

For Agency Use Only
Docket Number: 000-13

NAME OF

COMPLAINANT(S), Janine Walker Caffrey : BEFORE THE SCHOOL

v. :

ETHICS COMMISSION
OF NEW JERSEY

NAME OF RESPONDENT(S) :

SCHOOL ETHICS ACT

Samuel Lebreault, Obdulia Gonzalez, Israel : COMPLAINT FORM

Varela, Milady Tejada

I, (Janine Walker Caffrey residing at **368 Rector Street Unit 216, Perth Amboy NJ 08861, 727-858-2509**), request the School Ethics Commission to consider a complaint against the above-named Respondent(s) whose home address is **(Lebreault – 619 Franklin Dr., Gonzalez – 129 High St., Varela – 210 Lewis St., Tejada – 590 Brace Ave.)** in accordance with the authority of the School Ethics Commission to entertain such complaints under N.J.S.A. 18A:12-21 et seq.

The facts upon which this complaint is based are as follows: *(Please print additional pages as needed. Students should be identified by initials only.)*

1. Statement of facts: The Complainant is the Superintendent of Schools for Perth Amboy, and the Respondents are members of the Board of Education who have been attempting to remove the Complainant from her position. The respondents, as part of an election strategy for Respondents Lebreault and Gonzalez, paid a local media/political consultant to write libelous and slanderous articles about the Complainant (see multiple attachments from njtoday.net). This is evident by the full page ads present in the newspaper (see attachment), and emails in May when Devine directly solicited BOE members (see attachment of emails) The person responsible for these articles, James Devine, has made statements regarding his tendency to blur the line between editorial and advertisement (see attachment of Politicker article). Together with the Delgado mayoral campaign (including City Council candidates Anna Mascenik and Jose Santos-brother of BOE member Milday Tejada), Lebreault and Gonzalez provided financial incentives to Devine to write these articles, which are almost all complete fabrications. Perhaps the most disturbing article is one that makes the claim that the Complainant was in a mental institution in 2009. This was the direct result of utterly false statements made to Devine by the respondents. The Complainant has never been a psychiatric patient. Another article that provides insight into the collaboration of the respondents and Devine is one that appeared on Devine's website (njtoday.net) on September 22, 2012. This article, entitled "Caffrey Fired as Perth Amboy Super" was published online before the special

BOE meeting ended, and included information not available to the public. The Complainant did not receive this information until about an hour after the article appeared. Some articles made false statements regarding the recent actions of the New Jersey School Board Ethics Commission. It is important to note that, although the ads in Devine's publications include full page photos paid for by the husband of Obdulia Gonzalez, the Gonzalez-Lebreault campaign has not claimed this funding on their ELEC report. In fact, no ELEC report has yet to be filed by either candidate, as is required by law. In addition to the behind-the-scenes involvement of the Respondents, Varela publicly contributed to articles written by Devine. It is also important to note that Respondent Tejeda is the sister of City Council candidate Jose Santos, who is a vice principal in the school district.

Dates of Occurrence: On or about Aug. 7, Aug. 17, Aug. 20, Aug. 31, Sept. 14, Sept. 22, Sept. 27, Oct. 19, and Oct. 26, 2012

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24(g) I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school. (2) N.J.S.A. 18A:12-24.1(i) I will support and protect school personnel in proper performance of their duties.; (3) N.J.S.A. 18A:12-24.1(e) I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board; (4) 18A:12-24.1(f) I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

2. Statement of facts: On September 22, 2102, the Board of Education placed the Complainant on an administrative leave through June 30, 2014 (the end of the term of her current contract), and notified her that her contract would not be renewed. Immediately following that action, Respondents submitted a press release to local media outlets proclaiming, among other things, that the Complainant "misled the public," "duped" the public, is "incompetent" and "not able to handle the leadership role that we gave her." They also stated, "Dr. Caffrey has attempted to take advantage of our court system process by spinning a web of misdirection to conceal her unfortunate shortcomings." This statement was printed in its entirety by several publications. A copy of one (from Home News Tribune), including the headline, "Superintendent Still Misleading Public" is attached, along with a copy of the statement printed in the Amboy Guardian. The Star Ledger also included a story related to this statement. A copy of that article is attached. The Complainant has been a well-respected educator for over 28 years. These disparaging remarks are patently false, are creating a negative impact on her reputation, and have the potential to prevent her from obtaining employment in her profession in the future.

