

SEPARATION OF EMPLOYMENT,

SETTLEMENT AGREEMENT AND GENERAL RELEASE IN FULL



THIS SEPARATION OF EMPLOYMENT, SETTLEMENT AGREEMENT, AND GENERAL RELEASE IN FULL ("Agreement") is made this _____ day of July, 2015, by and between Patrick Greco ("Plaintiff" or "Releasor") and the City of Paterson (the "City" or "Releasee"). ~~For the purposes of this Agreement, the term "City" shall refer to the City of Newark,~~ as well as its past and present officers and employees, members, agents, attorneys, successors, assigns, trustees, receivers, heirs, offices and departments. (Plaintiff and City are sometimes hereinafter collectively referred to as the "Parties" and each may be referred to severally as a "Party.")



RECITALS

WHEREAS, Plaintiff has been an employee of the City since February 28, 1994; and

WHEREAS, Plaintiff brought an action against the City as well as current and former City employees, Jeffrey Jones, James Wittig, Glenn Brown, William Fraher, and John and Jane Does 1-10 ("City Defendants") in the United States District Court for the District of New Jersey bearing Docket No.: 14-2682 (the "Action"); and

WHEREAS, Plaintiff has asserted in his April 28, 2014 Complaint certain claims therein against City Defendants arising out of his employment with the City; and

WHEREAS, the City and City Defendants deny the allegations made in the Action and deny any liability in connection with Plaintiff's claims; and

WHEREAS, the City is a Faulkner municipality, with stringent budget limitations and due to the uncertainty of the outcome of litigation as well as the expenditure of resources due to

multiple days of depositions and possible trial of this matter, and with numerous witnesses, the Parties wish to resolve this matter in accordance with the terms set forth herein rather than proceed with litigation; and

WHEREAS, the Parties have expressed their agreement to fully resolve Plaintiff's claims in his lawsuit as a business decision to avoid the time and expense of further litigation; and

WHEREAS, the Parties intend to settle, by way of compromise and accord, without adjudication of any issues of fact or law, and without any admission of liability, all claims which were either raised or which could have been raised in the Action, which claims are more formally described below; and

WHEREAS, the parties hereto desire to enter into this Settlement Agreement to provide for certain payment, in full settlement and discharge of all claims against Releasee, that are the subject of Plaintiff's Complaint in the above-captioned action and any and all other claims, allegations, actions, or otherwise to which the facts, action, complaint existed upon the date and time of the signing of this Settlement Agreement, pursuant to the terms and conditions set forth herein. This settlement is made in full settlement of all claims arising out of all incidents that occurred during the entire tenure of Plaintiff's employment with the City up to and including the date of this agreement, where the Releasor brought claims under 42 U.S.C. § 1983, the New Jersey Conscientious Employee Protection Act ("CEPA"), N.J.S.A. 34:19-1 to -8, tortious interference with economic advantage, and was subject to retaliation; and

WHEREAS, in exchange for the terms set forth in this agreement, the Plaintiff agrees:

(1) to forever discharge all claims against the City in the Action; (2) to forever discharge all

claims and judgments against the City related to Plaintiff's employment with the City, including but not limited to all other matters filed or not yet filed related to the Plaintiff's employment as a police officer with the Releasee, through and including the date of this agreement; (3) to waive all claims here now and forever for any back-pay (except for that which is expressly provided for herein), legal fees, and any other costs, fee, or payment of any type being encompassed within this agreement and within the amount indicated herein; and; (4) to waive all claims for benefits to which he may be entitled under any future collective bargaining agreement or memorandum of agreement between the City and the Superior Officers Association of Paterson Police Department (or any other representative as defined by the New Jersey Employer-Employee Relations Act, N.J.S.A. § 34:13A-1, et seq.) including but not limited to any union salary enhancement, back pay enhancement, uniform allowance, or any other like benefit; and

WHEREAS, the City agrees to withdraw all disciplinary charges pending against Plaintiff and send correspondence to the Board of the Division of Pensions and Benefits, New Jersey Department of the Treasury (the "Pension Board") asking the Pension Board to reactivate Plaintiff's disability retirement application; and

