

**STATE OF DELAWARE
PUBLIC INTEGRITY COMMISSION**

In re: MARC APPELBAUM

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VERIFIED COMPLAINT

COMES NOW, Sam Mackert, J.W. Hocker, Cliff Dempsey, Dave Naar, Greg Lynch, Matt Wilson, Trevor White, Jason Lovins, LaToya Weatherly, Frank Johnson, Todd Fritchman, William Mears and Diane Jones (collectively the “Movants”) with a complaint against Marc Appelbaum (“Appelbaum”). The Movants state as follows:

1. This is a formal complaint that Appelbaum has violated one or more of the ethics laws of the State of Delaware and the Town of Dewey Beach.

I. Jurisdiction

2. This Commission has jurisdiction pursuant to 29 Del. C. § 5802(4).

3. Although the Town Council of the Town of Dewey Beach passed a code of conduct that was submitted and initially deemed sufficient to exempt the town from this Commission (see Town of Dewey Beach Code at Chapter 10), the Town’s solicitor, Fred Townsend, Esq., acknowledged that the Town never followed through in appointing or staffing a board of ethics as required under the Town’s Code at § 10-6(A). The solicitor further conceded that the Town therefore

still falls under the jurisdiction of the State Public Integrity Commission. (See email attached as Exhibit A).

4. Indeed, in approving the Town's code of conduct, the Town was advised by the Public Integrity Commission that "[t]he Commission accepted the Dewey Beach Code of Conduct with the caution that in addition to the wording change, they must keep their Ethics Board fully staffed. Staffing shortages lead to improper administration of the code and an indifferent attitude toward enforcement." (See excerpt from notes on Local Codes of Conduct from <http://depic.delaware.gov/wp-content/uploads/sites/48/2017/02/Conduct-1991-2016-Local-Codes-of-Conduct.pdf> attached as Exhibit B).

5. Pursuant to the statute, if the town diverts from the approved code (which includes the requirement to staff an ethics board), and does not obtain authorization from the Public Integrity Commission, they lose any exemption under the State statute. See 29 Del. C. § 5802(4). In this case, the town failed to ever establish an ethics board in violation of the town's own code and in disregard to the Commission's warning that improper administration of the code would show an "indifferent attitude toward enforcement."

II. Background

6. Appelbaum currently serves as town manager for the Town of Dewey Beach. He formerly served as a commissioner on the town council.

7. In a complaint dated December 1, 2010, a former town manager, Diana Smith, complained of sexual harassment and abusive conduct by Appelbaum at a time when he was a commissioner (and, therefore, her boss). A copy of the letter is attached hereto as Exhibit C.¹ On information and belief, no investigation was performed concerning these allegations and there were no adverse consequences to Appelbaum. Instead, the town council accepted the subsequent resignation of Ms. Smith, paying her severance and relocation expenses to leave town. At the time of this complaint, Commissioner Diane Hanson was the Mayor of the town and Appelbaum was a Commissioner.

8. In a complaint to the Dewey Beach Town Council dated June 14, 2017, twelve employees of the Town raised complaints concerning Appelbaum. The twelve employees (all signatories to this complaint except Diane Jones), alleged that Appelbaum engaged in sexual harassment, racial discrimination, abusive conduct to employees, improper interference with law enforcement, improper interference with the Dewey Beach Patrol, improper interference with the Building Inspector, misuse of a town vehicle (leading to (1) a car accident in New Orleans by Appelbaum and (2) an out-of-state traffic ticket by his daughter). A copy of the letter complaint is attached hereto as Exhibit D.

¹ While the letter indicates that it was a confidential filing to the then Mayor, Diane Hanson, the writer, Diana Smith, authorized the Movants to use the letter publicly.

9. In a complaint dated June 27, 2017, Diane Jones, the judicial clerk for the Dewey Beach Alderman Court and a movant here, alleged that Appelbaum engages in improper behavior including harassing and demeaning conduct in the office, demands that she perform services that violate the Town's Charter, and attempts to have her provide information from the court's files and the police files in violation of law. A copy of her letter complaint is attached hereto as Exhibit E.

10. On information and belief, Appelbaum has misused town funds to purchase gifts cards worth \$2,000 to give as retirement gifts to a person loyal to him without first obtaining authorization from the town council. In addition, other retiring employees are not treated equally. A copy of purchase orders is attached as Exhibit F.

11. On information and belief, Appelbaum used his position to demand that the Town provide him with medical insurance benefits even though it was not part of his contract of employment.

12. The complaints above that were served on the town council have resulted in no apparent investigations or adverse action against Appelbaum. It appears that Appelbaum through his pattern of intimidation, abuse and bullying, has caused the town council to "sweep allegations under the rug." Indeed, the complaining parties in the June 14 letter had requested that Appelbaum be suspended with pay while the allegations were investigated. Instead, after two

weeks, the town council has taken no action against Appelbaum and has taken no apparent action to investigate the matter. In addition:

- a. Rather than acting in an impartial and independent manner,
Commissioner Hanson was observed meeting with Appelbaum after the June 14 letter was delivered and she (as acting Mayor while Mayor Cooke was on vacation) then issued various statements to the public and press admitting that the town is covered by the State Public Integrity Commission but denying that this Commission would hear these complaints.
- b. Commissioner Hanson stood with Appelbaum at a luncheon held by those loyal to Appelbaum after the June 14 letter was delivered.
- c. Appelbaum issued a statement to WBOC that he was “working with” the town council on this matter and that “we’re working through the process.” It is inappropriate for the town council to “work with” Appelbaum on this matter – they should not be allowing Appelbaum to involve himself in his own investigation.
- d. After these various apparent interactions and strategy meetings between the town council and Appelbaum, rather than suspending Appelbaum with pay, the town council announced that he will be allowed to stay on as town manager and the initial twelve complaining

employees are instead forced to report to another person – Jim Dedes – who has no proper authority. This disparate treatment of employees is improper and is all being done contrary to the Town’s Charter, Section 15 (c) and (d) which does not allow for “co-managers” and instead requires one town manager and a mechanism to designate one person to perform the town manager’s duties in case of absence or disability. There is no public record of how this strange co-manager strategy was devised or approved.²

13. On information and belief, the allegations set forth herein, including those set forth in the exhibits attached, evidence violations of 29 Del. C. § 5806, including but not limited to subsections (a), (e) and (h).

III. Preliminary Ruling

14. “[T]he conduct of officers and employees of the State must hold the respect and confidence of the people. They must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.” 29 Del. C. § 5802(1).

15. “In our democratic form of government, it is both necessary and desirable that all citizens should be encouraged to assume public office and

² Of course, another major issue with this “co-manager” plan being forced on the employees is that it only, at best, places a layer between Appelbaum and publicly complaining employees. For example, Diane Jones who only recently made her complaint has not yet been advised to report to this second co-manager.

employment, and that, therefore, the activities of officers and employees of the State should not be unduly circumscribed.” 29 Del. C. § 5802(3).

16. Given the serious nature of the charges and the toxic environment that Appelbaum has created in the town government all in contravention of the public trust and all of which discourage citizens from public service, the Movants had previously sought to have the town council suspend Appelbaum with pay while a full, impartial investigation is performed. The town council has failed to initiate any investigation and has failed to suspend Appelbaum in the interim. See letters from concerned citizens asking for Appelbaum’s suspension with pay, attached as Exhibit G.

17. Pursuant to this Commission’s authority under 29 Del. C. § 5810(d)(2), Movants request that a preliminary hearing and an expedited ruling be made to suspend Appelbaum with pay while Commission Counsel performs an investigation in this matter.

