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Attorneys for Petitioner,
Township of Berkeley Heights

TOWNSHIP OF BERKELEY HEIGHTS,

Petitioner,

vs.

TRACY TEDESCO,

Respondent.

OAL Docket No. CLG-09221-2011N

CIVIL ACTION

STIPULATED ORDER OF DISMISSAL

IT IS HEREBY STIPULATED AND AGREED, by and between Petitioner the Township of Berkeley Heights and respondent Tracy Tedesco, through their attorneys, that the Petition filed by the Township is hereby dismissed in its entirety, with prejudice, and without any Order or award of costs and/or attorneys' fees to any party as against any other party.

McELROY, DEUTSCH, MULVANEY
& CARPENTER, LLP
Attorneys for Petitioner,
Township of Berkeley Heights

By 
JOHN J. PEIRANO

DATED: 30 December 2011

MAUTONE & HORAN, P.A.
Attorneys for Respondent,
Tracy Tedesco

By 
ANTHONY R. MAUTONE, JR.

DATED:

1/4/12

RECEIVED

JAN 10 2012

TWP. CLERK

SETTLEMENT AGREEMENT AND GENERAL RELEASE

1. A. This Settlement Agreement and General Release ("Agreement") is entered into by and between petitioner Township of Berkeley Heights ("Township") and respondent Tracy Tedesco ("respondent") on their own behalf and on behalf of their respective predecessors, successors, assigns, representatives, officers, directors, agents and employees.

B. The parties acknowledge that they have executed the Stipulated Order of Dismissal attached hereto.

2. Non-Admission. The parties agree that this Agreement does not constitute an admission by any party of any violation of any law or statute, that neither this Agreement nor the furnishing of consideration shall be deemed or construed for any purposes as evidence or an admission of liability or wrongful conduct of any kind.

3. Settlement.

A. The Township filed an action with the Department of Community Affairs, Division of Local Government Services, on May 23, 2011, bearing Docket No. clg-09221-2011N (the "Action") seeking removal of respondent from her position as Chief Financial Officer of the Township.

B. The Township and respondent desire fully and finally to resolve this litigation and any and all other claims or disputes, whether known or unknown, that have been made or could have been made by or on behalf of the Township against respondent and respondent against the Township, relating to conduct or events occurring at any time prior to and including the date on which this Agreement is executed. Both parties represent that no other charges, actions or claims are pending against the other party.

4. Payment. In consideration for petitioner signing this Settlement Agreement and General Release and the fulfillment of the promises herein, respondent agrees to pay the Township \$1,500.00, in satisfaction of all claims brought by the Township against respondent. Respondent

further agrees to voluntarily resign her employment with the Township effective December 31, 2011.

In consideration for respondent signing this Settlement Agreement and General Release and the fulfillment of the promises herein, the Township agrees not to seek from respondent any additional funds it contends are owed by respondent.

The payments and consideration specified above cover all claims for damages asserted in this matter and are inclusive of all claims for attorney's fees and expenses, and will be tendered within 30 days following receipt of this Agreement executed by the Township and the executed Stipulated Order of Dismissal referred to in Paragraph 5 below.

5. Withdrawal of Claims. Prior to receipt of the payment specified in Paragraph 4, the parties, through their counsel, shall sign the Stipulated Order of Dismissal attached hereto as Exhibit A. The terms of said Stipulated Order are expressly incorporated by reference in this Agreement as if fully set forth herein. The parties agree to withdraw any other claims, charges, or complaints asserted against the other, in any forum.

6. Waiver and Release of Claims.

A. The Township, fully, finally and forever releases and discharges respondent, her descendants, dependents, heirs, executors, administrators, assigns and successors, from any and all claims and rights of any kind it may have against respondent, whether now known or unknown, suspected or unsuspected, including, but not limited to, arising out of or in any way connected with respondent's employment and separation from the Township, as of the date this Agreement is executed.

B. Respondent, on behalf of herself, her descendants, dependents, heirs, executors, administrators, assigns and successors, fully, finally and forever release and discharge the

Township, its current and former insurers, assigns, representatives, officers, directors, agents and employees from any and all claims and rights of any kind respondent may have, whether now known or unknown, suspected or unsuspected, including, but not limited to, arising out of or in any way connected with respondent's employment and separation from the Township, as of the date this Agreement is executed.

