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Please Respond To: Boonton Office

April 14, 2010

John D. Keenan, Jr., Clerk  
Borough of Stratford  
307 Union Avenue  
Stratford, NJ 08084

Re: RESERVATION OF RIGHTS  
Gentless v. Stratford Republican Club, et al  
Law Division: Camden County  
Docket No: CAM-L-1586-10

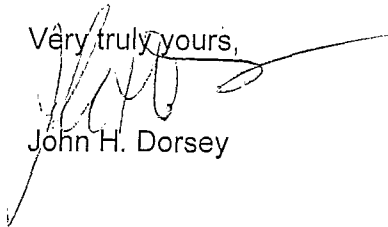
Dear Mr. Keenan:

I am writing to you as General Counsel to the Municipal Excess Liability Joint Insurance Fund (MEL). I am in receipt of a copy of the complaint filed in this matter, which was forwarded to me by Scibal Associates. I have reviewed the complaint to determine coverage under the MEL's Public Officials Liability Policy (POL).

The activities alleged in the complaint involve the Stratford Republican Club, as well as the Mayor and two former Councilmen, actions which are not within the scope of the MEL's policy. Specifically, it would appear that coverage in this matter is excluded by way of the Co-Employee Exclusion contained in the MEL's policy under Section II entitled "Who is an Insured", a copy of which is enclosed. You will see that it excludes litigation between parties who are elected municipal officials. Therefore, under the circumstances, the MEL will not provide a defense or indemnification in connection with this case.

It should be noted that the Borough has a \$20,000 SIR and 20% coinsurance as to the first \$250,000 of cost or loss.

Very truly yours,

  
John H. Dorsey

JHD:tp

cc: Bill Bruce, Scibal Associates

- d. Arising out of bodily injury, sickness, disease or death of any person or damage to or destruction of any tangible property including diminution of value, disappearance, or loss of use thereof.
- e. Arising out of any Claim against any attorney, architect, licensed physician, engineer, independent auditor or independent accountant while acting in the scope of his professional duties on behalf of the Public Entity, provided, however, this exclusion shall not apply to Claims made against the Public Entity named in the Declarations, to Claims made against full-time accountants, and full-time engineers employed by the Public Entity, nor to Claims made against full-time attorneys employed by the Public Entity, if the "Application for Member Entity Full Time Employed Attorney Professional Liability Coverage" for such full-time attorneys has been completed, reviewed, and approved by the Executive Committee of the MEL, and such full-time attorneys are named below on this endorsement:

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6. ADDITIONAL EXCLUSIONS for INSURING AGREEMENT: 1. b. EMPLOYMENT LIABILITY:

This Insurance under INSURING AGREEMENT: 1. b. EMPLOYMENT LIABILITY, does not apply to any Claim made against the Insured:

- a. Arising out of any actual or alleged obligation of any Insured pursuant to any workers' compensation, unemployment insurance, social security, disability benefits or similar law; provided, however, this exclusion shall not apply to any Claim based upon, arising from, or in consequence of any actual or alleged retaliatory treatment by the Insured on account of the exercise of rights pursuant to any such law.
- b. Arising out of bodily injury, sickness, disease or death of any person or damage to or destruction of any tangible property including diminution of value, disappearance, or loss of use thereof. However, this exclusion shall not apply to claims covered under INSURING AGREEMENT.b. alleging emotional distress, mental anguish or humiliation.
- c. For back wages, overtime or similar Claims, even if designated as liquidated damages, under any federal, state or local statutes, rules, ordinances or regulations, or Claims arising from collective bargaining agreements. However, notwithstanding the foregoing, the Insured shall be defended under the terms of this policy, as to any such Claims.
- d. For front pay, future damages or other future economic relief or the equivalent thereof. However, notwithstanding the foregoing, the Insured shall be defended under the terms of this policy, as to any such Claims.
- e. For any amounts which constitute benefits, prerequisites, fringe benefits, payments in connection with an employee benefit plan and any other payment, other than salary or wages, or the equivalent value of such benefits. However, notwithstanding the foregoing, the Insured shall be defended under the terms of this policy, as to any such Claims.

