otherwise set forth herein.

7. Waiver and Release of Claims. As used in this Agreement, the term "Releasees" means: the Township, Jeff Welz, James Marchetti, Richard Turner, William McLellan, Jorge Chemis and Frank Tattoli, their attorneys, insurance carriers, boards, agencies, commissions, any parents, subsidiaries, affiliates, divisions, predecessors, successors and/or assigns of the Township, all Township Affiliates (herein after defined) and in their capacities as such, any past, present and future officers, agents, representatives, attorneys, employees, officers and elected officials of the Township and all Township Affiliates.

DeCosmis releases and gives up any and all claims, demands, damages, causes of action, or suits which have been or could have been brought in the Lawsuit, including those of which DeCosmis is not aware and those not mentioned in this Agreement, except for his right to the payments and benefits provided for in this Agreement. This Agreement applies to claims resulting from anything which has happened up to now. Including but not limited to all claims based on his employment with Weehawken. DeCosmis releases and gives up any and all claims and rights against Releasees of any nature arising under any federal, state, local or foreign law, including, but not limited to, those not mentioned in this Agreement, those of which DeCosmis is not aware, and any claims for or rights to attorneys' fees. DeCosmis specifically releases any and all claims and rights in any way relating to or arising out of his employment with the Township, or the ending of such employment.

DeCosmis specifically releases any and all claims of retaliation, unlawful discrimination or harassment, including, but not limited to, those based on his age, sex, race, color, religion, national origin, citizenship, veteran status, sexual orientation, gender orientation, disability, or any other status protected by applicable law. These include any and all claims DeCosmis may have under the

Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq. ("CEPA"); the New Jersey Law Against Discrimination ("NJLAD"), N.J.S.A. 10:5-1 et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. ("Title VII"); the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §621 et seq. ("ADEA"); the Americans with Disabilities Act, 42 U.S.C. §12101, et seq. ("ADA"); Section 1981 of the Civil Rights Act of 1866; the Sarbanes-Oxley Act of 2002; the federal Family and Medical Leave Act, 29 U.S.C. §2611 et seq. ("FMLA"); the New Jersey Family Leave Act, N.J.S.A. 34:1113-1 et seq. ("NJFLA"); the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq. ("ERISA"); the Worker Adjustment and Retraining Notification Act ("WARN"), 29 U.S.C. §2101, et seq.; federal and state wage and hour laws; Executive Order .11246; and any other applicable federal, state, foreign or local statute, regulation or ordinance prohibiting discrimination, harassment or retaliation. DeCosmis is also releasing any and all other claims and rights he may have against Releasees, including, but not limited to, claims for whistle-blowing, wrongful discharge, breach of contract (express or implied), breach of promise, unjust dismissal, unfair competition, breach of fiduciary duty, breach of the implied covenant of good faith and fair dealing, invasion of privacy, defamation, wrongful denial of benefits, intentional and negligent infliction of emotional distress, intentional and negligent misrepresentation, fraud, negligence, any intentional torts, and/or any claims for wages, benefits, compensation, costs, fees, or other expenses, including attorneys' fees.

DeCosmis is releasing all claims described above arising through the date he signs this Agreement, including those for any injuries or damages suffered at any time after the date he signs this Agreement by reason of the continued effects of alleged retaliatory or defamatory acts or other conduct that occurred prior to the date he signs this Agreement.

DeCosmis agrees that he is not entitled to and will not become entitled to anything from Releasees except for the payments provided for in this Agreement, and that he will not seek anything further from Releasees.

This Release is intended by the parties to be construed to release any and all claims and rights arising on or before the date of the execution of this Agreement to the fullest extent permitted by law. By signing this Agreement, DeCosmis also waives any right to obtain discovery in any subsequent litigation that is related to events occurring prior to the date of execution of this Agreement. This paragraph is not intended to limit the parties from instituting legal action for the sole purpose of enforcing this Agreement.

This waiver and release does not include DeCosmis' existing workman's compensation claim.