These claims and rights expressly released include claims arising under the common law of New Jersey; any policies, practices, procedures or handbooks of the Township; any federal and/or state statutes or regulations expressly including, but not limited to: claims under the Age Discrimination in Employment Act, 29 U.S.C. §621, et seq.; Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; 42 U.S.C. § 1981; the Equal Pay Act; the Americans With Disabilities Act; Sections 503 and 504 of the Rehabilitation Act of 1973; Family Medical Leave Act; the Employee Retirement Income Security Act of 1974; the Occupational Safety and Health Act; the Workers' Adjustment and Retraining Notification Act, as amended; the New Jersey Law Against Discrimination, N.J.S.A.10:5-1 et seq.; the Conscientious Employee Protection Act, N.J.S.A. 34:19- 1, et seq., or any similar statute; the New Jersey Family Leave Act, N.J.S.A. 34:11B-1 et seq.; any provision of any other law, common or statutory, of the United States, New Jersey, or any other state, city, county, or locality, including any and all human rights laws and laws against discrimination; and any other federal, state or local fair employment statute, code or ordinance, common law, contract law, tort, including, but not limited to, defamation, libel, and/or slander; and any and all claims for attorney's fees. Respondent represents that she knows of no claim that she has or may have, that has not been released by this paragraph, except for the right to apply for unemployment benefits.

7. Non-Interference. Nothing in this Agreement shall interfere with respondent's right to file a charge, cooperate or participate in an investigation or proceeding conducted by the Equal Employment Opportunity Commission, or other federal or state regulatory or law enforcement agency. However, the consideration provided to respondent in this Agreement, namely, forgiveness of amounts alleged to be due and owing to the Township, shall be the sole relief provided to respondent for the claims that are released by respondent herein and respondent will not be entitled to recover and agrees to waive any monetary benefits or recovery against the Township, in connection with any such claim, charge or proceeding without regard to who has brought such Complaint or Charge.

8. Transfer of Claims. Both parties represent and warrant that they have not assigned, transferred, or purported to assign or transfer, to any person, firm, corporation, association or entity whatsoever, any released claim. The parties agree to indemnify and hold the other harmless against, without any limitation, any and all rights, claims, warranties, demands, debts, obligations, liabilities, costs, court costs, expenses (including attorney's fees), causes of action or judgments based on or arising out of any such assignment or transfer. Both parties further warrant that there is nothing that would prohibit it or her from entering into this Agreement.

9. No Future Employment. Respondent agrees and recognizes that her employment relationship has been permanently and irrevocably severed. Respondent understands and agrees that she will not be re-employed by the Township in the future and that she will never knowingly apply to the Township for any job or position in the future. Respondent agrees that if she knowingly or unknowingly applies for a position and is offered or accepts a position with the Township, the offer may be withdrawn and respondent may be terminated without notice, cause, or legal recourse.

10. Return of Property. Respondent represents and warrants that she does not possess or control any property of the Township. Respondent agrees to return all documents, including all copies of and discs containing such documents and other items, obtained through discovery during the course of this matter, to John J. Peirano, Esq., attorney for the Township. Respondent's counsel may retain a copy of documents produced during discovery. Counsel agrees that she will not disclose such documents to any other party.

11. Non-Disparagement and Incitement of Claims.

A. Except as otherwise required by law, both parties agree that they will not make or cause to be made any statements that disparage, are inimical to, or damage the reputation of the other, including but not limited to, the reputation of any individual current or former employee, council member or officer of the Township. In the event such a communication is made to anyone, including but not limited to, the media, public interest groups and publishing companies, it will be considered a material breach of the terms of this Agreement. Respondent also agrees that she will not encourage or incite other current or former employees of Township, to disparage or assert any complaint, claim or charge, or to initiate any legal proceeding, against the Township. For purposes of this sub-paragraph, truthful testimony procured under subpoena shall not constitute a statement that disparages, is inimical to, or damages the reputation of any party.

B. Respondent agrees to inform any prospective employer requesting a reference from the Township to contact Barbara Russo, Executive Assistant, or her designee or successor. The Township will respond to any such inquiry only by confirming the fact of employment and providing the dates of respondent's employment, and will advise that this information is being provided pursuant to Township policy.