Date of Occurrence: On or about September 27, 2012

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24(g) I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure

individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school. (2) N.J.S.A. 18A:12-24.1(i) I will support and protect school personnel in proper performance of their duties.; (3) N.J.S.A. 18A:12-24.1(e) I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

3. Statement of Facts: Respondents actively engaged together in a political campaign for candidates for Mayor and City Council in Perth Amboy who included firing the Complainant as part of their campaign platform. Mayoral candidate Billy Delgado, along with City Council candidates Ana Mascenik (former Perth Amboy Public Schools administrator) and Jose Santos (current vice principal and brother of Respondent Tejada) made disparaging statements about school administrators during their speeches announcing their candidacy on June 27, 2012. Specifically, Delgado stated that the school administration "vilified" teachers, were attempting to privatize the system, and had put the schools into "chaos." It is important to note that the Mayor and City Council have no responsibility for the education system in Perth Amboy. Over 80% of funding for the schools comes from state aid, and the Perth Amboy Board of Education is the elected body responsible for governing the school system. Several newspaper articles in the publication (online and in print), NJToday have linked the Complainant and the incumbent Mayor Wilda Diaz (attached and referenced in the first count). A key part of these candidates' platform included firing the Complainant, as evidenced by Mascenik's self-authored profile that appeared in the Homes News Tribune on October 4, 2012 (copy attached). The Respondents can be readily seen in photos taken at a meeting at Delgado's campaign headquarters the week after they placed her on leave and voted not to renew her contract (see attachment). They are clearly participants in this campaign. Lebreault and Varela are photographed addressing the group.

Date of Occurrence: On or about July-November 6, 2012

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24(g) I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school. (2) N.J.S.A. 18A:12-24.1(i) I will support and protect school personnel in proper performance of their duties.; (3) N.J.S.A. 18A:12-24.1(e) I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board; (4) 18A:12-24.1(f) I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

4. Statement of facts: The Respondents actively campaigned with school district employees who had disciplinary cases pending before the Board of Education, including some that were potential tenure charges. Several of these employees can be seen seated at the table in the campaign photos referenced in count 3.

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Date of Occurrence: On or about August - November 6, 2012

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24(g) I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school. (2) N.J.S.A. 18A:12-24.1(i) I will support and protect school personnel in proper performance of their duties.; (3) N.J.S.A. 18A:12-24.1(e) I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board; (4) 18A:12-24.1(f) I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

5. Statement of facts: The Respondents organized and/or participated in a "rally" intended to gather support of employees to remove the Complainant from her position. Several employees reported to the Complainant that they were advised that they needed to go because if the Superintendent wasn't fired, she would make all of the schools into charter schools and fire all of the employees. The Chief of Police notified the Complainant that Respondent Varela had contacted the Perth Amboy Police Department to tell them of their intended "rally." Police responded to the School #7 and notified participants that there was not a permit for the event, so the small crowd eventually walked to the Barracks Street office and attempted to assemble and speak. Police again arrived and ordered them to disburse since they had not filed a permit. Photos of the event are attached.

Date of Occurrence: On or about October 18, 2012

I assert this to be a violation of: (1) N.J.S.A. 18A:12-24(g) I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school. (2) N.J.S.A. 18A:12-24.1(i) I will support and protect school personnel in proper performance of their duties.; (3) N.J.S.A. 18A:12-24.1(e) I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board; (4) 18A:12-24.1(f) I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

6. Statement of facts: The local chapter of the American Federation of Teachers endorsed the candidacy of Billy Delgado for Mayor, Ana Mascenik and Jose Santos for City Council, and Respondents Gonzalez and Lebreault. Delgado, Mascenik, Santos, Lebreault, and Gonzalez accepted financial support from the AFT. This financial support may impact Respondents' ability to make unbiased decisions regarding personnel matters and in participating in negotiations.

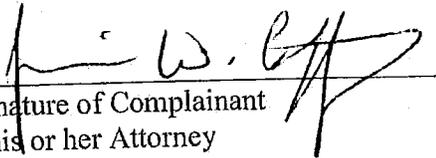
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Date of Occurrence: On or about October 16, 2012

I assert this to be a violation of: (1) 18A:12-24.1(e) I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board; (2) 18A:12-24.1(f) I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

WHEREFORE, I, as Complainant, request that the School Ethics Commission find and determine that the above-named Respondent(s) has violated the School Ethics Act and that he or she be subject to such penalty as provided by the Act.

