

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE IN FULL

("Agreement") is made this 15 of December 2017, by and between Bryan Smith ("Plaintiff" or "Smith") and the Borough of Haledon ("Borough" or "Defendant"). Plaintiff and the Borough are sometimes hereinafter collectively referred to as the "Parties" and each may be referred to severally as a "Party."

WHEREAS, Plaintiff brought a civil action against the Borough and certain municipal officials, said action being entitled Bryan Smith v. Borough of Haledon, et al., a civil action venued in the Superior Court of New Jersey, Law Division, Passaic County, bearing Docket No. PAS-L-2037-15 (hereinafter "the Action"); and

WHEREAS, Plaintiff's claims against the municipal officials in the Action (i.e. Mayor Domenick Stanzone, Allen Susen, Mada Kandis, Mounir Almarazi, Michael Tiri, Michael Johnson and Tahsina Ahmed) and Plaintiff's claims for punitive damages, attorney's fees and litigation costs were previously dismissed pursuant to an Order entered by Hon. Thomas J. LaCounte, J.S.C. on November 6, 2015; and

WHEREAS, the Parties intend to settle and resolve, by way of compromise and accord, all claims which were either raised or which could have been raised in the Action, which claims are more fully described below; and

NOW THEREFORE, in consideration of the foregoing and of the mutual agreements contained therein, and intending to be legally bound, the Parties mutually agree as follows:

1. RECITALS

The above recitals are hereby referred to and incorporated by reference.

2. SCOPE OF AGREEMENT

This Agreement sets forth the terms and conditions under which the Parties mutually agree to resolve the following claims:

- (a) **Settled Claims**—all claims in the Action (including but not limited to all claims, counterclaims, cross-claims and third-party claims, including any claim against any current or former employee, agent, member or representative of the Borough and specifically including claims for attorneys' fees and costs) which were raised or could have been raised, whether in the Action, by post-judgment motion in the Action or by subsequent action.

It is the Parties' mutual intention to settle (through this Agreement) all claims as specified in subpart (a) immediately above, except as specified below. As a result, all claims specified in subpart (a) immediately above are hereinafter referred to and defined as "the Settled Claims." Claims arising from the breach of this Agreement, if any, are specifically excluded from the Settled Claims.

3. SETTLEMENT AMOUNT AND PROCEEDS

The Borough agrees to make a payment to Plaintiff in the gross amount of \$85,000 (eighty five thousand dollars and 00/100) no later than forty-five days after all Parties have signed this Agreement. The settlement amount shall be processed and paid as a payroll check and normal payroll and tax deductions shall be made.

The payment made under this Agreement is in full payment for and satisfaction of all claims and alleged damages of all types, including but not limited to all claims against the Borough for sick days, vacation days, personal days, compensatory time, accrued leave time, holidays, leave time, light duty time, back wages, overtime, compensatory damages, consequential damages, punitive damages, injunctive relief, attorney's fees and litigation costs.

The Borough makes no representations as to the tax consequences or pension effect of the settlement amount and shall assume no responsibility for any tax liability attributed to Plaintiff. Plaintiff agrees to pay any and all taxes found to be owed from the payment made pursuant to this Agreement, aside from the normal payroll taxes which shall be deducted. Plaintiff agrees to indemnify and hold the Borough harmless from any other claims, assessments, demands, penalties and interest owed, or found to be owed, as a result of any payment made to him under this Agreement.

Except as otherwise provided in this Agreement, it is further understood that as a condition of this settlement, all claims and/or liens, past, current and/or future arising out of this settlement or asserted against the proceeds of this settlement are to be satisfied by Plaintiff.

4. NO ADMISSION OF LIABILITY

This Agreement is a result of a compromise and accord to buy the Parties' peace. It is expressly understood and agreed that nothing contained in this Agreement is intended to be, nor shall be construed as, nor shall be represented by any party, their attorneys or their agents to be, an admission or determination of liability by the Borough, or its agents employees or members, as to the validity of any claims asserted or assertable in the Settled Claims. It is agreed that this Agreement shall not be used by any Party as evidence or in any other matter or for any other purpose in any court proceeding or any other proceeding except for an action arising from the breach of this Agreement, or in an action concerning any Party's tax status.