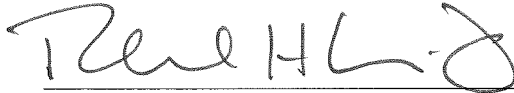
WHEREFORE, pursuant to the provisions of 29 Del. C. Ch. 58, including § 5809 and 5810, Movants request:

A. That an expedited hearing and ruling be made to suspend Appelbaum with pay while this matter is investigated fully by Commission Counsel;

B. That this matter be referred to Commission Counsel for a full investigation and appropriate disciplinary action, including but not limited permanent removal of Appelbaum as the town manager.

Dated: June 29, 2017
Wilmington, Delaware

CROSS & SIMON, LLC

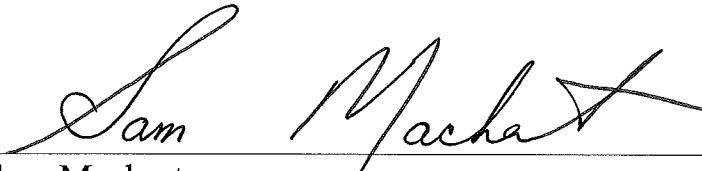


Richard H. Cross, Jr. (No. 3576)
1105 North Market Street, 9th Floor
P.O. Box 1380
Wilmington, Delaware 19899-1380
(302) 777-4200
(302) 777-4224 Facsimile
rcross@crosslaw.com
Attorneys for Movants

State of Delaware)
)
County of Sussex)

VERIFICATION OF SAM MACKERT

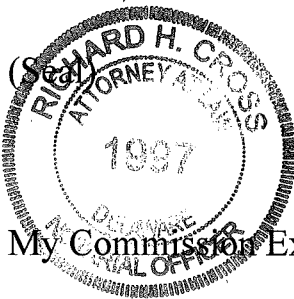
I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.



Sam Mackert

Signed and sworn to before me on 6/28/17 by Sam Mackert.





RICHARD H. CROSS, JR
ATTORNEY AT LAW
STATE OF DELAWARE

My Commission Expires Pursuant to 29 Del. C. § 4323(a)(3) 6/28/18

State of Delaware)
)
County of Sussex)

VERIFICATION OF GREG LYNCH

I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.

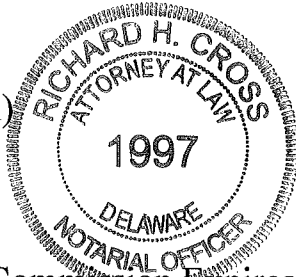


Greg Lynch

Signed and sworn to before me on 6/28/17 by Greg Lynch.



(Seal)



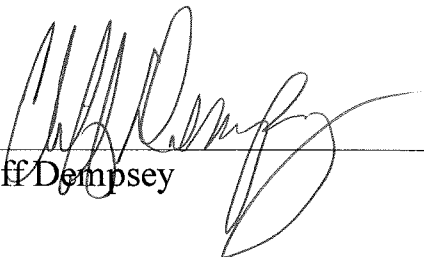
My Commission Expires: _____

RICHARD H. CROSS, JR
ATTORNEY AT LAW
STATE OF DELAWARE
Pursuant to 29 Del. C. § 4323(a)(3)

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County of Sussex)

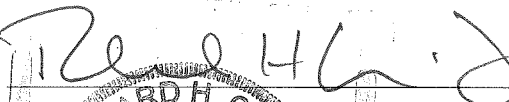
VERIFICATION OF CLIFF DEMPSEY

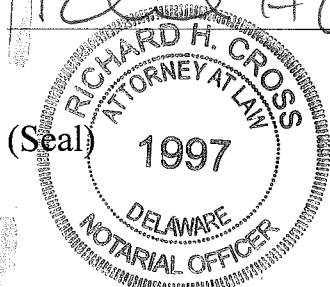
I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.



Cliff Dempsey

Signed and sworn to before me on 6/28/17 by Cliff Dempsey.





RICHARD H. CROSS, JR
ATTORNEY AT LAW
STATE OF DELAWARE
Pursuant to 29 Del. C. § 4323(a)(3)

My Commission Expires: _____

State of Delaware)
)
County of Sussex)


VERIFICATION OF DIANE JONES

I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.

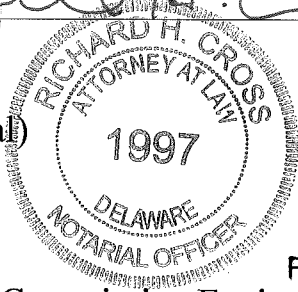


Diane Jones

Signed and sworn to before me on 6/28/17 by Diane Jones.



(Seal)



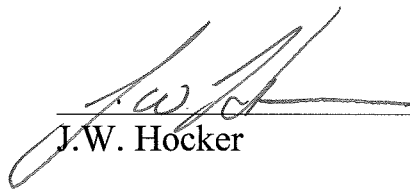
RICHARD H. CROSS, JR.
ATTORNEY AT LAW
STATE OF DELAWARE
Pursuant to 29 Del. C. § 4323(a)(3)

My Commission Expires: _____

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County of Sussex)

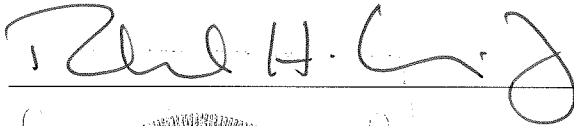
VERIFICATION OF J.W. HOCKER

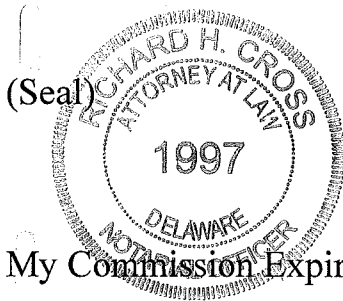
I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.



J.W. Hocker

Signed and sworn to before me on 6/28/17 by J.W. Hocker.





RICHARD H. CROSS, JR.
ATTORNEY AT LAW
STATE OF DELAWARE

My Commission Expires: Pursuant to 29 Del. C. § 4323(a)(3) _____

State of Delaware)
)
County of Sussex)

VERIFICATION OF WILLIAM MEARS

I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.

William Mears

William Mears

Signed and sworn to before me on 6/29/17 by William Mears.

Richard H. Cross, Jr.

(Seal)



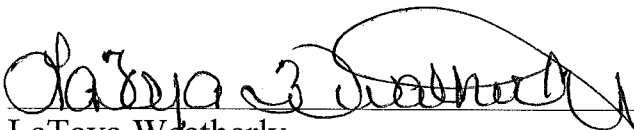
RICHARD H. CROSS, JR.
ATTORNEY AT LAW
STATE OF DELAWARE

My Commission Expires Pursuant to 29 Del. C. § 4323(a)(3)

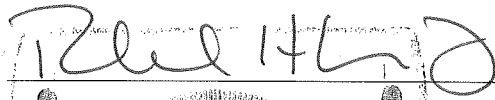

State of Delaware)
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County of Sussex)

VERIFICATION OF LATOYA WEATHERLY

I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.


LaToya Weatherly

Signed and sworn to before me on 6/29/17 by LaToya Weatherly.


(Seal) 
My Commission Expires Pursuant to 29 Del. C. § 4323(a)(3)

RICHARD H. CROSS, JR
ATTORNEY AT LAW
STATE OF DELAWARE

State of Delaware)
)
County of Sussex)

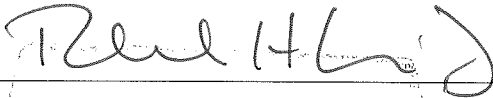
VERIFICATION OF FRANK JOHNSON

I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.



Frank Johnson

Signed and sworn to before me on 6/29/17 by Frank Johnson.



