



STATE OF NEW JERSEY

In the Matter of Kleovoulos
Zissimopoulos, Atlantic City,
Department of Public Safety and
Juvenile Justice

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC DKT. NO. 2023-637
OAL DKT. NO. CSR 08515-22

ISSUED: FEBRUARY 22, 2023

The appeal of Kleovoulos Zissimopoulos, Police Officer, Atlantic City, Department of Public Safety and Juvenile Justice, removal, effective August 30, 2022, on charges, was heard by Administrative Law Judge Carl V, Buck, III (ALJ), who rendered his initial decision on January 12, 2023. Exceptions were filed by both parties.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting of February 22, 2023, affirmed that portion of the ALJ's decision regarding the charge at issue, but rejected his recommendation regarding the remedy. Rather, the Commission imposed a 180 calendar day suspension.

In his initial decision, the ALJ noted that the parties had settled all but one of the charges, which was the only issue before him. He also indicated that the parties had already agreed to the penalties to be imposed dependent upon the outcome of the remaining charge. However, inexplicably, upon recommending dismissal of the charge, the ALJ recommended his own remedy in his order, which was inapposite to those found in the settlement. After receipt of the initial decision, the parties submitted the clarified settlement agreement indicating their agreement on the penalties to be imposed and expressed their desire for the Commission to reject the ALJ's proposed remedies. In that settlement, the parties agreed to a 180 calendar day suspension should the charge be dismissed.¹

¹ The Commission notes that the settlement initially indicated a 180 working day suspension, which is beyond the maximum suspension allowed under Civil Service law and rules. Upon being informed of this issue, the parties agreed that the penalty would be for 180 calendar days. As no other portions

The policy of the judicial system strongly favors settlement. *See Nolan v. Lee Ho*, 120 N.J. 465 (1990); *Honeywell v. Bubb*, 130 N.J. Super. 130 (App. Div. 1974); *Jannarone v. W.T. Co.*, 65 N.J. Super. 472 (App. Div. 1961), *cert. denied*, 35 N.J. 61 (1961). This policy is equally applicable in the administrative area. A settlement will be set aside only where there is fraud or other compelling circumstances. Upon review of the settlement, the Commission finds that it complies with Civil Service law and rules. As such, while the Commission affirms the ALJ's recommendation to dismiss the charge at issue, it rejects his recommendation regarding the remedy. Rather, the Commission imposes a 180 calendar day suspension.

Since the removal has been modified, the appellant is entitled to be reinstated at the conclusion of the 180 calendar day suspension. As the appellant's removal was effective August 30, 2022, the suspension will presumably end on February 26, 2023. Assuming his reinstatement after that date, the appellant is not entitled to any back pay in this matter. Additionally, he is not entitled to counsel fees. *N.J.A.C. 4A:2-2.12(a)* provides for the award of counsel fees only where an employee has prevailed on all or substantially all of the primary issues in an appeal of a major disciplinary action. The primary issue in the disciplinary appeal is the merits of the charges. *See Johnny Walcott v. City of Plainfield*, 282 N.J. Super. 121,128 (App. Div. 1995); *In the Matter of Robert Dean* (MSB, decided January 12, 1993); *In the Matter of Ralph Cozzino* (MSB, decided September 21, 1989). In the case at hand, although the penalty was modified by the Commission, charges were sustained by agreement of the parties, and major discipline was imposed. Consequently, as the appellant has failed to meet the standard set forth at *N.J.A.C. 4A:2-2.12*, counsel fees must be denied.

ORDER

The Civil Service Commission affirms the ALJ's recommendation to dismiss the charge at issue, and rejects his recommendation regarding the remedy. Rather, the Commission imposes a 180 calendar day suspension. No back pay or counsel fees are granted.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

of the settlement are germane to this decision, no other terms need be disclosed. Regardless, upon the Commission's review, it otherwise complies with Civil Service law and rules.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 22ND DAY OF FEBRUARY, 2023

Allison Chris Myers

Allison Chris Myers
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P. O. Box 312
Trenton, New Jersey 08625-0312

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 08515-22

AGENCY DKT. NO. N/A

2023-637

KLEOVOULOS ZISSIMOPOULOS,

Petitioner

v.

CITY OF ATLANTIC CITY,

Respondent.