SECTION II - WHO IS AN INSURED

Each of the following is an Insured whether in the singular or plural, while acting solely within the course and scope of his or her duties and responsibilities on behalf of the Public Entity:

- a. The Public Entity named in the Declarations, Item, which is legally constituted and incorporated as of the effective date of this policy, including its government body, departments and units.
- b. Your lawfully elected, appointed or employed Public Officials or members, past, present and future.
- c. Unless specifically endorsed herein, Insured does not mean and does not apply to any one of the following boards, commissions or units, including but not limited to: boards of education, airports, transit authorities, hospitals, nursing homes, Housing Authorities, port authorities.
- d. Your employees.
- e. With regard to coverage afforded under INSURING AGREEMENT 1. b. EMPLOYMENT LIABILITY, any person providing volunteer services for you at your request and operating under your direction and control; with regard to coverage afforded under INSURING AGREEMENT 1. a. PUBLIC OFFICIALS LIABILITY, any person providing volunteer services authorized under Title 34 N.J.S.A., subsections 34:15-74, at your request and operating under your direction and control.
- f. Any person providing services for you under municipal mutual assistance agreements.
- g. The estates, heirs, legal representatives or assigns of the Insured who are deceased at the time of the Wrongful Act(s) upon which a covered claim is based.
- h. The legal representatives or assigns of the Insureds who are incompetent, insolvent or bankrupt.
- i. Persons designated by the Insured to serve on a designated outside entity, provided that the activities are in the course and scope of serving on the designated outside entity, the outside entity is tax exempt, the appointment is based solely on the person's being a Public Official of the Public Entity, and the person is directed by the Public Entity to serve on the outside entity.

*Co-employee  
exclusion*

With regard to b., d., f., g., h., i., and j., none of these duly elected or appointed officials or members of the Governing Body, employees, or representatives of any Insured is an Insured for any Loss: to the Member Entity, to you, or to a co-duly elected or appointed official or to a co-member of the Governing Body, or to a co-employee, while in the course of his employment or performing duties related to the conduct of your business; and/or to the spouse, child, parent, brother or sister of that co-employee as a consequence thereof; arising out of Claims first made against the Insured during the Coverage Period, or if exercised, during the Extended Reporting Period, to which this insurance applies, against the Insured by reason of Wrongful Acts rendered in discharging duties on behalf of the Insured named in the Declarations, except Claims covered by INSURING AGREEMENT 1.b.

### SECTION III - LIMITS OF INSURANCE

- 1. The Limits of Liability shown in the Declarations, Item 2, and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;

**DORSEY & SEMRAU**  
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**Boonton, New Jersey 07005**

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April 20, 2010

John D. Keenan, Jr., Clerk  
Borough of Stratford  
307 Union Avenue  
Stratford, NJ 08084

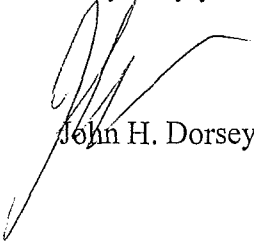
Re: Gentless v. Stratford Republican Club, et al.  
Docket No: CAM-L-1586-10 County

Dear Mr. Keenan:

In accordance with our phone conversation, please disregard the fourth paragraph of my Reservation of Rights letter of April 14, 2010 relative to the SIR.

If we resolve this matter by way of a buy out, there will be no SIR applied.

Very truly yours,

  
John H. Dorsey

JHD:lg

cc: William H. Bruce, III  
Shared/Lynette/Keenan



Highland Claim Services, Inc.

Highland Claim Services, Inc.

A THIRD PARTY CLAIMS ADMINISTRATOR

April 21, 2010

Borough of Stratford  
307 Union Avenue  
Stratford, NJ 08084  
Attn: John Keenan

RE: Our client: Public Alliance Insurance Coverage Fund  
Member: Borough of Stratford  
Our claim #: PAC010585  
Plaintiff: John Gentless  
Date of Loss: 12/24/2009

Dear Mr. Keenan:

As you are aware, Highland Claim Services Inc. is the authorized claims administrator for the Public Alliance Insurance Coverage Fund and its member, the Borough of Stratford.

We are in receipt of a Complaint filed in the matter of John Gentless vs. Stratford Republican Club, ABC Corporations 1-10 (fictitious names of unknown corporations, partnerships, sole proprietorships or other entities), William Grover, Steven Venuto, Stuart A. Platt, Esquire, Joan Trexler, and John Does 1-50, (the Fictitious names of unknown individuals), jointly/individual and and/or in the alternative, filed in Camden County Superior Court under docket # CAM-L-1586-10. The Plaintiff, the Mayor for the Borough of Stratford is alleging defamation and libel, invasion of privacy, harassment, intentional infliction of emotional distress, civil conspiracy, abuse of process and malicious prosecution. The Plaintiff is demanding compensatory damages, punitive damages, and attorney's fees.