(Seal)



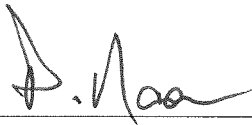
RICHARD H. CROSS, JR.
ATTORNEY AT LAW
STATE OF DELAWARE

My Commission Expires. Pursuant to 29 Del. C. § 4323(a)(3)

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County of Sussex)

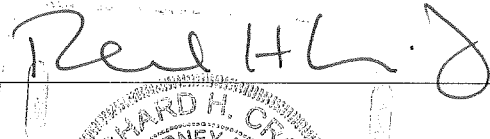
VERIFICATION OF DAVE NAAR

I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.

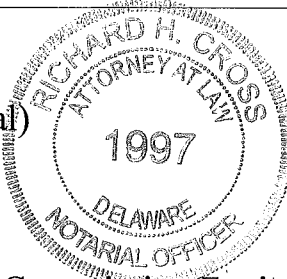


Dave Naar

Signed and sworn to before me on 6/29/17 by Dave Naar.



(Seal)



RICHARD H. CROSS, JR.
ATTORNEY AT LAW
STATE OF DELAWARE

My Commission Expires Pursuant to 29 Del. C. § 4323(a)(3)

State of Delaware)
)
County of Sussex)

VERIFICATION OF TREVOR WHITE

I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.

Trevor White

Trevor White

Signed and sworn to before me on 6/29/17 by Trevor White.

Richard H. Cross, Jr.

(Seal)




RICHARD H. CROSS, JR.
ATTORNEY AT LAW
STATE OF DELAWARE
Pursuant to 29 Del. C. § 4323(a)(3)

My Commission Expires: _____

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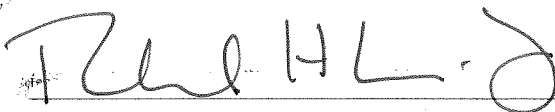
VERIFICATION OF MATT WILSON

I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.



Matt Wilson

Signed and sworn to before me on 6/29/17 by Matt Wilson.



(Seal)



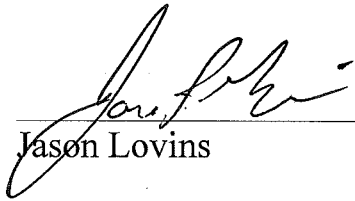
RICHARD H. CROSS, JR
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STATE OF DELAWARE
Pursuant to 29 Del. C. § 4323(a)(3)

My Commission Expires: _____

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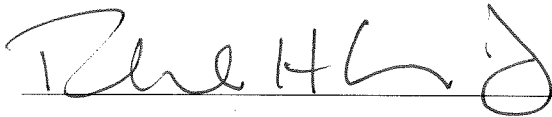
VERIFICATION OF JASON LOVINS

I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.



Jason Lovins

Signed and sworn to before me on 6/29/17 by Jason Lovins.





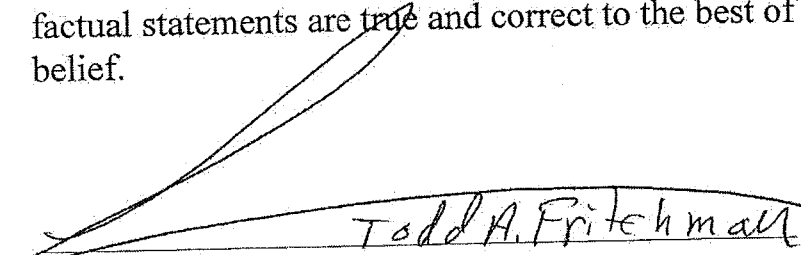
RICHARD H. CROSS, JR
ATTORNEY AT LAW
STATE OF DELAWARE

My Commission Expires Pursuant to 29 Del. C. § 4323(a)(3)

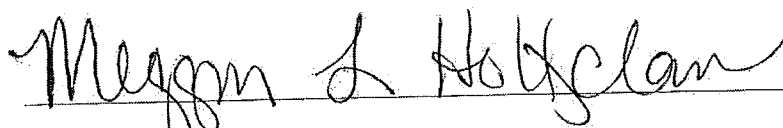
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County of Sussex)

VERIFICATION OF TODD FRITCHMAN

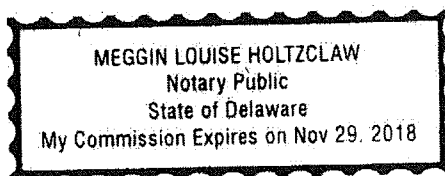
I have reviewed the verified complaint and I swear under oath that the factual statements are true and correct to the best of my knowledge and belief.


Todd Fritchman

Signed and sworn to before me on 29th of June 2017 by Todd Fritchman.



(Seal)



My Commission Expires: _____

EXHIBIT A

From: Fred Townsend ftownsend@schmittrod.com
Subject: Re: Ethics Board
Date: June 26, 2017 at 3:03 PM
To: Richard Cross rcross@crosslaw.com



that's correct

On Jun 26, 2017, at 1:13 PM, Richard Cross wrote:

Fred –

Thank you for taking my call.

This will memorialize our discussion in which you confirmed there is no ethics board that has been appointed in Dewey Beach and it is your understanding that the town is subject to the State Public Integrity Commission.

Regards,
Rick Cross

<image002.jpg>RICHARD H. CROSS, JR.
CROSS & SIMON, LLC
1105 NORTH MARKET STREET
SUITE 901
WILMINGTON, DE 19801

302-777-4200
302-777-4224 (FAX)
RCROSS@CROSSLAW.COM
WWW.CROSSLAW.COM

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EXHIBIT B

LOCAL CODES OF CONDUCT 1991-2016

13-22 - Dewey Beach Code of Conduct: Dewey Beach submitted its Code of Conduct for reconsideration by the Commission. Counsel for Dewey Beach, worked with PIC Counsel to finalize the changes. Dewey Beach had complied with all the requests of the Commission to change the Dewey Beach Code of Conduct to conform to the State Code of Conduct. The only remaining change the Commission was asking Dewey Beach to make was to remove the requirement that a complaint be "hand-delivered" in Section 10-8, Line 33. The concern was the public would be less likely to file complaints if they had to show up in person to deliver it to the Dewey Beach Ethics Board. Counsel verbally agreed to make the change. With that change, the Commission concluded that the Dewey Beach Code of Conduct was at least as stringent as the State Code of Conduct as required by 29 Del. C. § 5802(4). The Commission accepted the Dewey Beach Code of Conduct with the caution that in addition to the wording change, they must keep their Ethics Board fully staffed. Staffing shortages lead to improper administration of the code and an indifferent attitude toward enforcement.

12-39 - Delaware City Code of Conduct: Delaware City submitted a Code of Conduct for PIC to review. For a local government to have its own Code of Conduct, it must be at least as stringent as State law. 29 Del. C. § 5802(4). In comparing the State law to the local Code, it was determined there were several areas where its Code was not as stringent: (1) the provision dealing with representing or otherwise assisting a private enterprise before one's own agency, did not bar such action; it only required that they disclose the conflict; (2) provided that the City's employees and officials adhere to the conflicts of interest standards established by State law. The purpose of adopting their own Code was to remove them from an obligation to comply with State law so that provision could be misleading; (3) there was no right of appeal provision; (4) there was no provision that provided applicants were protected against a complaint or disciplinary action if they followed the City Commission's advice. It was suggested the City may want to stagger the terms of its members so that they do not lose the experience of all members at the same time; and that the City itself be authorized to request an advisory opinion. There was discussion about the "civility" provisions in the City Code, which are not in the State law, which the City wanted to maintain. As a matter of format, it was suggested the paragraphs be numbered so that it would be easier to cite to them. The Commission recommended that those matters be identified for them so they could make the necessary changes and resubmit.

Update: The City made the required changes, and it was approved by PIC at the January 22, 2013 meeting.