8. DeCosmis Future Claims Go to Arbitration. The parties agree that any future claims/complaints against any Releasee arising after the date of this agreement which would otherwise be within the jurisdiction of federal or state courts or federal or state administrative agencies, including claims of discrimination and/or retaliation shall be decided by binding arbitration. The arbitrator shall be a retired Superior Court/United States District Court Judge jointly selected by the parties. In the event the parties cannot agree, a judge shall be selected from the "JAMS" arbitration service and/or any comparable agency acceptable to the parties.
9. Future Building/Construction Code Inspections. The parties further agree that any building/construction code issues of any kind, including but not limited to inspections and permits required by DeCosmis, or any corporation or entity controlled by him, shall continue to be decided by the West New York Building Department or any other jurisdiction as agreed to by the parties.
10. Child Support Certification. DeCosmis hereby acknowledges and understands his obligation to comply with the legal requirements of N.J.S.A. 2A:17-56.23b, including, but not limited to, the requirement to perform a certified child support judgment lien search and to provide Releasees with said documentation prior to the Releasees' disbursement of the Payment. DeCosmis agrees that he shall direct his attorneys to perform the judgment search required by N.J.S.A. 2A:17-56.23b, and deliver a copy of the certification to Releasees' counsel. DeCosmis further understands and acknowledges that, no settlement funds due DeCosmis under this Release shall be released prior to the receipt of the judgment search certification.
11. Withdrawal of Lawsuits. Prior to receipt of the payments specified above, DeCosmis, through his counsel, shall sign and return to the Township's counsel the Stipulations and Order of Dismissal with Prejudice and Without Costs and/or Attorneys' Fees to Any Party ("Stipulation and Order of Dismissal") in the forms attached hereto as Exhibit B and C.
12. Non-Admission of Liability. This Agreement shall not be construed as an admission by any of the Releasees of any of the acts or omissions alleged by DeCosmis in the Lawsuit, or of any acts or omissions which could have been alleged in those proceedings. Releasees specifically deny any liability whatsoever for any damages, injuries or other claims by DeCosmis, or which could be claimed by DeCosmis. Conversely, DeCosmis, by accepting these benefits, does not admit that his lawsuit was without merit. DeCosmis expressly waives any right he may have to recover attorneys' fees or costs from any of the Releasees with respect to either his lawsuits or administrative actions. Further, to the extent any of the attorneys seek fees from the Township, DeCosmis agrees to indemnify the Township against such claims.

13. No Reinstatement or Future Employment. DeCosmis waives any and all rights or claims which he may have to reinstatement, employment or reemployment with the Township of Weehawken, and he shall not hereafter seek or be permitted to serve on or work in any capacity for the Township of Weehawken, or any board, agency, authority, or other entity related to or affiliated with the Township of Weehawken, including but not limited to the Weehawken Parking Authority, the Weehawken Board of Education, the Weehawken Housing Authority, the North Hudson Sewerage Authority, and North Hudson Regional Fire and Rescue, each a "Township Affiliate" and collectively the "Township Affiliates". DeCosmis agrees that he will not knowingly apply for employment, reemployment or reinstatement with nor seek to be assigned as an independent contractor or consultant to the Township or any Township Affiliate at any time after the date of execution of this Agreement.
14. No Actions or Proceedings. Other than "the Lawsuit", DeCosmis represents that he has no pending lawsuits, charges, administrative proceedings, or other claims of any nature whatsoever against the Township or any other Releasee in any state or federal court, or before any agency or other administrative body and if any such claims or actions exist they are discharged by this Release.
15. Liens. This settlement is based upon a good faith determination of the parties to resolve a disputed claim. The parties have not shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. Section 1395y(b). The parties resolved this matter in compliance with both state and federal law. The parties made every effort to adequately protect Medicare's interest and incorporate such into the settlement terms. Plaintiff and Plaintiff's counsel warrant that Plaintiff is not a Medicare beneficiary as of the date of this Agreement. Because the Plaintiff is not a Medicare recipient as of the date of this Agreement, no conditional payments have been made by Medicare. DeCosmis agrees that if any claims, suits or liens are asserted against him in connection with injuries or other losses, either under Workers Compensation laws, by any provider of medical, dental or hospital services, or by the State of New Jersey, or any governmental body, including welfare boards, he will indemnify and hold Releasees and their agents and their counsel, Gebhardt & Kiefer, P.C., and the Corrigan Law Firm, harmless against such claims suits or liens. DeCosmis agrees to satisfy any liens against the proceeds of the settlement including, but not limited to outstanding medical bills, workers' compensation liens, Medicare/Medicaid liens, etc., and agree to indemnify and otherwise hold harmless releasees from claims arising out of or in connection with said liens.