While we have determined that some of the allegations may fall within the insuring agreement and meet the definition of **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** there is exclusionary language that is applicable. We refer your attention to the coverage documents which state in part;

**SECTION VI - COVERAGE PART I  
COMMERCIAL GENERAL LIABILITY INSURANCE**

78 ROUTE 23 NORTH  
HAMBURG, NJ 07419

1) **INSURING AGREEMENT**

- a.) We will pay those sums that the insured becomes legally obligated to pay as damages because of **bodily injury** or **property damage** to which this insurance applies caused by an **occurrence**.
- b.) We will pay those sums that the insured becomes legally obligated to pay as damages because of **personal and advertising injury** to which this insurance applies.

We shall have the right and duty to defend any suit against the Member Entity seeking damages on account of such **bodily injury, property damage, personal injury, or advertising injury** even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as we deem expedient, but we shall not be obligated to defend any suit after the applicable Limits of Liability have been exhausted by payment of judgments, settlements or legal costs associated with any suit covered hereunder; all legal costs and other SUPPLEMENTARY PAYMENTS are included within the applicable Limits of Liability.

Next, we refer your attention to the **definitions** which state in part;

**Bodily injury**

“(1) Under PART I. COMPREHENSIVE GENERAL LIABILITY, **bodily injury** means:

Physical injury, sickness, disease or mental anguish sustained by a person, including death at any time resulting from any of these. Damages because of **bodily injury** include damages claimed by any person or organization for care, loss of services or death resulting at any time from the **bodily injury**.”

**Property damage**

Under PART I. COMPREHENSIVE GENERAL LIABILITY, AND PART III. BUSINESS AUTO LIABILITY, **property damage** means physical injury to tangible property, which occurs during the Coverage period, including all resulting loss of use of tangible property; or loss of use of tangible property that is not physically injured.

**Personal injury**

**Personal injury** means liability arising out of one or more of the following offenses committed during the coverage period:

- (1) False arrest, detention, or imprisonment;
- (2) Malicious prosecution;
- (3) The wrongful eviction from, wrongful entry into, or invasion of the right to private occupancy of a room, dwelling, or premises that a person occupies by or on behalf of its owner landlord, or lessor;
- (4) Oral, written, broadcast or telecast publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products, or services; or
- (5) Oral, written, broadcast or telecast publication of material that violates a person's right of privacy.

#### **Advertising Injury**

**Advertising injury** means injury arising out of one or more of the following offenses:

- (1) oral, written, broadcast or telecast publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- (2) oral, written, broadcast or telecast publication of material that violates a persons right of privacy;
- (3) misappropriation of advertising ideas or style of doing business; or
- (4) infringement of copyright, title or slogan

Lastly, we refer you to the **exclusions** which state in part;

### **SECTION II- POLICY EXCLUSIONS**

There are **EXCLUSIONS** applicable to each coverage part contained within the **COVERAGE PARTS**. The following **EXCLUSIONS** are applicable to both **COVERAGE PARTS**.

This insurance does not apply to:

- c. **Punitive, Exemplary Damages**

**Claim** or award against the **Member Entity** or any **insured** for punitive or exemplary damages.

**h. Employer's Liability:**

**Bodily injury or personal injury to:**

- (1) Any **employee** of the **Member Entity**, including any authorized volunteer subject to New Jersey Workers' Compensation under Title 34, arising out of and in the course of:
  - (a) Employment by the **Member Entity**; or
  - (b) Performing duties related to the conduct of the **insured's** business; or
- (2) The spouse, child, parent, brother or sister of that **employee** as a consequence of paragraph (1) above. This EXCLUSION applies
  - (a) Whether the insured may be liable as an employer or in any other capacity; and
  - (b) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This EXCLUSION does not apply to liability assumed by the **insured** under an **insured contract**.

**i. Employment Liability**

Any actual or alleged wrongful dismissal, discharge or termination of employment, breach of any oral or written employment contract or quasi-employment contract, employment-related misrepresentation, violation of employment discrimination laws, workplace harassment, wrongful failure to employ or promote, wrongful discipline, wrongful deprivation of a career opportunity, failure to grant tenure, negligent evaluation, invasion of privacy, employment-related defamation or employment-related wrongful infliction of emotional distress committed, attempted or allegedly committed or attempted, by the **Member Entity**.