10-01 - NCC Code of Conduct Amendments: (1) would permit persons involved in partisan politics to serve on the Commission. The Commission decided that it was not as stringent as State law which bars those involved from partisan politics. (2) complaint to be submitted "under penalty of perjury." State law requires a "sworn complaint." The Commission decided it was not as stringent as State law; (3) allows telephone conferences; The Commission advised that the State Code has no similar provision as such matters are determined under the Freedom of Information Act and this Commission has no jurisdiction to interpret FOIA, but PIC noted it was unclear why they put provisions from other laws in the Code of Conduct which would put them in the position of having to interpret and respond to challenges based on a law over which the Attorney General's office has jurisdiction. (4) added a 14 day time period for respondent to

EXHIBIT C

December 1, 2010

SENT VIA ELECTRONIC MAIL

Mayor Hanson:

Pursuant to our conversation following the reorganization meeting at which you were elected Mayor wherein I expressed to you comments made to me by Mr. Marc Appelbaum, that were highly inappropriate, I have elected to convey this information to you in writing.

Just prior to the March 13, 2010 meeting, I was called at home by Commissioner Appelbaum. He was with Ken Lodge, the Transitional Liaison at the time along with their wives. I believe they were at the home of Commissioner Appelbaum. Mr. Lodge had told Commissioner Appelbaum that I had instructed Mr. Lodge that he should not be in attendance at the Executive Session scheduled for March 13. Commissioner Appelbaum asked me if I was fu**ing crazy and what my fu**ing problem was and that I should have Mr. Lodge present. I waited for him to finish his tirade. Once he stopped I asked him if he was through cussing so I could speak. This conversation was troubling to me. Though I understand that tempers can rise, this was one of my first interactions with Commissioner Appelbaum and to have him cuss at me in that manner regarding such an insignificant issue was difficult for me to comprehend.

August 21, 2010 Executive Session:

Commissioner Appelbaum made specific references to sodomy during the Executive Session. His words included that he was okay with being screwed, but he was not going to be raped and fu**ed up the ass. I could not believe that a commissioner would make such statements in front of two women in an executive meeting. I was absolutely appalled, embarrassed and shocked at his behavior and disregard for how I, or anyone else in the room, may have felt about his language and sexual references

Just a few weeks before the September elections, I received a telephone call from Commissioner Appelbaum. During this phone call, he stated that, if I (meaning me) was single, he would take me to dinner and for walks along the beach and that he would ask me out. I did not know what to say so I stayed silent, he then said...and oh...if I was single too. This conversation made me very uncomfortable and it was quite awkward to have a commissioner make such inappropriate statements to me as the Town Manager. I called the Town Attorney immediately following this conversation and told him that these statements had been made. Soon after, Commissioner Appelbaum indicated to me that he would not be running for commissioner. It was because of this reason that I decided not to press the issue as I did not think I would have to deal with him directly after the election.

These are simply three specific instances where prior Commissioner Appelbaum made inappropriate comments either directed at me or in my presence. There were many occasions during conversations with Mr. Appelbaum that he used highly inappropriate language in a professional environment. He would often use the "f" word and cuss at me during telephone conversations.

During my meeting with you on October 5, 2010 I expressed that I was quite uncomfortable with remarks made either directly to me or in my presence by Mr. Appelbaum. I relayed to you that I had not pressed this issue because I knew he was not going to run for commissioner in the 2010 election and did not believe I would be required to work with him directly since he would not be a member of council. I expressed that I did not think it would be appropriate for him to be Chair of the Budget & Finance Committee as I am required to work very closely with that committee and would have to work directly with Mr. Appelbaum. I told you at that time that I

ould not relay the information regarding Mr. Appelbaum's comments to me to the other members of council in hopes that you would do the right thing with respect to committee chair appointments.

To my dismay, during the October 9, 2010 Town Council meeting, Mr. Appelbaum was appointed as Chair of Budget & Finance and also of an ad hoc committee for Code of Conduct. Given the nature of his comments made to me, I was astounded that such recommendations would be made by you.

It is obvious that Mr. Appelbaum has no regard for people, women in particular. To make such lewd and indecent comments to me and in front of both of us makes that obvious. It should also be noted that during the November Town Council meeting, Mr. Appelbaum resigned from the ad hoc Code of Conduct committee and when you indicated that you did not wish to accept his resignation, he "shot you the bird". This is not acceptable behavior by anyone directed to the Mayor of Dewey Beach, let alone a former commissioner and appointed Chair of one of our committees.

Mayor Hanson, I will continue to perform my duties as Town Manager for Dewey Beach and will do so with professionalism. However, I ask that Mr. Appelbaum be removed from the position of Chair of the Budget & Finance Committee no later than December 8, 2010. I believe that Steve Huse or David King would make a very good committee chair. I have worked very well with both gentlemen on various projects and have an excellent working relationship with them. I have always found them to be professional and courteous. Should Mr. Appelbaum not be removed from this position, I will have no choice but to ask the State of Delaware to investigate this matter.

Finally, as this matter potentially relates to personnel and litigation issues, I would respectfully request that the substance of this correspondence be kept confidential from the public and any discussions be held in Executive Session.

I thank you for your time and consideration.

Sincerely,

Diana Smith

Diana Smith
Town Manager

EXHIBIT D

June 14, 2017

Mayor Dale Cook

Commissioner Courtney Reardon

Commissioner Diane Hanson

Commissioner Mike Dunmeyer

Commissioner Gary Persinger

Dear Mayor, Commissioners and Residents of Dewey Beach:

This letter is written by and on behalf of the employees of the Town of Dewey Beach who have signed their names below.

The purpose of this letter is to demand, for the reasons set out below, the immediate and permanent removal of Mr. Marc Applebaum as Town Manager.

We are exercising our rights as whistleblowers under Delaware Code Title 19, Chapter 12 to report egregious misconduct, including violations of multiple provisions of the Delaware Code, common law, and Title VII of the Civil Rights Act of 1964.

Each of the numbered paragraphs below is a complaint against Mr. Applebaum which is based upon *personal observation* by an employee (or employees) of the Town of Dewey Beach. The eyewitnesses to the acts described below are prepared to testify under oath, and in court, as to the facts detailed.

Each of these violations has been reported to one or more Town Commissioners, who have done nothing to remedy these violations but rather have intentionally turned a blind-eye, while allowing Mr. Applebaum to run roughshod over the rights of employees and citizens of the Town.

The allegations, in no particular order, are:

SEXUAL HARASSMENT: Mr. Applebaum routinely engages in acts of sexual harassment in violation of Title VII of the United States Code and Section 710 of Title 19 of the Delaware Code. Mr. Applebaum's sexual harassment of women has been known to some of the Commissioners since at least 2010—*prior to* Mr. Applebaum's appointment as Town Manager. Despite their knowledge of documented allegations of harassment by Mr. Applebaum, the Commissioners appointed him to Town Manager where they knew he would be in a position of

authority over several women. The Commissioners' conduct evidenced a reckless disregard for the rights of female Town employees to be free from harassment and discrimination in the workplace and established a policy at the highest levels of Town government to allow the harassment of female Town employees. As Town Manager, Mr. Applebaum has harassed and discriminated against women in the following ways:

1. Mr. Appelbaum wears pajama bottoms into the office, often without underwear, intentionally making the outline of his penis visible to female employees;
2. On one occasion when Mr. Applebaum wore pajama bottoms, without underwear, into the office, he ordered two female employees into his office where he proceed to stand in front of his desk with an obvious erection. The two women were seated in chairs in front of Mr. Applebaum's desk. Mr. Applebaum was standing in front of his desk and close to the two women, such that his erection was near their eye level. When a male employee walked into Mr. Applebaum's office and saw what was happening, Mr. Applebaum screamed, "Get out, shut the door!"
3. Mr. Applebaum frequently wears no shoes in the office and on at least one occasion has rubbed his bare leg and foot on the leg of a female town employee in a suggestive manner, which she found repulsive.
4. Mr. Applebaum frequently tells sexual stories and jokes, as well as makes sexual comments and innuendo, to women in the office with the obvious intent of embarrassing and humiliating them. This conduct includes yelling the word "fornication" at the top of his lungs during a staff meeting.
5. Mr. Applebaum constantly uses the word "fuck" or "fucking" in the office and makes other obscene remarks in the presence of female employees.
6. Mr. Applebaum's often directs his obscenities at female employees to intimidate them and make them subservient, two female employees have already left as a result of this conduct.
7. Female employees who accept Mr. Applebaum's humiliating treatment without complaint are rewarded with advancement, to the detriment of

those who resist or complain; in this way, Mr. Applebaum attempts to coerce the objecting women to submit to his unlawful and offensive behavior without complaint.