WHEREAS, the Parties mutually agree that the City shall make a payment to the Plaintiff in the amount of One Hundred Fifty Seven Thousand Dollars (\$157,00.00) as set forth in Paragraph 3; and this figure is inclusive of all back pay less regular deductions, including pension contributions from September 27, 2013 through February 28, 2014, in the total amount of \$56,160.00 in addition to accrued compensatory time pay, terminal leave pay, and any claim for attorney's fees; and

WHEREAS, no payments are being made by or on behalf of any of the Individual Defendants; nor should payment of settlement proceeds in accordance with this Agreement be interpreted as payment by or on behalf of the Individual Defendants; and although the Individual Defendants acknowledge the settlement and compromise by and on behalf of the City, said settlement and compromise shall not be interpreted as having been approved and/or endorsed by the Individual Defendants, but rather, as final global resolution of all of Plaintiff's claims; and

NOW THEREFORE, in consideration of the foregoing, as well the promises and covenants contained herein, the Parties intending to be legally bound, mutually agree as follows:

1. **RECITALS**

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

2. **SCOPE**

(A) This Agreement sets forth the terms and conditions under which the Parties mutually agree to resolve the following claims all claims in the Action (including but not limited to all claims, counterclaims, amended claims, cross-claims and third-party claims, including any claim against any current or former employee, agent, member or representative of the City and specifically including claims for attorney's 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 as well as all claims related to Plaintiff's employment with City from his date which were raised or could have been raised prior to the date of this Agreement.

(B) In exchange for the terms set forth below, Plaintiff does, for himself and his agents, heirs, administrators, executors, successors, assigns and insurers, hereby fully, unconditionally and without waiver, release, acquit and forever discharge Releasee, from any and all past, present

and future claims, suits, demands, losses, costs, charges, complaints, actions, expenses or causes of action, and any other claim whatsoever that has arisen or may arise from or by reason of damages that have resulted or may hereafter result from the allegations set forth by Plaintiff Complaint in this Action against Releasee, its past or present elected, appointed, and other officials, officers, directors, employees, successors, assigns, including, but not limited to, the Paterson Police Department or any of the Individual Defendants and their heirs and the executor of their respective estates, which now exist or could have been raised in the Action filed and Releasee's conduct relating thereto, and for which Releasor claims Releasee is legally liable in part or in whole. The consideration for this Release is a full and complete compromise and settlement of any and all of the aforesaid pending, future and possible, known or unknown, claims, in law or equity, and matters being released herein.

More specifically, in exchange for the terms herein, the Plaintiff agrees : (1) to forever discharge all claims against the City in the Action; (2) to forever discharge all claims and judgments against the City related to Plaintiff's employment with the City, including but not limited to all other matters filed or not yet filed related to the Plaintiff's employment as a police officer with the Releasee through and including the date of this agreement; (3) to waive all claims here now and forever for any back-pay (except for that which is expressly provided for herein), legal fees, and any other costs, fee, or payment of any type being encompassed within this agreement and within the amount indicated herein; and (4) to waive all claims for benefits to which he may be entitled under any future collective bargaining agreement or memorandum of agreement between the City and the Superior Officers Association of Paterson Police Department (or any other representative as defined by the New Jersey Employer-Employee

Relations Act, N.J.S.A. § 34:13A-1, et seq.) including but not limited to any union salary enhancement, back pay enhancement, uniform allowance, or any other like benefit.

(C) The City agrees to withdraw/dismiss the disciplinary charges against the Plaintiff and both Parties agree to withdraw, abandon, or forego any such action or appeal to the Office of Administrative Law. However, the Parties understand that any disciplinary records will be kept and maintained in the normal course by the Releasee and the records will be marked as withdrawn/dismissed.