Arthur J. Murray, Esq., for petitioner (Alterman & Associates, LLC, attorneys)

Steven S. Glickman, Esq. for respondent City of Atlantic City (Ruderman & Roth, LLC, attorneys)

Record Closed: November 28, 2022

Decided: January 12, 2023

BEFORE **CARL V. BUCK III**, ALJ:

STATEMENT OF THE CASE

Respondent, the City of Atlantic City (City), removed petitioner (also referred to as appellant) Kleovoulos Zissimopoulos, (Zissimopoulos), a City police officer, from his position for violating N.J.A.C. 2-2.3(a) 6 and N.J.A.C. 2-2.3(a) (12) as well as four (4) administrative charges.

The parties were able to resolve a number of the charges made against petitioner.

The remaining charge not resolved was:

Atlantic City Police Department General Order Volume
1 Chapter 2 – Rules and Regulations Sections
3:5:7 Truthfulness

Should Zissimopoulos be removed from his position when a preponderance of the evidence does not exist showing that he was untruthful in his application and in an Internal Affairs (IA) investigation? No. The appointing authority must prove its charges and specifications by a preponderance of the evidence. See, Atkinson v. Parsekian, 37 N.J. 143, 149 (1962).

PROCEDURAL HISTORY

On January 21, 2022, the City served Zissimopoulos with a Preliminary Notice of Disciplinary Action (PNDA) charging Zissimopoulos with conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12). The second alleged violation included alleged violation of several departmental policies and procedures; specifically: Chapter 2 – Rules and Regulations Sections 3:5-7, Truthfulness; Chapter 6 – Medical Policy and Procedure Section VIII Subsection B; Chapter 6 – Medical Policy and Procedure Section VIII Subsection I; Chapter 6 – Medical Policy and Procedure Section VIII Subsection K.

On September 8, 2022 the City issued a Final Notice of Disciplinary Action (FNDA), removing Zissimopoulos from his position as a police officer, effective August 30, 2022.

On September 8, 2022, Zissimopoulos appealed the determination to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On September 20, 2022, Zissimopoulos perfected his appeal, and on October 4, 2022, the case was assigned to me for hearing.

On November 14, 2022, I held the hearing; on November 16, 2022, Zissimopoulos filed his post-hearing brief; and on November 22, 2022 the City filed its post-hearing brief. The record was closed on November 28, 2022.

DISCUSSION AND FINDINGS OF FACT

The parties have stipulated to the following and as such I find the following as FACT:

1. Respondent issued Appellant a Final Notice of Disciplinary Action ("FNDA") dated August 30, 2022. (Exhibit 1).

2. The parties have worked out a settlement on all charges in the FNDA with the exception of:

Atlantic City Police Department General Order Volume 1,
Chapter 2-Rules and Regulations Sections 3:5.7
Truthfulness.

(Exhibit 1.)

3. The parties have worked out a settlement on all specifications in the FNDA with the exception of:

It was also determined that Officer Zissimopoulos disclosed "chronic steroid use" on a medical questionnaire for Rothman Institute. During the internal affairs interview when questioned about his "chronic steroid use", Officer Zissimopoulos admitted to using steroids prior to his employment with the Atlantic City Police Department. When asked if he disclosed this information on his Atlantic [City] Police Department employment application, Officer Zissimopoulos indicated that he did not recall. Upon review of Officer Zissimopoulos' employment application it was determined that Officer Zissimopoulos failed to disclose his use of steroids.

(Exhibit 1.)

4. The parties have worked out a settlement on penalty regardless of how this Court rules on the charge listed in Stipulation #2 and the specification listed in Stipulation

#3. In other words, the parties do not need to Court to opine on the issue of penalty in its Initial Decision. The settlement reached between the parties has self-executing contingencies whether the charge is sustained or dismissed.

5. Appellant was injured on the job on April 9, 2021.
6. Appellant filed a workers' compensation claim stemming from the incident of April 9, 2021.
7. As a result of that workers' compensation claim, Appellant was sent for treatment that included treating with Rothman Orthopedics.
8. As part of his treatment with Rothman Orthopedics, Appellant was questioned about his past medical history.
9. In response to a question by Rothman Orthopedics asking whether Appellant had ever engaged in "Chronic Steroid Use", Appellant provided the answer "Yes". (Exhibit 2).
10. Rothman Orthopedics asked no follow up questions and elicited no further details from Appellant as to his affirmative answer.
11. Medical reports stemming from workers' compensation claims of individuals employed by Atlantic City are routinely reviewed by Atlantic City's Risk Manager.
12. Upon review of Exhibit B, Atlantic City's Risk Manager referred the matter for investigation to the Chief of Police of Atlantic City given Appellant's response.
13. The Chief of Police of Atlantic City referred the matter to Internal Affairs ("IA") for investigation.
14. Appellant was already under investigation by IA for other infractions and this referral was subsumed as part of the same investigation. Those other infractions

are subsumed in the settlement agreement referenced in Stipulations #2 through #4.