8. Mr. Applebaum does not pay female Town employees equally and based upon their professional skills but rather rewards and pays fairly only those women who submit to him.
9. The signed employees below have frequently witnessed female employees crying when leaving Mr. Applebaum's office.

ABUSIVE CONDUCT TOWARDS ALL EMPLOYEES/LACK PROFESSIONALISM:

Through a pattern and practice of bullying, including derogatory remarks and interference with job responsibilities, Mr. Applebaum conveys to Town employees that he can do whatever he wants with impunity. This impression is reinforced by Town Commissioners and the Mayor when they fail to take any action in response to known misconduct by Mr. Applebaum.

10. Mr. Applebaum frequently screams and swears at Town employees, denigrating them in front of co-workers. This conduct includes "giving the finger" to employees, and even to the Mayor, when his back was turned.
11. In violation of the Dewey Beach Town Charter, Mr. Applebaum has repeatedly advised Town employees that they are not allowed to attend or speak at Town meetings and may not answers questions posed by the public or the Commissioners, even on matters related to their area of expertise. This policy established and enforced by Mr. Applebaum also violates their First Amendment rights under the United States Constitution.
12. Mr. Applebaum actively obstructs Town employees from carrying out their job requirements, regardless of the risk to public safety.
13. Mr. Applebaum frequently insults and denigrates Town Commissioners and the Mayor, both in their presence and when they are not present, in order to show Town employees that the Commissioners and the Mayor will not stand up to him, positioning himself as the ultimate authority on all matters pertaining to the Town, including the conditions of their employment. In this way, Mr. Applebaum signals to the employees that

they have no recourse or venue in which to complain about his conduct and intimidates them into either accepting his egregious behavior or leaving their positions. Long-time employee Barbara Kyewski quit earlier this year after 10 years on the job, stating, "I can't stand it any longer working for that man, it's unbearable." Similarly, Katrina White, who worked for the Police Chief for 4 years and then worked in the Town Hall as a clerk, quit saying she could no longer put up with Mr. Applebaum's sexual innuendos and harassment. Current employee Sheena Gossett has complained to the Town Clerk that Mr. Applebaum's constant swearing and sexual talk is offensive and affront to her religious beliefs. Under Section 16 of the Town Charter, the Commissioners are the appellate body for "the protection of Town employees" against improper job actions by the Town Manager. Because Town employees witness the level of authority possessed by Mr. Applebaum and the bullying of the Mayor and Commissioners by Mr. Applebaum, they understand that there is no real recourse for them should they be fired by Mr. Applebaum. In short, they are required to shut up and take it.

14. As an example of this concerted effort to show the employees that he and only he has the authority in the Town, at a recent meeting at which the Mayor was present, he not only gave the Mayor "the finger" to his back as the Mayor left the meeting, he stated that the Commissioners are "so stupid" that "we don't need them" and that he can run the town without them.
15. Under the Town Charter, it is the job of the Town Commissioners to establish and vote on the budget and to adhere to the budget in making appropriations. However, after the budget is voted on and established, Mr. Appelbaum makes significant changes to it as a means of controlling and punishing employees. Mr. Applebaum shifts funds from one department to another without seeking approval from the Commissioners. At times, this threatens public safety; however, since employees are not permitted to speak about this at Town meetings, they cannot do anything about it.
16. Mr. Applebaum frequently dons a "Rastafarian" outfit (consisting of a Rastafarian hat, a shawl, and a bag with a marijuana leaf on it) at the office, sometimes in conjunction with pajama bottoms. This is culturally insensitive, inappropriate, and suggestive of marijuana use. Often during the work day, Mr. Applebaum will leave the office for a very short time,

giving the distinct impression he has done so for the purpose of using marijuana while at work.

17. Mr. Applebaum maintains a "voodoo" doll on his desk and asks that employees who come into his office for meetings, including lifeguards, rub the doll. Employees who refuse are pressured. Many employees find this strange and humiliating and feel that they are intentionally being made to look foolish.

RACIAL DISCRIMINATION Town Employees of color are made to feel inferior by Mr. Applebaum, who in front of other Town employees, refers to them in derogatory fashion

18. Mr. Applebaum refers to employees of color as "the brown people."
19. Mr. Applebaum treats employees of color as inferior and discriminates against them based upon their race.
20. Mr. Applebaum talks down to employees of color with an aggressive and derisive tone, in an effort to make them subservient

IMPROPER INTERFERENCE WITH TOWN LAW ENFORCEMENT: Mr. Applebaum uses his position as Town Manager to interfere with the workings of the Police Department

21. Mr. Applebaum goes around the chain of command at the Police Department, interfering with discipline, creating an unprofessional environment and jeopardizing public safety. It is essential to order and safety that police officers understand who they report to (the Chief) and that the chain of command is followed.
22. Mr. Applebaum attempts to pressure police officers and law enforcement staff to give him police reports, which by state law cannot be given to him. This situation became so untenable that the Delaware Criminal Justice Information System official had to intervene and tell Mr. Applebaum directly that this conduct is illegal.
23. The Chief of Police has been in his position for over 25 years and has extensive, specialized professional training for his position. Similarly, all

full-time Town police officers have attended police academy and received multiple certifications relevant to law enforcement. This training informs the appropriate manner of responding to a situation and interacting with members of the public. Mr. Applebaum has no such training but constantly involves himself in police procedures. Mr. Applebaum is not qualified to determine police procedure and matters of public safety.

24. Mr. Applebaum routinely attempts to interfere with the professional independence of police officers, among other things, by directing them to take enforcement actions against selective individuals and businesses. This violates not only the Town Charter but also the Delaware Code, which is designed to preserve the independence of law enforcement. This conduct sets a poor example for young officers who are new to the job and are led to believe that the law may be enforced selectively rather than uniformly.
25. When the Chief of Police was recently out on sick leave, Mr. Applebaum approached individual officers and suggested that the officers should assist him in forcing the Chief out of his position. He stated that he “did not trust the Chief.” As an inducement to help him oust the Chief, Mr. Applebaum suggested that one of the officers could replace the Chief. Witnesses have heard Mr. Applebaum state that the Chief “is not fit for the job.” This effort to undermine the Chief of Police with his officers not only violates the Chief’s due process rights under Chapter 93, Section 9301, but also jeopardized public safety by undermining the Chief’s authority—a crucial element in maintaining order and discipline within the Department.
26. Mr. Applebaum consistently pressures the Police Chief (and the Building Inspector) to violate State law by interfering with matters that are within the exclusive purview of State agencies, including the State Fire Marshall and the Alcohol Beverage Control Commission. When they refuse, Mr. Applebaum becomes visibly angry.
27. As a result of Mr. Applebaums’s continued efforts to direct and interfere with law enforcement operations, outside law enforcement (including the State Police) constantly question the Town’s policies.