(D) Within twenty one (21) days following the final execution of the within Agreement, the City agrees to send correspondence to the Pension Board asking it to reactivate the City's disability retirement application that was suspended as a result of the existence of disciplinary charges filed by the City against the Releasor. If the Pension Board, however, denies the Releasor's disability retirement application then the Releasee may reinstitute the disciplinary charges filed against the Releasor. Should this condition occur, the terms and conditions of this Agreement shall remain in place. The City agrees to use its best efforts in securing the approval of its involuntary disability retirement application of Releasor. However, if the Pension Board denies the application, the City can reinstate the disciplinary charges against Releasor. The City's option to reinstate the charges is stayed pending any appeal of the Board's denial until such time as a final determination has been made by the reviewing body. If Releasor has not filed an appeal by any deadline set by the New Jersey Court Rules or New Jersey statute, the City can reinstate the charges after the expiration of that deadline.

(E) Releasor agrees that the payments set forth below do not constitute an admission of liability, but are made solely as a matter of compromise of disputed claims for which liability is

expressly denied by Releasee. Releasor further expressly acknowledges that Releasor's performance of the terms set forth herein constitutes a full and complete satisfaction of any past or continuing obligation on the part of Releasee.

(F) Releasor agrees, through their attorneys or representatives, to dismiss all legal actions with prejudice as being fully compromised and settled with respect to Releasee including, but not limited to, the litigation described in the Recital.

(G) Releasor agrees, that regardless of the outcome of any proceeding for pension benefits as referenced in the Recitals, he will not seek any obligation from the City except for those specifically listed in this Agreement, namely for the City to: (1) withdraw/dismiss the disciplinary charges against the Plaintiff, and (2) send correspondence to the Pension Board asking it to reactivate Plaintiff's disability retirement application.

(H) Releasor warrants that:

(1) Releasor has the sole right and exclusive authority to execute this Release and receive the sum specified herein; and

(2) Releasor has not sold, assigned, transferred, conveyed or otherwise disposed of any claims, demands, obligations, or causes of action referred to in this Release.

3. PAYMENT

The City shall pay the total sum of One Hundred Fifty Seven Thousand Dollars (\$157,000.00), which payment shall constitute full consideration for the execution of this Agreement and any other documents necessary to resolve and compromise all claims set forth above, with finality and with prejudice. This payment is given in full payment and satisfaction

for all alleged damages including, but not limited to, all back pay less regular deductions, including pension contributions from September 27, 2013 through February 28, 2014 in the total amount of \$56,160.00; accrued compensatory time pay; terminal leave pay; punitive damages; all payroll related matters related to the terms of Plaintiff's employment; as well as attorney's fees and litigation costs allegedly incurred by Plaintiff.

The settlement proceeds of One Hundred Fifty Seven Thousand Dollars (\$157,000.00) will be paid as follows: one check to Plaintiff for all payroll related matters related to the terms of Plaintiff's employment minus any mandatory deductions, including but not limited to pension contributions. The City makes no representations as to the tax consequences of the payment referred to herein and shall assume no responsibility for any tax liability attributed to Plaintiff. The aforementioned check will be issued no later than sixty (60) days after Plaintiff, Plaintiff's counsel, and counsel on behalf of the City sign this settlement agreement and the New Jersey State Department of Community Affairs approves the Settlement. Plaintiff agrees to indemnify and hold the City harmless from any claims, assessments, demands, taxes, penalties and interest owed, or found to be owed as a result of any payment made pursuant to the 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 or future arising out of this settlement or asserted against the proceeds of this settlement are to be satisfied by Plaintiff including but not limited to any Medicare or Medicaid claims and/or liens, workers' compensation claims and/or liens, physician or attorney claims and/or liens, or any of the statutory, equitable, common law or judgment claims and/or liens, including but not limited to any claim and/or lien based on subrogation or any legal or equitable theory. Plaintiff therefore

agrees, upon prompt presentation of any such claims and/or liens, to defend the City Defendants and Releasee (as defined herein) against any such claims and/or liens and to indemnify and hold the City Defendants and Releasee harmless against any judgment entered against the Plaintiff based on such claims and/or liens, including payment of any fines, charges and attorney's fees and costs incurred as a result of any such lien. Failure to satisfy any such lien shall be considered a breach of this Agreement and Plaintiff agrees to pay all costs, interest and attorney's fees relative to any such lien.