DeCosmis agrees and represents that he will be responsible for the complete payment and discharge of any and all liens, subrogation claims and

statutory rights of reimbursement, of any kind or type whatsoever arising out of or in connection with any and all injuries and damages sustained by him or alleged to be sustained by him in the Lawsuit being released by this document, including, but not limited to those physicians, hospitals and any and all other medical/health care providers, workers' compensation insurance, no fault insurers, health benefit insurers, federal, military hospital and veteran's benefits providers, Medicare, Medicaid and ERISA plan providers.

16. Who is Bound. DeCosmis and the Township and the Releasees are bound by this Agreement. Those who succeed to their rights and responsibilities, such as any successors, heirs, executors of DeCosmis's estate, or DeCosmis's personal or legal representatives, are also bound. This Agreement is made for the benefit of DeCosmis and the Releasees, and all who succeed to their rights and responsibilities, such as any successors and/or assigns.

17. Entire Agreement. This Agreement, contains the sole and the entire agreement between DeCosmis and Releasees, and fully supersedes any and all prior agreements and understandings between DeCosmis and Releasees pertaining to the subject matter of the Agreement. DeCosmis represents and acknowledges that he has not relied upon any representation or statement by Releasees, or its counsel or representatives, with regard to the subject matter of this Agreement, which is not set forth in this Agreement. No other promises or agreements shall be binding unless in writing, signed by a representative of Releasees and DeCosmis, and expressly stated to be a modification of this Agreement.

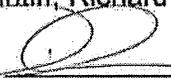
18. Municipal Approval. This Agreement is subject to the approval of the Council of the Township of Weehawken. If this entity does not approve this "Settlement Agreement and General Release", it is null and void.

19. Voluntary Signature. BY SIGNING THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE, DECOSMIS STATES THAT:

- A. HE HAS READ THE SETTLEMENT AGREEMENT AND GENERAL RELEASE;
- B. HE UNDERSTANDS THE SETTLEMENT AGREEMENT AND GENERAL RELEASE AND KNOWS THAT HE IS GIVING UP IMPORTANT RIGHTS.
- C. DECOSMIS AGREES WITH EVERYTHING IN THE SETTLEMENT AGREEMENT AND GENERAL RELEASE;

- D. HIS ATTORNEY, LOUIS ZAYAS, ESQ., NEGOTIATED THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE WITH HIS KNOWLEDGE AND CONSENT;
- E. HE CONSULTED WITH HIS ATTORNEY PRIOR TO EXECUTING THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE; AND
- F. HE HAS SIGNED THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE KNOWINGLY AND VOLUNTARILY.

Plaintiff, Richard DeCosmis

By:  _____

Dated: October 30, 2015

Attorney for Individual Defendants

By: _____
David F. Corrigan, Esq.
The Corrigan Law Firm

Dated: October __, 2015

Attorney for Township of Weehawken

By: _____
Richard Cushing, Esq.
Gebhardt & Kiefer, PC

Dated: October __, 2015

Attorney for Jorge Chemis

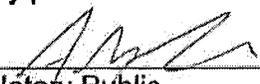
By _____
Thomas Kelly, Esq.

Dated: October __, 2015

STATE OF NEW JERSEY:
COUNTY OF UNION:

I here state Richard DeCosmis personally came before me and executed the within Settlement Agreement and General Release in my presence.

Date: 10 / 30 / 2015



Notary Public
Attorney at Law.