Date December 29, 2012



Signature of Complainant
or his or her Attorney

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is made and entered into this 13th day of June , 2014, by and between Janine Walker Caffrey and The Board of Education of the City of Perth Amboy, Obdulia Gonzalez, Israel Varela, Kenneth Puccio, Dianne Roman, Samuel Lebreault, Milady Tejada, Anthony Bermudez, William Ortiz, Mark Carvajal and any and all past or present board members of the Perth Amboy Board of Education.

WHEREAS, Janine Walker Caffrey was employed by the Perth Amboy Board of Education from July 1, 2011 to June 30, 2014; and

WHEREAS, Janine Walker Caffrey initiated a claim seeking equitable and legal relief based on allegations of wrongful discharge and non-renewal of contract including but not limited to claims under: (1) the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*; (2) Conscientious Employee Protection Act, N.J.S.A. 34:19-1, *et seq.*; (3) breach of express and implied contract; and (4) breach of the implied covenant of good faith and fair dealing.

WHEREAS, the parties desire to settle fully, permanently and finally all differences between them for any event related to, arising out of, or in connection with Janine Walker Caffrey's employment by the Perth Amboy Board of Education and to terminate any and all claims made or that could have been made against the Perth Amboy Board of Education and the individual past and present board members along with all officers, trustees, employees, agents, directors, representatives, successor or assigns, which settlement shall constitute the good faith settlement of the aforementioned claims;

NOW, THEREFORE, the parties, intending to be bound hereby, covenant and agree as follows:

1. The Perth Amboy Board of Education through its insurance carrier agrees to pay Janine Walker Caffrey a total amount of \$184,000.00. The payment of this sum is in full and complete satisfaction of all of claims against the Perth Amboy Board of Education and all past and present individual board members including claims for attorneys' fees, expenses, back wages, front wages, liquidated damages, punitive damages, emotional distress damages, and any other claim that could be made by Janine Walker Caffrey against the Perth Amboy Board of Education and the past and present individual board members. Said payment is to made payable to Janine Walker Caffrey and Alan Schorr, Esq.
2. The Insurance Carrier for the Perth Amboy Board of Education shall issue a Form 1099 to Alan Schorr, Esq. in the amount of \$62,966.67 which shall be reflected as payment of attorneys' fees and costs, and the remainder in the amount of \$121,033.33 shall be paid to Janine Walker Caffrey, and the Insurance Carrier will issue a 1099 to Janine Walker Caffrey in that amount. No other Form 1099 and no W-2 shall issue.
3. Payment shall be made within 10 days of approval of this agreement by the Perth Amboy Board of Education as this agreement is subject to Board approval.
4. Release. For good and valuable consideration, including without limitation the payments described in this Agreement, Janine Walker Caffrey hereby releases, discharges, and covenants not to sue the Perth Amboy Board of Education, Obdulia Gonzalez, Israel Varela, Kenneth Puccio, Dianne Roman, Samuel Lebreault, Milady Tejada, Anthony Bermudez, William Ortiz, Mark Carvajal and any and all past or present board members of the Perth Amboy Board of Education and the Perth Amboy Board of Education's direct and indirect parents, subsidiaries, and predecessors, and all of its and their respective past and present employees, directors, officers, attorneys, successors, and

assigns (individually and collectively the "Releasees"), from and/or upon with respect to any and all actions, suits, liabilities, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, torts, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, whether known or unknown, suspected or unsuspected, in law or equity, which could be or have been asserted against the Releasees, parties to this Agreement, heirs, executors, administrators, successors, assigns, and attorneys and for any and all claims which have, ever had, now have, or hereafter can, shall, or may have been asserted by reason of any matter, cause, or thing whatsoever from the beginning of the world to the date of this Agreement, including specifically by way of description, but not by way of limitation, any and all claims:

- a. alleged or related to the employment of Janine Walker Caffrey by the Perth Amboy Board of Education;
- b. arising out of or related to any claims Janine Walker Caffrey may have against the Perth Amboy Board of Education, Obdulia Gonzalez, Israel Varela, Kenneth Puccio, Dianne Roman, Samuel Lebreault, Milady Tejada, Anthony Bermudez, William Ortiz, Mark Caravjal and any and all past or present board members of the Perth Amboy Board of Education from the beginning of time to a time to the date of this Agreement;
- c. arising out of or in any way related to claims pertaining to New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq., Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000(e) *et*

seq. , the Civil Rights Act of 1991 as amended 42 U.S.C. Section 1981 *et seq.* , the Family Medical Leave Act, the Fair Labor Standards Act, the Equal Pay Act, the Conscientious Employee Protection Act, the Wage and Hour Act, the Employee Retirement Income Security Act, breach of express or implied contract, tortious interference with prospective business relations, breach of the implied covenant of good faith and fair dealing, breach of any employment handbook or contract, and the Administrative Code and charters of the various cities and State of New Jersey;