4. **NO ADMISSION OF LIABILITY**

This Agreement is a result of a compromise and accord to conclude the Action. 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 City, or its agents, employees or members, as to the validity of any claims asserted or assertable in the Settled Claims, as the City continues to deny any liability and disclaim any responsibility for such 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 proceedings, litigation, or any other proceeding except for an action arising from breach of this Agreement, if any, or in an action concerning any Party's tax status.

5. **RELEASE AND EXTINCTION OF CLAIMS**

(A) Plaintiff agrees to and hereby releases and gives up any and all claims and rights which Plaintiff may have against the City, including its past and current officers and employees, members, agents, attorneys, successors, assigns, trustees, receivers, heirs, offices and departments, and also including City Defendants (all of the foregoing are collectively identified

as "Releasees"). This releases all claims, including those of which Plaintiff is not aware and those not mentioned in this Release. This Release applies to claims resulting from anything which happened from the beginning of time to now (or as otherwise expanded in Section 2). Plaintiff specifically releases the following claims: any and all claims, direct and indirect, and rights for any injury and/or damages which Plaintiff may have against the City, specifically including, but not limited to, all claims asserted in the Action. Plaintiff hereby releases all claims against the City that were asserted or could have been asserted in the Action, including all claims revealed or which may have been revealed through discovery, including, but not limited to, depositions, answers to interrogatories, medical reports, and throughout settlement negotiations, and all claims and grievances of discrimination, harassment, hostile environment, retaliation, civil rights violations, contract violations, collective bargaining agreement violations, wrongful discharge and emotional distress, and also releases any claims which he may have for attorney's fees, expenses of litigation and/or costs of suit, whether based upon statute, regulation, court rule or common law. Plaintiff acknowledges that the settlement terms to which the Parties have agreed include, but are not limited to, any claims for attorney's fees, tax liability stemming from this settlement and any claims arising under federal, state, or local laws, or ordinance. Plaintiff specifically releases all claims arising under the Constitution of the United States of America, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Civil Rights Acts of 1866 and 1991, the Americans with Disabilities Act, the Employee Retirement Income Security Act, the Equal Pay Act, the federal Family and Medical Leave Act, the New Jersey Family Leave Act, the Old Workers Benefit Protection Act, the Occupational Safety and Health Act, the Worker Adjustment and Retraining Notification Act, the Ledbetter

Fair Pay Act, the Fair Credit Reporting Act, the Employee Polygraph Protection Act, the Constitution of the State of New Jersey, the New Jersey Law Against Discrimination, the New Jersey Civil Rights Act, the New Jersey Public Employee-Employer Relations Act, the New Jersey Conscientious Employee Protection Act, the New Jersey Family Leave Act, the New Jersey Wage and Hour Law, the New Jersey Domestic Partnership Act, the New Jersey Equal Pay Act, the New Jersey Occupational and Safety and Health Law, the New Jersey Civil Service Act, N.J.S.A. 18A:1-1 et seq., federal and state executive orders, and all federal, state and local laws and common law claims related to employment discrimination, harassment, hostile work environment, retaliation, wrongful discharge, wrongful termination, defamation, conspiracy, breach of contract, negligence, tort claims and negligent and intentional infliction of emotional distress.

(B) Plaintiff acknowledges that he is not the prevailing Party in the Action.

(C) The Parties agree to enter a Stipulation of Dismissal, with prejudice to dismiss the Action, which shall be filed within ten (10) days of Plaintiff receiving payment pursuant to the Agreement. Counsel for the Defendants has delivered to Plaintiff herewith a proposed set of Stipulation of Dismissals, dismissing all of Plaintiff's claims against each of the Defendants separately with prejudice, which shall be executed by Plaintiff and returned to counsel for the Defendants, and shall be filed with the Court.

(D) 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 executors of Plaintiff's estate, are also bound. This Release is made for the benefit of the City and all who succeed to its rights and responsibilities including any Individual Defendants who were named in

the Action. In consideration of this Release, Plaintiff has received promises from the City as set forth more fully in Paragraph 3.