JEOPARDIZING PUBLIC SAFETY BY IMPROPER INTERFERENCE WITH DEWEY BEACH PATROL: Dewey Beach Patrol is recognized as an Advanced Lifeguard Certified Agency by the United States Lifesaving Association. Dewey's well-trained, professional lifeguards are important to the families that visit Dewey and play an important role in public safety. Mr. Applebaum's continuing efforts to undermine the structure and functioning of DBP is a threat to the safety of beachgoers in our community and appear to violate the Town Charter, pursuant to which DBP reports to the Commission, and not the Town Manager.

28. Mr. Applebaum, who has no training in open water rescue, emergency medical services, or any other essential skill for lifeguarding, insists on interfering with the decisions of the Captain of the Dewey Beach Patrol, including scheduling and staffing of the lifeguards. The Captain of DBP, who has multiple certifications and extensive training, makes staffing decisions based upon public safety; these decisions are routinely overturned by Mr. Applebaum without explanation. Mr. Applebaum's decisions are made without regard to the safety standards applicable to open water lifeguarding.
29. For Memorial Day weekend 2017, the busiest, most populous weekend of the year in Dewey, 31 lifeguards were scheduled to work the weekend. Mr. Applebaum directed the number of lifeguards be reduced to 8. When the Captain of DBP refused, a shouting match ensued, during which the Captain was berated and humiliated.
30. Mr. Applebaum has placed young staff members "in charge of" DBP, who have no experience in lifesaving or EMS, and requires the Captain to report to them. Through this method, the DBP are humiliated and bullied into siding with Mr. Applebaum.
31. Mr. Applebaum conducts staff meetings with DBP lieutenants (without the Captain's knowledge) and prohibits the Captain of DBP from attending the meetings. In this way, Mr. Applebaum interferes with the command structure and asserts his control over the employees of DBP, who should be reporting only to the Captain. Mr. Applebaum has taken control over all disciplinary issues within DBP, essentially stripping the Captain of authority over DBP employees. Because Mr. Applebaum is completely unfamiliar with the rules and requirements for lifeguard certification, training, and discipline—i.e. he is ill-equipped to know whether a DBP employee has violated an essential rule or tenet of the employee's job—this

pose a threat to public safety. When members of DBP do not understand to whom they report or are accountable and when the rules of their employment are arbitrarily enforced, discipline is difficult to maintain.

32. Mr. Applebaum prohibits the Captain from attending Town meetings, speaking to Town Commissioners regarding DBP, or answering questions from the public regarding DBP. The DBP was told to "shut up" and not discuss any matters pertaining to DBP with anyone but the Town Manager.
33. The DPB requires its employees to undergo drug testing. Federal privacy rules under HIPAA limit the individuals who can see results of such testing; under HIPAA the Town Manager is not permitted to view the results of drug tests administered to DBP employees, however, Mr. Applebaum routinely asks for and views the results of these tests.

IMPROPER INTERFERENCE WITH THE OFFICE OF THE BUILDING INSPECTOR

34. Although he has no experience as a building inspector and little familiarity with the relevant building codes, Mr. Applebaum continually interferes with the job of the Building Inspector by insisting on seeing certain applications and directing the Building Inspector on how to handle applications.
35. Mr. Applebaum often tells certain Town residents that they do not need permits, in violation of the Town Code. Mr. Applebaum also interferes with the proper issuance of building permits in order to punish his perceived enemies. By reviewing applications, Mr. Applebaum determines whether anyone on his "enemies list" is seeking a permit and then obstructs the applicant's ability to obtain a building permit. As a result of this interference, even when neutral application of the Building Code would result in the applicant receiving a permit, Mr. Applebaum forces the Building Inspector to deny the permit. Mr. Applebaum has even gone so far as to change the Building Code in order to deny applications. On two occasions, this has resulted in lawsuits. Mr. Applebaum's use of the permitting process as a weapon to punish his enemies, violates the applicants' Constitutional rights to substantive due process and equal protection, and undermines the authority of the Building Inspector

36. Mr. Applebaum's interference in the permitting process is so pervasive that during an argument with the Building Inspector, when the Building Inspector refused to apply the code the way the Town Manager sought, Mr. Applebaum shouted, "Now I have to be the building inspector."
37. When applicants pay the fee for a permit or a building expansion, that money is supposed to be earmarked for the office of the Building Inspector; however, it appears that those funds are diverted by the Town Manager for other purposes.

OTHER IMPROPER/DISHONEST DEALINGS

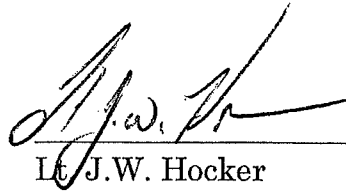
38. In violation of the Town rules and without permission, Mr. Applebaum took the Town's automobile on a long-distance trip to New Orleans. On this trip, Mr. Applebaum got into an accident, which he subsequently hid from Town Commissioners. It was not until the City of New Orleans police report was made available that the true facts were learned. Despite this misuse of the Town's car, accident, and attempt to cover up both the misuse and the accident, the Commissioners and the Mayor took no action against Mr. Applebaum but rather facilitated his malfeasance by attempting to hide the incident from the public. This failure to control or address Mr. Applebaum's conduct showed Town employees the extent to which no one supervises Mr. Applebaum's conduct and he is answerable to no one.
39. On another occasion, in violation of Town rules and without permission, Mr. Applebaum allowed his daughter to drive the Town vehicle to and in North Carolina. During her unauthorized use of the Town vehicle, Mr. Applebaum's daughter received a traffic ticket, which was only revealed when the Town clerk received a notice of it at the Town offices.
40. When employees attempt to question the propriety of a directive from Mr. Applebaum, they are told that he knows best, regardless of the subject matter, because he is "well-educated." The truth is that Mr. Applebaum has no formal education.
41. Although he brags to employees about his success as a businessman, Mr. Applebaum and his brother operated a business that went into bankruptcy, owing Delaware and Maryland residents hundreds of thousands of dollars.

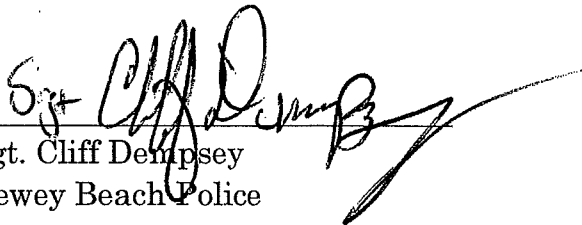
42. In view of Mr. Applebaum's lack of formal education and fiscal difficulties, it is unclear whether, in view of the Town Manager's extensive authority over all aspects of Town management including disbursement of funds, Town Commissioners have fulfilled their responsibilities under Section 15(b) of the Town Charter to "impose such qualifications for Town Manager as may be deemed necessary."

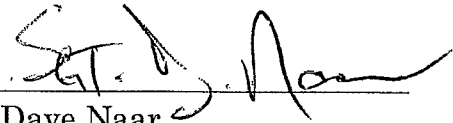
By ignoring complaints from Town employees and sanctioning the abusive, improper, and illegal conduct and policies of Mr. Applebaum, as detailed above, the Town Commissioners and the Mayor have exposed both themselves individually, and the Town as an entity, to legal liability for Mr. Applebaum's actions. If the Mayor and the Commissioners do not take *immediate* action to remove Mr. Applebaum and put an end to the toxic and abusive work environment detailed above, we the undersigned employees intend to seek legal relief in court.

