

RESOLUTION NO. 2018-

**RESOLUTION OF THE TOWNSHIP OF LITTLE EGG
HARBOR, COUNTY OF OCEAN, STATE OF NEW
JERSEY, AUTHORIZING THE EXECUTION OF A
SETTLEMENT AGREEMENT WITH MICHAEL
FROMOSKY IN A CASE BEARING DOCKET NUMBER
OCN-L-723-17**

WHEREAS, Michael Fromosky filed a complaint against the Township of Little Egg Harbor, Garrett Loesch, Eugene Kobryn, Richard Buzby and David Schlick under the Conscientious Employee Protection Act (CEPA); and

WHEREAS, the Township's insurance carrier and Counsel assigned to the Township by its insurance carrier have determined that it is in the best interests of the Township to settle the pending litigation, in exchange for a release of all claims against the Township and its officers and employees by Mr. Fromosky; and

WHEREAS, the governing body hereby invokes the Doctrine of Necessity, as a quorum of the Township Committee are parties in the litigation and would ordinarily abstain from voting due to the existence of a conflict of interest, however it would not be possible to vote on the ratification of the Agreement without the participation of the otherwise conflicted members; and

WHEREAS, the Township's insurance carrier has authorized and recommended settlement of this matter and will be responsible for the balance of the monies payable under the Agreement except the deductible amount and other contractual obligation of the Township pursuant to its policy with the Ocean County Joint Insurance and

WHEREAS, the governing body wishes to authorize the Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Jersey, as follows:

1. That the Settlement of the Fromosky v. Township of Little Egg Harbor, et al, Superior Court, Law Division – Ocean County, Docket No. OCN-L-723-17 litigation, as embodied in the Settlement Agreement, attached hereto, is approved in substantially the form in which it appears as appended to this Resolution.

2. That the Mayor is hereby authorized and directed to execute the Settlement Agreement in order to effectuate the Settlement of litigation in accordance with the terms and conditions of the Consent Order.

3. That a certified copy of this resolution, together with a copy of the contract between the parties, shall be forwarded to the Chief Financial Officer and James Birchmeier, Esq..

CERTIFICATION

I, **DIANA K. MCCRACKEN, RMC**, Municipal Clerk of the Township of Little Egg Harbor, do hereby certify that the foregoing resolution was duly adopted by the Township of Little Egg Harbor Township Committee at a meeting held on the 10th day of **May, 2018**.


DIANA K. MCCRACKEN, RMC, Clerk
Township of Little Egg Harbor

RELEASE AND SETTLEMENT AGREEMENT

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THIS RELEASE, [consisting of four pages] dated May 7 2018, is given:
BY: **MICHAEL FROMOSKY** (collectively referred to in this Release as "I", "me" and Releasor"),
and **TOWNSHIP OF LITTLE EGG HARBOR TOWNSHIP; GARRETT LOESCH; EUGENE
KOBRYN; RICHARD BUZBY; DAVID SCHLICK; OCEAN COUNTY MUNICIPAL JOINT
INSURANCE FUND; SUMMIT RISK SERVICES; AND QBE INSURANCE COMPANY,**
(collectively referred to in this Release as "you" and "Releasee"). If more than one person signs
this Release, "I", "me", and "Releasor" shall mean each person who signs this Release. "You"
and "Releasee" include any and all agents and employees of each Releasee, and it is specifically
intended that all such agents and employees are covered by this Release.

1. **RELEASE:** I release and give up any and all claims and rights which I may
have against you, except those things which may remain to be done according to the terms of
this document. This releases all claims and rights which I may have had against you at any time,
including any and all claims which are not specifically mentioned in this Release, and any claims
and rights which I may hereafter have against you. This Release applies to claims resulting from
anything which has happened up to now. More specifically, but not in limitation, I release the
following claims:

ANY AND ALL CLAIMS AND RIGHTS WHICH EXIST NOW OR HEREAFTER MAY BE ASSERTED,
including but not limited to claims for compensatory and punitive damages, all claims for loss of
income, all claims for attorneys fees and costs and all claims for all other losses, accrued vacation
and/or sick time, sustained by Releasor. It is expressly understood and agreed by me that a
substantial reason and consideration for you in settling this matter and agreeing to pay the monies
set forth in this Release, is that his settlement, releases and eliminates any and all claims which
I or others may have now or in the future. I further understand and agree that by executing this
Release and accepting the money set forth below, I acknowledge that I have received fair, just
and adequate consideration for all claims. This Release arises out of the incident which is the
subject of an action filed in the Superior Court of New Jersey, Law Division, Ocean County, under
Docket No.: OCN-L-723-17.

This release includes but is not limited to any claims which were asserted or could have
been asserted by Plaintiff under any local, state or federal statute, constitution, ordinance,
contract or the common law, including but not limited to all claims under: the Age Discrimination
in Employment Act of 1967, as amended 29 U.S.C. §6, et seq. ("ADEA"), Title VII of the Civil
Rights Act of 1964, as amended 42 U.S.C. §§2000e, et seq., ("Title VII"), the Reconstruction Era
Civil Rights Act, as amended, 42 U.S.C. §§1981a, §1983, et seq. ("Civil Rights Act"); the Civil
Rights Act of 1991, as amended, 42 U.S.C. §1981a, et seq., ("CRA of 1991"), the Americans with
Disabilities Act, 42 U.S.C. §§ 12101, et seq. ("ADA"), the Family and Medical Leave Act, 29 U.S.C.
§§ 2601 et seq. ("FMLA"); the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. ("FLSA"); the
Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001, et seq.
("ERISA"), the Equal Pay Act, 29 U.S.C. § 201, et seq., ("EPA"); the Rehabilitation Act, 29 U.S.C.
§§ 701, et seq. ("RA"); the Pregnancy Discrimination Act, 42 U.S.C. §2000, et seq. ("DA"); the
Whistleblower Protection Statutes, 10 U.S.C. § 2409, 12 U.S.C. § 1831j, 31 U.S.C. § 265,
(collectively as "WPS"); the Sarbanes-Oxley Act, 18 U.S.C.