6. PLAINTIFF'S RETIREMENT OF EMPLOYMENT AND PROHIBITION OF RE-EMPLOYMENT

In addition to dismissing all legal actions with prejudice and waiving all claims against the City and City Defendants as described above, in exchange for the aforementioned settlement payment, Plaintiff agrees to retire from his employment with the City of Paterson Police Department effective on the date identified by the Pension Board and never seek to be rehired by the City for any position.

Plaintiff agrees that his employment with the City shall irrevocably end and terminate on February 28, 2014, and he shall seek no further entitlements or benefits or compensation in connection with his past employment with the City from the City except for those specifically listed in Section 2. Plaintiff agrees that he will permanently be prohibited from seeking employment at the City and therefore, shall not apply for any position or opening at the City in the future.

Should the City receive an inquiry regarding Plaintiff's employment from a prospective employer, the City shall respond by providing only a neutral reference, including the dates of employment, position held, and salary information.

7. **CONFIDENTIALITY**

This Agreement, and all of its terms, are and will remain confidential to the maximum extent permitted by law. Plaintiff is expressly forbidden from discussing this Agreement or the terms thereof with any person, other than his accountant, tax advisor and attorney (“permitted disclosures”) and any other individual or entity as necessary to implement the Agreement or to which they are legally obligated to respond (“legally-required disclosures”). In making any permitted disclosure, Plaintiff agrees that he will inform the person to whom he is making the permitted disclosure that the existence and substance of this Agreement, the settlement giving rise to this Agreement and the sum of money paid pursuant to this Agreement are to be held strictly confidential to the fullest extent permitted by law. The City agrees that it will keep this Agreement confidential to the extent permitted by law.

8. **CONFIDENTIAL DOCUMENTS**

It is understood and agreed that any City documents produced during the litigation shall not be disseminated and Plaintiff’s counsel will retain said documents for the time period required pursuant to their obligations under the Rules of Professional Conduct and, thereafter, said documents will be destroyed consistent with the firm's normal document retention practices.

9. **NO RIGHTS CONFERRED UPON NON-PARTIES**

This Agreement is intended to confer rights and benefits only upon the Parties and it is not intended to confer any right or benefit upon any other person or entity. No person or entity other than the Parties and the City shall have any legally enforceable rights under this Agreement. All rights of action for any breach of this Agreement are hereby reserved to the Parties.

10. COVENANT OF GOOD FAITH AND FAIR DEALING

The Parties expressly agree that their performance under this Agreement is to be governed by a covenant of good faith and fair dealing. No Party will take any action which would deprive another of full benefit of the Agreement.

11. FULL UNDERSTANDING

This Agreement sets forth the complete understanding and entire agreement between the Parties and supersedes any and all prior agreements or understandings between the Parties. 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. It is agreed that there are no understandings or agreements (either written or oral) which would have any impact upon the present Action. 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 made by the City or its counsel with regard to the subject matter, basis, or effect of this Agreement or otherwise.

12. WARRANTY OF CAPACITY TO EXECUTE AGREEMENT

Plaintiff warrants that he has not been induced to execute this Release by any representation, promise, warranty, covenant or agreement made by or on behalf of the City or any other party or person, other than those matters specifically set forth herein. Plaintiff further warrants that he is of legal age, and is under no legal disability of any kind, and is fully and completely competent to execute and deliver this Release, and is fully authorized to execute this Release on behalf of himself in the litigation described more fully above.

13. 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 this case of the City, all procedural formalities attendant to the execution of this Agreement have been satisfied. The signatory for the City further covenants that he or she is duly empowered by the City to sign this Agreement and that there is no legal reason (i.e. receivership or bankruptcy) which prevents or will prevent the City from completely performing its obligations under this Agreement.

14. SERVICES OF COUNSEL

The Parties represent and agree that they have had the opportunity to discuss all aspects of this Agreement with counsel of their choice, that they have carefully read and fully understand all the provisions of this Agreement, that they understand the final and binding effect of the Agreement and that they freely and voluntarily enter into this Agreement without duress or coercion. The Parties further certify that they are fully satisfied with the services of their counsel with respect to both Agreement and all other aspects of the Action and they enter into this Agreement knowingly, willingly and without any coercion or improper inducements.

