

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter referred to as the "Agreement") is entered into this 22nd day of September, 2009, between the Borough of Garwood (hereinafter referred to as the "Borough") and Gennaro Mirabella (hereinafter referred to as "Mirabella" or the "Employee").

WHEREAS, the Employee is employed with the Borough as a police officer; and

WHEREAS, the Borough issued to Mirabella two Preliminary Notices of Disciplinary Action dated August 8, 2009 and August 27, 2009 (hereinafter referred to as "Disciplinary Actions") charging him with various violations; and

WHEREAS, Mirabella and the Borough desire to resolve all outstanding issues with respect to these Disciplinary Actions.

NOW, THEREFORE, in consideration for the premises and conditions set forth herein, the Borough and Mirabella agree as follows:

1. **TERMS.**

a. The Employee agrees to tender his resignation as a police officer in the Borough effective October 5, 2009. Said resignation shall be submitted with the delivery of this Agreement.

b. The Borough will accept the resignation as a resignation in good standing and will respond to any inquiries regarding Mirabella's employment as such.

c. Mirabella waives all claims to back pay, benefits, and any and all other monetary claims including, but not limited to, attorneys' fees with respect to the Disciplinary Actions referenced above.

d. The Borough agrees to dismiss all Disciplinary Actions pending against Mirabella upon the signing of this Agreement.

2. COMPLETE RELEASE.

a. Mirabella and his heirs, assigns and agents, in consideration of the terms described in Paragraph 1 of this Agreement, hereby release, waive and discharge the Borough, its affiliated departments, and its officers, trustees, agents, employees, successors and assigns (hereinafter collectively referred to as the "Releasees) from each and every claim, demand, cause of action, obligation, damage, complaint, expense, compensation or action or writ of any kind, nature, character or description that Mirabella had, now has, or may in the future have against the Releasees on account of or arising out of any matter or thing relating to the incident(s) giving rise to the Disciplinary Actions herein that have happened, developed or occurred prior to the date of this Agreement including, but not limited to, any claim, demand, cause of action, obligation, damage, complaint, expense, compensation, or action or writ of any kind, nature, character or description arising out of or under Federal, State or municipal statute or ordinance and any other law (whether such be common law, decisional law or statutory law), rule, regulation, executive order or guideline, and any and all claims for attorneys' fees and costs arising from the above acts.

3. NON-ADMISSION.

This Agreement is executed and all consideration is given in final settlement of disputed claims, and shall not be construed as an admission of any allegation by Mirabella or of liability by

the Borough, by whom any such obligation or liability is expressly denied. This Agreement does not establish any precedent for any proceeding.

4. NO DISPARAGING STATEMENTS.

Mirabella agrees that he will not make any statement(s) relating to the instant Disciplinary Actions that has, have or can be expected to have the effect of disparaging the Borough or any of its employees. Likewise, the Borough agrees that it will not make any statement(s) relating to the Disciplinary Actions that has, have or can be expected to have the effect of disparaging Mirabella. Nothing contained herein shall preclude the Borough from responding truthfully to any specific inquiry.

5. CONSULTATION WITH ATTORNEY.

Mirabella has consulted with his attorney with respect to this Agreement and reviewed with his attorney all the terms and conditions of this Agreement prior to executing this Agreement.

6. COMPLETE AGREEMENT.

This Agreement contains the entire agreement between Mirabella and the Borough, and each of them, with respect to the subject matter, and supersedes all prior agreements or understandings dealing with the same subject matter. There is no agreement on the part of the Borough to do anything other than as is expressly stated in this Agreement. This Agreement shall in all respects be interpreted, enforced and governed by the laws of the State of New Jersey.

7. MODIFICATIONS.

No modification or amendment of this Agreement will be enforceable unless it is in writing and signed by the party to be charged.

8. SEVERABILITY.

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

9. MIRABELLA ATTESTS.

Mirabella represents and warrants that he has carefully read each and every provision of this Agreement and that he fully understands all of the terms and conditions contained in each provision of this Agreement. Mirabella represents and warrants that he enters into this Agreement voluntarily, of his own free will, without any pressure or coercion from any person or entity including, but not limited to, the Borough and the Releasees.


10. REVOCATION.

~~Mirabella may revoke this Agreement within seven (7) days after the date this Agreement is signed by Mirabella. This revocation must take the form of written notice by Mirabella that Mirabella intends to revoke this Agreement. This revocation must be provided directly to the Borough Attorney. This seven (7) day revocation period may not be waived by Mirabella.~~

IN WITNESS WHEREOF, and intending to be legally bound hereby I, Gennaro Mirabella,
executed the foregoing Agreement this 23RD day of September, 2009.



GENNARO MIRABELLA

Sworn and subscribed to before me
this 23 day of September, 2009.


Notary Public
State of New Jersey

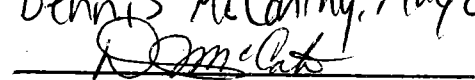
LUCY BARILE
A Notary Public of New Jersey
My Commission Expires March 11, 2014

EMPLOYEE REPRESENTATIVE

By: 
Thomas J. Cammarata

DATED: 9/23/09

BOROUGH OF GARWOOD

By: 9-22-09
Dennis McConthy, Mayor


DATED: 9-22-09