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1514A, the False Claims Act, 31 U.S.C. §§ 3729, et seq.; the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq.; the New Jersey Law Against Discrimination, N.J.S.A., 10:5-1, et seq., ("LAD"); the New Jersey Family Leave Act, N.J.S.A. 34:11B-1, et seq. ("FLA"); the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq., ("CEPA"); the New Jersey Worker Freedom from Intimidation Act, N.J.S.A. 34:19-9, et seq.; the New Jersey Wage and Hour Law, N.J.S.A. 34:11-56a, et seq. ("WHL"); the New Jersey Discrimination in Wages Law, N.J.S.A. 34:11-56.1, et seq.

("DWL"); the New Jersey Workers' Compensation Law, N.J.S.A. 34:15-39.1, et seq. ("NJWC"); the New Jersey Wage Payment Law, N.J.S.A. 34:11-4.1, et seq. ("WPL"). The parties to this Release and Settlement Agreement acknowledge, consent and agree that settlement and payment is made in connection with plaintiff's political affiliation related claims protected under the CRA.

It is further understood and agreed that the acceptance of said money is in full accord and satisfaction, and in compromise of, all disputed claims, and that the payment thereof is not an admission of liability but is made by the Releasees with the authorization of the Defendant, for the sole purpose of terminating the litigation between the parties.

2. **CONFIDENTIALITY AND NON-DISCLOSURE:** To the extent permitted/allowed by law, it is further understood and agreed that neither I nor my attorneys and agents will disclose any facts, terms, conditions, amount, or any other aspect of the settlement of this action to anyone for any reason except as may be necessary to defend or prosecute this and any related litigation.

3. **LIENS:** I hereby certify that no liens exist against the proceeds of this settlement that are being paid to me or that if any liens do exist, they will be paid in full, or compromised and released by me from the amount stated in paragraph 3 of this Release. If a lien exists which is not satisfied as required by this Agreement, and a claim is made by anyone to enforce that lien, I agree that I will pay that lien in full. This Release is intended to include all liens, including but not limited to attorney's liens, child support liens, medical provider liens, Medicare and Medicaid liens, worker's compensation liens, all statutory or common law liens, and judgment liens. Releasor's attorney has investigated the existence of such liens and I am making this statement based upon information known to me and/or supplied to me by my attorney. Therefore, I agree to indemnify and hold you harmless in connection with any claims made against you by reason of liens against the proceeds of this settlement.

4. **PAYMENT:** I have been paid a total of \$300,000.00 (Three Hundred Thousand Dollars) in full payment for making this Release. I agree that I will not seek anything further, including any other payment from you.

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5. WHO IS BOUND: I am bound by this Release. Anyone who succeeds to my rights and responsibilities, and all heirs, executors, and administrators are also bound. I specifically understand that all of the terms and conditions of the Release are for the benefit of, and are binding upon, me, my heirs, and anyone else who succeeds to our rights and responsibilities. This Release is made for your benefit and all who succeed to your rights and responsibilities, such as your heirs or the executor of your estate.

6. WARRANTY OF CAPACITY TO EXECUTE AGREEMENT: I represent and warrant that no other person or entity has any interest in the claims, demands, obligations or causes of action referred to in this Release except as otherwise set forth herein, and that I have the sole right and exclusive authority to execute this Settlement Agreement and receive the sum specified in it; and that I have not sold, assigned transferred, conveyed or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Release.

7. REPRESENTATION OF COMPREHENSION OF DOCUMENT: In entering into this Release, I represent that I have relied upon the legal advice of my attorney, who is the attorney of my choice, and that the terms of this Release have been completely read and explained to me by my attorney, and that those terms are fully understood and voluntarily accepted by me.

8. GOVERNING LAW: This Release shall be governed by, and construed and interpreted according to, the laws of the State of New Jersey.

9. ADDITIONAL DOCUMENTS/TERMS: All parties agree to cooperate fully and execute any and all supplementary documents and to take all actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Release.

This release does not include any claim or lawsuit I may have for damages or relief available under the New Jersey Declaratory Judgment Act and/or my claim/demand for a defense and/or indemnification in connection with the counter-claims and/or appeal (A-003450-17) brought/filed by defendants Buzby and Loesch in the above docket number OCN-L-723-17 or any appeals, including any claims for reimbursement of counsel fees and costs associated with the defense of the Buzby/Loesch counter-claims and/or any appeal which are expressly excluded from this release and preserved.

Witnessed or Attested:

MICHAEL FROMOSKY

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STATE OF NEW JERSEY :
COUNTY OF _____ :
*Release and Settlement Agreement
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I CERTIFY that on _____, 2018, MICHAEL FROMOSKY, came before me and acknowledged under oath, to my satisfaction, that this person is named in and personally signed this document and signed, sealed and delivered this document as his/her act or deed.

Notary Public