15. DEPARTMENT OF COMMUNITY AFFAIRS

The Parties represent and agree that they understand that the New Jersey State Department of Community Affairs (the "DCA") must approve any and all settlement agreements over \$100,000.00. As such, the failure of the DCA to approve this Agreement will nullify all promises and covenants herein. If DCA fails to approve this agreement, Plaintiff shall have the right to reinstate this matter to the active docket no later than September 29, 2015.

16. **LAW GOVERNING**

This Agreement shall be governed by the laws of the State of New Jersey.

17. **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.

18. **SEVERABILITY**

Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be part of this Agreement.

19. **EXECUTION IN COUNTERPARTS**

The Parties agree that this Agreement may be signed in counterparts and that facsimiles of signatures will have the same force and effect as original signatures.

20. **REPRESENTATION OF COMPREHENSION OF DOCUMENT**

By entering into this Agreement, Plaintiff represents that that the terms of this Settlement Agreement have been completely read and explained to him by Plaintiff's counsel, and that he fully understands the terms herein, and that those terms are voluntarily accepted by Plaintiff.

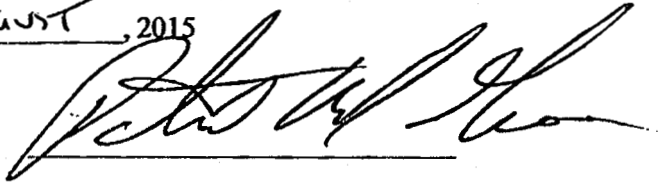
THE UNDERSIGNED STATES THAT HE/SHE HAS CAREFULLY READ THE FOREGOING AGREEMENT, KNOWS THE CONTENTS THEREOF, HAS HAD THE OPPORTUNITY TO DISCUSS THOSE CONTENTS WITH COUNSEL OR OTHER PERSONAL ADVISOR OF THEIR CHOOSING, FREELY AND VOLUNTARILY CONSENTS TO ALL TERMS AND CONDITIONS THEREOF AND SIGNS THE SAME

AS HIS/HER OWN FREE ACT. BY SIGNING BELOW, THE UNDERSIGNED FURTHER INDICATES AND ACKNOWLEDGES THAT THIS IS A LEGALLY BINDING DOCUMENT AND THAT HE/SHE IS FREELY AND VOLUNTARILY GIVING UP CERTAIN RIGHTS TO FILE LEGAL CLAIMS AND TO RELEASE PRIVATE AND CONFIDENTIAL INFORMATION AND INTENDS TO ABIDE BY THE PROVISIONS OF THIS AGREEMENT WITHOUT EXCEPTION.

-SIGNATURES APPEAR ON FOLLOWING PAGE -

Executed this 11th day of August, 2015

BY PLAINTIFF-RELEASOR,



PATRICK GRECO

STATE OF New Jersey :

: SS

COUNTY OF Hudson :

Sworn to and subscribed

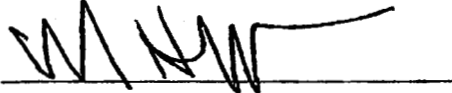
before me this 11th day
of August, 2015



an ATTORNEY-AT-LAW OF THE STATE OF NEW JERSEY.

Executed this 11th day of August, 2015

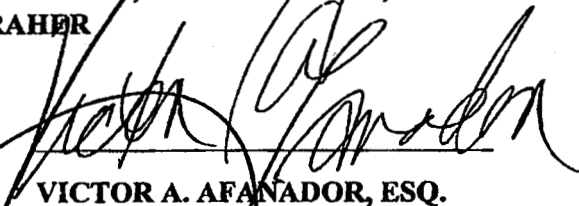
BY COUNSEL FOR PLAINTIFF-RELEASOR,



SAMUEL J. HALPERN, ESQ.

Executed this 11th day of August, 2015

BY COUNSEL FOR THE CITY OF PATERSON, JEFFREY JONES, JAMES WITTIG,
GLENN BROWN, AND WILLIAM FRAHER



VICTOR A. AFANADOR, ESQ.