- d. any and all claims for violation of the federal or any state constitution;
- e. any and all claims arising out of any other laws and regulations relating to employment discrimination and wrongful discharge; and
- f. any and all ethics claims instituted against any past or present individual board member of the Perth Amboy Board of education including but not limited to the following: Caffrey v. Varela, SEC 30-12; Caffrey v. Lebreault, Gonzalez, Varela, & Tejada, SEC 02-13; and Caffrey v. Varela, SEC 35-13;
- g. any and all claims instituted under the school laws of the State of New Jersey including but not limited to the action entitled Caffrey v. Perth Amboy Board of Education, Agency Ref. No. 252-10/13, OAL Docket No. EDU 14815-2013N brought before the New Jersey Commissioner of

Education;

h. any and all claims for attorneys' fees and costs.

5. Waiver of Right to Consider and to Revise Agreement. Janine Walker Caffrey waives any right she may possess under any federal or state statute: (a) to a waiting period to consider this Settlement Agreement and Mutual Release further before signing same; and (b) to revoke her signature after having signed this Settlement Agreement and Mutual Release.

6. Confidentiality and Non-Disparagement Clause. In consideration of the payment made in this Agreement. Janine Walker Caffrey hereby agrees and promises that she will not make, publish or cause to be made or published, any statements or comments, true, false or otherwise, whether they be oral or written, which in any way relate to, refer to, or otherwise concern her employment with the Perth Amboy Board of Education, this Agreement, any and all ethics claims or complaints against any past or present Perth Amboy Board of Education board member or any interaction with any past or present individual board members including Obdulia Gonzalez, Israel Varela, Kenneth Puccio, Dianne Roman, Samuel Lebreault, Milady Tejada, Anthony Bermudez, William Ortiz, and Mark Carvajal, or which in any way relate to her opinions, thoughts or comments concerning the Perth Amboy Board of Education, the Perth Amboy Public Schools, **any past, present or future board members and shall refrain from engaging in any blogging, tweeting, posting, writing an article or a book,**

commenting in any form of social media, posting on any internet website whatsoever, and/or granting an interview or making a statement or comment to a journalist, blogger, editor, etc...regarding same including but not limited to attending any board meetings of the Perth Amboy Board of Education. Janine Walker Caffrey hereby agrees should she breach this paragraph, the Perth Amboy Board of Education shall be entitled to a payment of \$10,000 for each discrete breach of this paragraph. Any dispute over this paragraph shall be submitted to the jurisdiction of the State of New Jersey, Superior Court. Notwithstanding the forgoing, in the event that any board member shall make a public statement about Janine Walker Caffrey she shall be permitted to respond publicly to that comment only. If served with a lawful subpoena, Janine Walker Caffrey shall be permitted to respond to the subpoena to the extent it requires information related to her employment with the Perth Amboy Board of Education. Nothing set forth in this agreement shall prevent Janine Walker Caffrey to list her employment with Perth Amboy on her resume and discuss her employment with prospective employers privately.

7. No Admission of Liability. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties hereto, or either of them, either previously or in connection with this Agreement shall be deemed or construed to be (a) an admission of the truth or falsity of any claims heretofore made or (b) an acknowledgment or admission by either party of any fault or liability whatsoever

to the other party or to any third party.