This EXCLUSION applies whether the **Member Entity** may be held liable as an employer or in any other capacity and to any obligation of the Member Entity to share damages with or

to repay someone else who must pay damages because of such **bodily injury, property damage, personal injury or advertising injury.**

In view of the foregoing, the Public Alliance Insurance Coverage Fund will not provide a defense or any indemnification for this claim.

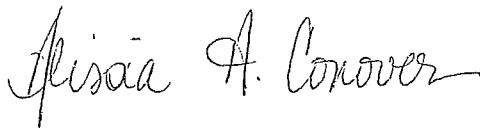
This matter has been forwarded to Scibal for coverage consideration under the Public Officials coverage form. You will hear from them regarding their coverage position.

Should you have any additional information that you feel will alter our position, please forward it to our attention for further consideration.

The Public Alliance Insurance Coverage Fund expressly reserves all rights to disclaim coverage under the coverage documents, on any additional basis as other terms, conditions, exclusions or provision of the coverage documents.

We regret that we are not able to be of any further assistance to you at this time.

Very truly yours,

A handwritten signature in cursive script that reads "Alissia A. Conover". The signature is written in black ink and is positioned below the typed name.

Alissia A. Conover  
Claims Representative

CC: Rue Insurance

RESOLUTION 2010:102

WHEREAS, former Councilmen Stephen Venuto and William Grover are named parties in a complaint filed by John Gentless; and

WHEREAS, the documents have been reviewed by the Borough Solicitor; and

WHEREAS, the Borough Council has expressed a desire to assist the former Councilmen in defending the litigation against them only in relation to count #1; and

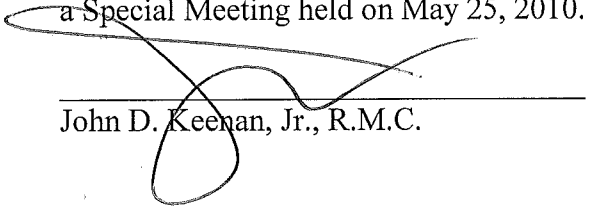
NOW, THEREFORE, BE IT RESOLVED, that Stratford Borough Council has agreed to fund 10% of the total legal representation fees not to exceed \$5,000.00, \$2,500.00 to each of them, former Councilmen Stephen Venuto and William Grover at a rate not to exceed \$150.00 per hour, on condition that the jury does not rule against either of them in count #1 of the complaint; and

FURTHERMORE, to fund 10% of any damages against both of them, not to exceed \$5,000.00, \$2,500.00 to each of them, former Councilmen Stephen Venuto and William Grover, on condition that the jury does not rule against either of them in count #1 of the complaint;; and

FURTHERMORE, the funding will not be paid until the completion of the litigation or after a settlement has been reached; and

FURTHERMORE, this commitment of the Stratford Borough Council comes with a reservation as to if and when the jury finds on this litigation, and rules against former Councilmen Stephen Venuto and William Grover as to only count #1 of the complaint, will result in no funding towards representation and damages as noted above.

I, John D. Keenan, Jr., Borough Clerk, hereby certify the above resolution was adopted at a Special Meeting held on May 25, 2010.

  
\_\_\_\_\_  
John D. Keenan, Jr., R.M.C.

RELEASE

This Release dated \_\_\_\_\_, 2010, is given

BY the Releasor(s)

**BOROUGH OF STRATFORD, a Municipal Corporation of the State of New Jersey,**

Referred to as "I" or "Releasor",

TO

**MUNICIPAL EXCESS LIABILITY JOINT INSURANCE FUND,**

Referred to as "You" or "Releasee".

If more than one person signs this Release, "I" shall mean each person who signs this Release.

1. **RELEASE.** I specifically release the following claims:

**Any and all claims arising out of an action entitled GENTLESS V. STRATFORD REPUBLICAN CLUB, ET AL Superior Court of New Jersey, Law Division, Camden County, Docket No. L-1586-10**

2. **PAYMENT.** I have been paid a total of **\$2,500**, in full payment for making this Release. I agree that I will not seek anything further including any other payment from you.

3. **WHO IS BOUND.** I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. 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.

4. **SIGNATURES.** I understand and agree to the terms of this Release. If this Release is made by a corporation its proper corporate officers sign and its corporate seal is affixed.

WITNESSED OR ATTESTED BY:

\_\_\_\_\_  
, Clerk

\_\_\_\_\_  
, Mayor