5. RELEASE AND EXTINCTION OF CLAIMS

Plaintiff hereby releases and gives up any and all claims and rights which he may have against the Borough, and all of its current and former officers, employees, governing body members, attorneys, successors, assigns and heirs. This releases all claims, including those of

which Plaintiff is not aware and not mentioned in this Agreement. This releases all claims asserted in the Action or which could have been asserted in the Action, including the claims identified in paragraph three of this Agreement, and specifically includes claims related to any contract, collective bargaining agreement, past practice, personnel policy, personnel manual, rule, regulation and procedure. This release applies to claims resulting from anything which has happened up to now.

Plaintiff understands, agrees to and acknowledges that he is bound by this release. Anyone who succeeds to his rights and responsibilities, such as Plaintiff's heirs or the executors of Plaintiff's estate are also bound. This release is made for the benefit of the Borough and all who succeed to its rights and responsibilities. In consideration for this release, Plaintiff has received promises from the Borough, as set forth more fully in paragraph three.

6. MUTUAL NON-DISPARAGEMENT

Plaintiff and the Borough agree not to disparage the other.

7. NO RIGHTS CONFERRED UPON NON-PARTIES

This Agreement is intended to confer rights and benefits only upon the Parties and is not intended to confer any right or benefit upon any other person or entity.

8. FULL UNDERSTANDING

This Agreement sets forth the complete understanding and entire Agreement between the Parties and supersedes all prior agreements, understandings or discussions between the Parties related to the Action. This Agreement may not be modified, altered, changed, discharged, terminated or waived except upon express written consent of the Parties wherein specific reference is made to this Agreement. By executing this Agreement, Plaintiff represents and acknowledges that he does not rely, and has not relied upon, any representation or statement not set forth in this

Agreement, or made by the Borough or its counsel, with regard to the subject matter, basis, or effect of this Agreement or otherwise.

9. MATERIALITY

The Parties agree that each paragraph of this Agreement is material. In the event that any portion of this Agreement is determined to be illegal, the Parties agree, in advance, to reform the Agreement in good faith to provide each Party with the full benefit of the settlement memorialized by this Agreement to the extent permitted by law.

10. SERVICES OF COUNSEL

The Parties certify that they have had the opportunity to discuss this Agreement with their legal counsel. The Parties are fully satisfied with the services of their counsel with respect to both this Agreement and all other aspects of the Action and they enter into this Agreement knowingly, voluntarily, willingly and without any coercion or improper inducements.

11. AUTHORITY OF SIGNATORIES

Each signatory represents that she or he is a Party or has been duly authorized by a Party to sign on that Party's behalf and that in the case of the Borough all corporate formalities attendant to the execution of this Agreement have been satisfied. The signatory for the Borough further covenants that he or she is duly empowered by the Borough and its current members to sign this Agreement on behalf of the Borough and its members in their official capacities and that there is no legal reason (i.e. receivership or bankruptcy) which would prevent the Borough from completely performing its obligations under this Agreement.

12. LAW GOVERNING

This Agreement shall be governed by the laws of the State of New Jersey and any dispute arising out of this Agreement shall be subject to the exclusive jurisdiction of the Courts of the State of New Jersey.

13. BOROUGH OF HALEDON APPROVAL

This Agreement shall be presented to the governing body of the Borough for final review and consideration.

14. EXECUTION IN COUNTERPARTS

The Parties agree that this Agreement may be signed in counterparts.

PLAINTIFF

WITNESS

[Signature]
Dated: 12-4-17

[Signature]

BRYAN SMITH

DEFENDANT

WITNESS

[Signature]
Dated: 12-15-17

[Signature]
BOROUGH OF HALEDON

DOMENICK STAMPONE, MAYOR