12. Breach. The parties acknowledge that if either party materially breaches or threatens to materially breach this Agreement by commencing a suit or action or complaint in contravention of the release and waiver of claims or breaches any provision of this Agreement relating to Non-Disparagement and Incitement of Claims or Return of Property, the other party's obligations referred to above shall immediately cease and the non-breaching party shall be entitled to all other remedies allowed in law or equity.

13. Entire Agreement. This Agreement contains the entire agreement and understanding between the Township and respondent with respect to any and all disputes or claims that either party has, or could have had, against the other party, as of the date this Agreement is executed, and supersedes all other agreements between the Township and respondent with regard to such disputes or claims. This Agreement shall not be changed unless in writing and signed by the Township and respondent.

14. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect or impair any other provisions, which shall remain in full force and effect. If any portion of this Agreement is found invalid, the parties agree to enter into a full and General Release that is not invalid.

15. Acknowledgment. Respondent Tracy Tedesco acknowledges that no representation, promise or inducement has been made other than as set forth in this Agreement, and that she has entered into this Agreement without reliance upon any other representation, promise or inducement not set forth herein.

Respondent Tedesco further acknowledges and represents that she assumes the risk for any mistake of fact now known or unknown, and that she understands and acknowledges

the significance and consequences of this Agreement and represents that its terms are fully understood and voluntarily accepted.

Plaintiff Tracy Tedesco further acknowledges:

- A. SHE HAS CONSULTED WITH HER ATTORNEY CONCERNING THIS AGREEMENT; AND
- B. SHE UNDERSTANDS IT AND KNOWS THAT SHE IS GIVING UP IMPORTANT RIGHTS, INCLUDING, BUT NOT LIMITED TO RIGHTS UNDER THE NEW JERSEY LAW AGAINST DISCRIMINATION, THE AGE DISCRIMINATION IN EMPLOYMENT ACT, THE OTHER STATUTES REFERENCED IN PARAGRAPH 6(B), AND ANY OTHER CONSTITUTIONAL, STATUTORY OR COMMON LAW RIGHTS OF THE UNITED STATES, THE STATE OF NEW JERSEY, OR ANY OTHER STATE;
- C. SHE AGREES WITH THE TERMS OF THIS AGREEMENT;
- D. HER ATTORNEY NEGOTIATED THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE WITH HER KNOWLEDGE AND CONSENT;
- E. SHE HAS BEEN ADVISED TO CONSULT WITH HER ATTORNEY PRIOR TO EXECUTING THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE;
- F. SHE HAS SIGNED THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE KNOWINGLY AND VOLUNTARILY; AND
- G. SHE UNDERSTANDS THAT SHE HAS TWENTY-ONE (21) DAYS TO REVIEW THIS AGREEMENT AND UPON EXECUTING THIS AGREEMENT SHE MAY REVOKE HER CONSENT WITHIN SEVEN (7) DAYS AFTER SIGNING IT BY ADVISING PETITIONER'S COUNSEL, JOHN J. PEIRANO, IN WRITING OF SUCH REVOCATION PRIOR TO THE EXPIRATION OF SAID SEVEN DAY PERIOD.

Respondent Tracy Tedesco acknowledges that the consideration referred to in Paragraph 4 constitutes additional consideration not otherwise owed to her but for this Agreement.

16. Headings. The headings contained in the Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

17. Choice of Law. This Settlement Agreement and General Release is to be interpreted pursuant to the laws of New Jersey, except where the application of federal law applies. If any of the provisions of this Agreement is determined to be void under such laws by a court of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect.

Tracy Tedesco

Township of Berkeley Heights

STC

Date: 1/4/12

By: Amey Upchurch

Title: TWP ADMINISTRATOR

Date: 1/11/12

STATE OF New Jersey: ss:
COUNTY OF Essex

I hereby state that before me personally came Tracy Tedesco who executed the
within SETTLEMENT AGREEMENT AND GENERAL RELEASE in my presence.

Denise M. Miklas
Notary Public **DENISE M. MIKLAS**
NOTARY PUBLIC
STATE OF NEW JERSEY
Dated: **COMMISSION EXPIRES APRIL 03, 2012**

1/4/12