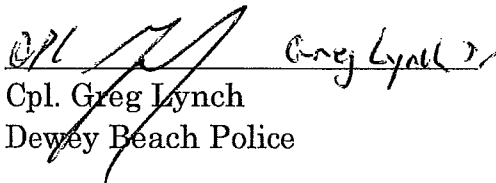
Respectfully,



Chief Sam Mackert
Dewey Beach Police



Lt. J.W. Hocker
Dewey Beach Police

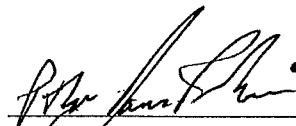

Sgt. Cliff Dempsey
Dewey Beach Police


Sgt. Dave Naar
Dewey Beach Police

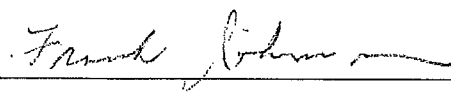

Cpl. Greg Lynch
Dewey Beach Police

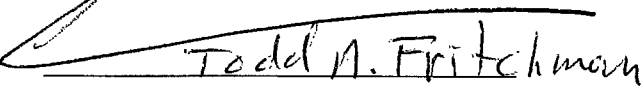

Ptlm. Matt Wilson
Dewey Beach Police


Ptlm. Trevor White
Dewey Beach Police


Ptlm. Jason Lovins
Dewey Beach Police


LaToya Weatherly
Dewey Beach Police


Frank Johnson
Dewey Beach Police


Todd A. Fritchman
Captain Dewey Beach Patrol

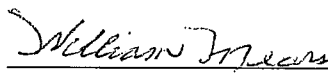

William Mears
Dewey Beach Bldg Inspector

EXHIBIT E

TO: Mayor Dale Cooke, Commissioner Courtney Reardon, Commissioner Diane Hanson, Commissioner Mike Dunmeyer, Commissioner Gary Persinger

FROM: Diane Jones

DATE: June 27, 2017

SUBJECT: Town Manager Marc Applebaum

I am writing to give notice to the town council of various concerns I have with the Town Manager, Marc Applebaum. As described below, I believe Mr. Applebaum creates a hostile work environment, intimidates employees, treats employees differently based on whether they are loyal to him, and violates the town's charter and code and potentially violates State and Federal law in his actions.

Among other things, in my interactions with Mr. Applebaum, I note the following:

- I was hired as the Clerk for the Alderman Court in early May of this year. Mr. Applebaum made it clear that he has the right to terminate for any reason and that I am an "at will" employee and included that in my hiring letter.
- I have never in my work experience been spoken to in the manner that Mr. Applebaum speaks to me. He routinely raises his voice, acts in a demeaning fashion and stands in a way intended to intimidate me. He will make quiet comments and then yell "fornication!" out loud.
- I have seen Mr. Applebaum walking around the office barefoot and in his pajamas which is inappropriate in a work setting. He appears to treat the office as a frat house.
- Although I was hired as the judicial clerk, Mr. Applebaum has yelled at me several times and told me that I report to him and only him. He has leaned across his desk yelling, among other things: "Who do you think you report to! You report to me. You don't talk to the judges, you talk to me. Ashley is your supervisor."
- Each time I want to speak to the judge, Mr. Applebaum demands that I first get permission from his assistant.
- Mr. Applebaum has told me that he can order me to perform any services he sees fit. He has said, for example, "if I need you to stuff envelopes, you'll stuff envelopes."
- Mr. Applebaum has demanded that I train a town employee on the Court's computer system and give a town employee access to the Court's computer system. I have refused to do so because the Court's system is off limits to

anyone not authorized by the Court. Meanwhile, Mr. Applebaum has refused to let the Alderman Court handle appeals from parking tickets and the parking supervisor is handling them.

- Mr. Applebaum wanted to train me to handle the town's parking ticket system even though it is a town function (not a Court function).
- On a day where the Court was in session, Mr. Applebaum insisted that I report to him for a meeting rather than assist the judges with arraignment preparations.
- I was told that I am not allowed to patronize any of the businesses in town. When I asked where that is memorialized, I was told the policy was still being written. Other employees are not subjected to the same restrictions. In fact, recently the town hall closed its doors to the public for almost two hours to allow the employees to go to Que Pasa for lunch.
- I was told I would get an employee manual but when I have asked for one, I've been told that it is "still being developed." Instead, I get demands made by Mr. Applebaum and his assistants that I am told are policy, sometimes conflicting, and inconsistent with how other employees are treated. (As an example, see my earlier comment about not being allowed to patronize any businesses in town.) I believe the lack of an employee manual is intentional so that Mr. Applebaum can make any demands he wants verbally and with no record of what he is requiring of me.
- I was required to go for training in Laurel for my job but the town has said it will not reimburse me for my training or expenses in getting the training.
- Before I was the judicial clerk, I was a police dispatcher. During that time, Mr. Applebaum at times demanded copies of police reports which I believe is prohibited under the law.

I believe that Mr. Applebaum has acted contrary to the Town's Charter and Code as well as the laws of Delaware. Among other things:

- The town charter, section 16, only allows an employee to be removed for "just cause." As noted above, Mr. Applebaum has insisted verbally and in my employment letter that I am an "at will" employee.
- The town charter, section 20.15, requires that the town "shall provide adequate and appropriate . . . staff to facilitate the independent operations of the Alderman Court. . . . Likewise, staff assigned to the Court shall not be shared with conflicting town government operations." As noted above, Mr. Applebaum has repeatedly insisted that I report to him and his assistant, not the judges, and that he can assign me any tasks he wants. He has attempted to intervene in the operations of the Court and has attempted to assign me to

areas outside of and conflicting with the Court. He demands that I get inform his assistant each time I need to speak to the judges and he has me report to him for meetings when I am needed by the Court. Furthermore, Mr. Applebaum refuses to give the Alderman Court access to the on-line appeals of parking tickets and has the on-line appeals handled by the same person responsible for issuing them in the first instance. This is a clear separation of powers issue.

- The town's Code of Conduct, Town Code at Chapter 10, at section 10-3.K says that "no official or employee shall create or cause unwarranted interference with police officials or with civil regulatory investigations or criminal investigation." As described above, Mr. Applebaum has sought access to the Court's records and with police records in violation of this provision and he maintains control of the on-line parking ticket appeals.

I am prepared to testify under oath concerning the issues I am raising in this letter.


Diane Jones

EXHIBIT F

Town of Dewey Beach
105 Rodney Avenue
Dewey Beach, DE 19971-3207

(302) 227-6363



Purchase Order

This Number Must Appear on All
Invoices, Shipping Papers, Packages, etc

4214

Date: 8/30/2016

Purchased From:

Giant
19312 Lighthouse Pl.
Rehoboth Beach, DE 19971

Purchased By:

Dewey Beach Town H

Quantity

Description

Price

3

Carnival gift cards (Alvin retirement)

1,500

account # 6090102
VISA

Total 1,500.00

Authorized Signature _____

Town of Dewey Beach
105 Rodney Avenue
Dewey Beach, DE 19971-3207

(302) 227-6363



Purchase Order

This Number Must Appear on All
Invoices, Shipping Papers, Packages, etc

4215

Date: 8/30/16

Purchased From:

Walgreens
18993 munchy Branch Rd.
Rehoboth Beach, DE. 19971

Purchased By:

Dewey Beach Town Hall

Quantity	Description	Price
1	Southwest airline gift card (Alvin retirement) account # 6090102 VISA	500.00
Total		500.00

Authorized Signature _____

EXHIBIT G

Cape Gazette

Covering Delaware's Cape Region

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LETTERS TO THE EDITOR

Dewey must come to grips with Applebaum debacle

By Joy Howell - June 23, 2017

I was shocked by the examples of financial mismanagement, sexual harassment, racial discrimination and disregard for public safety that were alleged against Town Manager Marc Applebaum in the June 14 letter by the department heads in Dewey Beach. This was not some isolated fit of pique but rather a detailed indictment of Marc Applebaum's management.

It is damning and if true, grounds for immediate termination.

I support an immediate suspension of Mr. Applebaum with pay and a prompt investigation of the allegations.