8. Agreement not to Voluntarily Testify – In consideration of the payment made in this Agreement, Janine Walker Caffrey agrees to not voluntarily testify in any and all ethics claims against any past or present board member of the Perth Amboy Board of Education including but not limited to Obdulia Gonzalez, Israel Varela, Kenneth Puccio, Dianne Roman, Samuel Lebreault, Milady Tejada, Anthony Bermudez, William Ortiz, and Mark Carvajal which claim or claims are presently pending before or may be instituted before the Office of Administrative Law and/or the School Ethics Commission whether being prosecuted by the School Ethics Commission through the New Jersey State Deputy Attorney General's Office or any individual. These actions include but are not limited to: Caffrey v. Lebreault, SEC 16-12; Caffrey v. Varela, SEC 17-12; Cores v. Varela, SEC 18-12; Caffrey v. Puccio, SEC 21-12; Cores v. Puccio, SEC 25-12; and Cores v. Puccio, SEC 31-12. Janine Walker Caffrey further agrees to advise the School Ethics Commission in writing that she believes that this Agreement is sufficient to resolve all the ethics claims she had originally instituted including those now prosecuted by the School Ethics Commission. If served with a lawful subpoena, Janine Walker Caffrey shall be permitted to respond to the subpoena.
9. Withdrawal of pending claims In consideration of the payment made in this Agreement, Janine Walker Caffrey agrees to withdraw the following pending claims she has instituted against the Perth Amboy Board of Education and/or individual board members Obdulia Gonzalez, Israel Varela, Kenneth Puccio,

Samuel Lebreault, and Milady Tejada: Caffrey v. Perth Amboy Board of Education, Agency Ref. No. 252-10/13, OAL Docket No. EDU 14815-2013N, Caffrey v. Varela, SEC 30-12; Caffrey v. Lebreault, Gonzalez, Varela, & Tejada, SEC 02-13; and Caffrey v. Varela, SEC 35-13;

10. Move out of City of Perth Amboy In consideration of the payment made in this Agreement, Janine Walker Caffrey represents that she has already moved out of the City of Perth Amboy and does not intend on returning.
11. Costs. The Parties shall each bear their own costs, expert fees, attorneys' fees and other fees incurred in connection with this Agreement subject to what is reflected in this Agreement.
12. Authority. The Parties each represent that they have the authority to act on their own behalf and all who may claim through them to the terms and conditions of this Agreement. Each Party warrants and represents that there are no liens or claims of lien or assignments in law or equity or otherwise of or against any of the claims or causes of action released herein.
13. No Representations. Each Party and its duly authorized agents represent that they have had the opportunity to consult with an attorney, and have carefully read and understand the scope and effect of the provisions of this Agreement. Neither Party has relied upon any representations or statements made by the other Party hereto which are not specifically set forth in this Agreement.

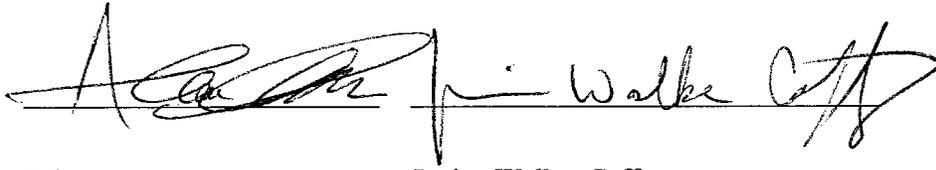
14. Severability. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.
15. Entire Agreement. This Agreement represents the entire agreement and understanding between the Parties and supersedes and replaces any and all prior agreements and understandings between the Parties.
16. No Oral Modification. This Agreement may only be amended in writing signed by all of the Parties to this Agreement.
17. Governing Law. This Agreement is made and entered into in the State of New Jersey, and shall in all respects be interpreted, enforced and governed under the laws of the State of New Jersey.
18. Effective Date. This Agreement is effective after it has been signed by all parties.
19. Interpretation. The parties agree and represent that both parties have drafted this Agreement and both parties are to be considered equal drafters of this document for the purpose of interpretation of the meaning of this Agreement. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties.

20. Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.
21. Approval. This agreement is subject to approval by the Perth Amboy Board of Education.
22. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal or legal representatives, predecessors, successors, and/or assigns.
23. Nothing in this agreement shall affect, Janine Walker Caffrey's right to be indemnified under statutory law for claims arising out of her employment with the Perth Amboy Board of Education.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed this Agreement as of the date first above written.

PLEASE READ CAREFULLY. THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE IS NINE (9) PAGES IN LENGTH (INCLUSIVE OF SIGNATURE PAGE) AND INCLUDES A RELEASE OF KNOWN AND UNKNOWN CLAIMS.

**THE UNDERSIGNED HAVE READ THE FOREGOING SETTLEMENT AGREEMENT
AND GENERAL RELEASE, FULLY UNDERSTAND IT AND VOLUNTARILY AGREE
TO IT.**

A handwritten signature in black ink, appearing to read "Janine Walker Caffrey", written over a horizontal line.

Witness

Janine Walker Caffrey

Date: 6/13/14

Date: June 13, 2014