I was the one lone no vote of a 4-1 vote to hire him permanently. I had supported him for a short-term assignment as acting town manager after we had exhausted a number of other possibilities. I felt that he had talent as a manager but not for a sensitive public-sector position like town manager. I was overruled by my commissioner colleagues.

I regret even my short-term support in light of these allegations. My heart goes out to the employees who signed this letter detailing such widespread abuses. No employees anywhere should have to work under these conditions. I know many of these individuals personally and hold them in high regard, particularly Police Chief Sam Mackert and Todd Fritchman, head of the lifeguard patrol. I hope the commissioners and Mayor Dale Cooke move swiftly to suspend Mr. Applebaum and investigate the alleged abuses.

It took courage for these employees to come forward. These people have served the town faithfully and with integrity, and I am sure these charges were not made lightly. In fact, in the 40 years I have been in and around government, I have never seen such a heavyweight assemblage of public employees willing to put their reputations and livelihoods at risk.

The commissioners owe it to the employees and to the property owners and visitors to the town to take this situation seriously and act responsibly to protect the town from liability if even half of these charges are true.

Joy Howell

former commissioner, Town of Dewey Beach

A letter to the editor expresses a reader's opinion and, as such, is not reflective of the editorial opinions of this newspaper.

To submit a letter to the editor for publishing, send an email to newsroom@capegazette.com (mailto:newsroom@capegazette.com) . Letters must be signed and include a telephone number for verification. Please keep letters to 650 words or fewer. We reserve the right to edit for content and length.

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Georgetown man arrested for stabbing...	(6,340)
Laurel woman arrested in Rehoboth...	(4,622)
Judge halts 60-foot water slide at...	(4,057)
Shannon Lord, the smile behind the...	(3,909)
Police: Couple dined and ditched	(3,843)
Dewey Beach town manager to remain on...	(3,842)
Fourth of July to light up Cape Region	(3,498)
G opens in Rehoboth	(3,429)



Dewey Beach Police Chief, Several Employees Call for Town Manager's Ouster

Posted: Jun 19, 2017 11:13 AM EDT

Updated: Jun 19, 2017 11:33 PM EDT

DEWEY BEACH, Del. (WBOC/AP)- Dewey Beach's police chief and several other employees are calling for the removal of the town's manager, saying he's been abusive toward employees and unprofessional.

Police Chief Sam Mackert, Beach Patrol Capt. Todd A. Frichtman, Building Inspector William Mears and other employees sent an [11-page letter](#) on June 14 to the mayor and town commissioners demanding that Town Manager Marc Appelbaum be fired.

The letter alleges that Appelbaum harasses female employees and once wore pajama bottoms to work "without underwear," among other complaints.

In response to the letter, Applebaum issued the following statement: "I can't say a lot at this time. I'll be working with the Town Commissioners and I'm sure my side of the story and the truth will come out soon. At this point, I can't say a whole lot because we're working through the process, but I have every reason to believe I will be exonerated."

[Click here](#) to read the letter.

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LETTERS TO THE EDITOR

Dewey town manager should be suspended

By Karen J. Kruger, Gary W. McLhinney, Joy Howell, Joan Claybrook, Dave Davis, Dell Tush, Larry Tush, Melanie Odum, Nancy and Lanny Weaver, Rebecca Fedel & Gary Keith -
June 22, 2017

Editor's note: The following letter was sent to Dewey Beach Mayor and Commisioners with a copy to the Cape Gazette for publication.

Dear Dewey Beach Mayor Dale Cooke and Commissioners:

We are aware of a letter dated June 14 14 from several of the employees of the Town of Dewey Beach which makes serious allegations of misconduct against Town Manager Mark Appelbaum. We write to express our concerns.

The allegations made include acts of sexual harassment, engaging in abusive and unprofessional conduct, racial discrimination, financial improprieties and other misconduct in office. If true, these allegations are very troubling, and could be the basis of significant legal liability for the town, not to mention disruption to the town's operations during the summer season.

This situation cannot be ignored, but must be immediately investigated by an outside, neutral investigator with substantial experience in municipal and employment law. Moreover, you would be well-advised to consult with independent legal counsel for guidance in making efforts to reduce liability and to be responsive to the employees because the town's attorney cannot represent both Mr. Appelbaum and the interests of the town, its commissioners and its employees.

Indeed, Mr. Townsend may himself be a witness who would be subject to questioning by an investigator.

Finally, Mr. Appelbaum should be suspended from duty, and his access to town property, computers and records denied. He should be prohibited from conducting any town business or entering onto town property until the investigation is over. If these allegations are true, Mr. Appelbaum's conduct has been disgraceful and perhaps even illegal.

He has put the town at great risk both in terms of legal liability and reputation. He has been cruel and unprofessional to the employees. If you ignore this situation, you may also create the risk of personal

liability for you as members of the governing body that has been made aware of the potential for serious, perhaps criminal, misconduct.

Your indemnification as a body and individually is at great risk since the employees are alleging the council was aware of this situation and took no action.

We look forward to the Mayor and Commissioners taking swift and effective public action to respond to these critical issues.

Karen J. Kruger, Esquire

Gary W. McLhinney, Public Safety Committee member, Former Commissioner

Joy Howell, MBA, MPA

Joan Claybrook, Esquire, former Budget and Finance Committee member

Dave Davis, former Budget and Finance and Comprehensive Plan committee member

Dell Tush, Former Mayor

Larry Tush

Melanie Odlum

Nancy and Lanny Weaver

Rebecca Fedel

Gary Keith

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June 20, 2017

VIA HAND DELIVERY

Mayor Dale Cooke
Commissioner Courtney Reardon
Commissioner Diane Hanson
Commissioner Mile Dunmyer
Commissioner Gary Persinger
Town of Dewey Beach
105 Rodney Street
Dewey Beach, DE 19971

RE: Town of Dewey Beach Issues Concerning the Town Manager

Dear Mayor and Commissioners,

We represent several clients who are property owners in the Town who have become aware of the complaints contained in the letter to the Commissioners that was made public on Friday, June 16, 2017. Today, we also received a copy of a letter from Richard H. Cross, Jr., Esquire, dated June 20, 2017, which was directed to each of you.

On behalf of my clients, we strongly recommend the following actions to avoid the appearance of impropriety, conflicts of interest, bias, and public scorn, that will likely result if you fail to act to protect the Town of Dewey Beach from further public ridicule.

Our requests are as follows:

1. Immediately suspend Mr. Appelbaum, with pay, while the investigation concerning his conduct is completed.
2. Appoint independent counsel who has had no prior dealings with the Town of Dewey Beach to act as the attorney for the Town to investigate and provide counsel to the Town

June 20, 2017

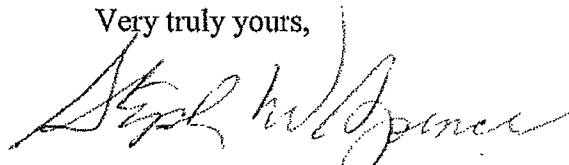
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regarding the actions it should take in response to the personnel complaints registered against the Town Manager.

3. Engage an independent Human Resources professional other than the person who is mentioned in the agenda for today's Town emergency meeting. We make this recommendation because it appears to us that she has already been providing service to the Town Manager and it would be virtually impossible for her now to become sufficiently detached to investigate the conduct of the Town Manager, particularly in the face of the allegations made in the letter.
4. Appoint a temporary Town Manager to act in Mr. Appelbaum's absence so that the Town can conduct its business, in the ordinary course, without the influence of Mr. Appelbaum.

If you proceed in any other fashion you will greatly increase the risk that my clients and others will initiate a class action to protect their interests which may be adverse to yours both as Commissioners and individually. We would hope that you will act accordingly and professionally in this regard.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Stephen W. Spence", written in a cursive style.

STEPHEN W. SPENCE

SWS\dbw

cc: Clients