15. Appellant was eventually interviewed as part of that IA investigation.
16. The summary of that interview relevant to the charge listed in Stipulation #2 and the specification listed in Stipulation #3 is attached hereto as Exhibit 3.
17. Following that interview, Appellant's job employment application with the City of Atlantic City's Police Department was reviewed by IA. The entirety of that employment job application is not relevant to this matter.
18. The first page of that employment job application contained the following:

Please print or type all information. The application must be filled out accurately and completely. Answer all questions. Do not leave any item blank. If an item does not apply, write N/A (not applicable). Incomplete applications will not be considered. All statements made on the application are subject to verification. Exaggerated, false or misleading (sic) statements may cause for rejection of the application or/termination of employment. Eligibility for hire may be based on a rating of this application; therefore, completeness and accuracy is of the utmost importance.

(Exhibit 4.)

19. The last page of that employment job application contained the following:

I am the applicant who is submitting this application form.

I personally supplied the information contained in this form.

I swear (or affirm) that the information in this application is true to the best of my knowledge and belief.

(Exhibit 5.)

20. The job employment application for the City of Atlantic City's Police Department at the time that Appellant filled out his application did not contain any section of "Definitions" of terms within the application itself.

21. Although it contained no "Definition" section, the job employment application for the City of Atlantic City's Police Department at the time that Appellant filled out his application did at certain points provide additional guidance to applicants by further explaining words or phrases. For example, the "Arrest History Described" section of the application contained additional guidance.

(Exhibit 6.) Note: This exhibit is provided for illustration purposes only. It is not actually relevant to the charge listed in Stipulation #2 and the specification listed in Stipulation #3

22. The only aspect of the job employment application for the City of Atlantic City's Police Department at issue for the charge listed in Stipulation #2 and the specification listed in Stipulation #3 is that contained under the section entitled "Narcotic and Alcohol Use" under letter "B", which is attached hereto as Exhibit 7.

23. The term "controlled dangerous substances" was not defined in the job employment application for the City of Atlantic City's Police Department at the time that Appellant filled out his application.

24. Job applicants were not provided with any addition guidance in understanding the term "controlled dangerous substances" in the job employment application for the City of Atlantic City's Police Department at the time that Appellant filled out his application.

25. The term "prescription drugs" was not defined in the job employment application for the City of Atlantic City's Police Department at the time that Appellant filled out his application.

26. Job applicants were not provided with any additional guidance in understanding the term "prescription drugs" in the job employment application for the City of Atlantic City's Police Department at the time that Appellant filled out his application.
27. Appellant's answer to Question B under Narcotic and Alcohol usage was Exhibit 7.
28. Respondent's sole basis for issuing the charge listed in Stipulation #2 and the specification listed in Stipulation #3 was the comparison of Exhibit 2 with Exhibit 7.
29. Nothing Appellant said in his IA interview contributed to Respondent issuing the charge listed in Stipulation #2 and the specification listed in Stipulation #3.
30. Petitioner Kleovoulos Zissimopoulos is a police officer with the Atlantic City Police Department.

The only testimony provided was that of petitioner which is summarized as follows:

Petitioner possessed a high school education with some supplemental auto mechanic certifications. His first job in law enforcement was with the Delaware Department of Corrections (DDOC) from May 2015 to December 2016. At DDOC he attended the Corrections Officer Police Academy, not the full Police Academy.

The DDOC Academy does not go over the criminal code. In Delaware, if a crime occurs within a Corrections Facility, a specialized unit called the Special Investigations Unit (SIU) conducts the entirety of the criminal investigation regarding the incident. Rank and file Corrections Officers, Corrections Sergeants, and Corrections Lieutenants play no role in criminal investigations within a Corrections Facility.

While attending the DDOC Corrections Police Academy, petitioner was not taught directly or in-depth what Controlled Dangerous Substances (CDS) were. Rather, corrections officers were taught the concept of contraband, what contraband was, and the discovery of contraband required contacting SIU for further investigation.

While working for DDOC, petitioner received no training on steroids or steroid usage. He left DDOC due to the commute and his assigned shifts.

He began working for the Atlantic City Police Department (ACPD) in March 2017 and got that job, in part, based on a job application filled out in October 2016. He prepared his job application without assistance and read the top of J-4 before starting to fill out his application. He signed the job application as set forth in J-5, filling out the answer to Question B on J-7.

Petitioner attended an accelerated Police Academy between March 2017 and May 2017 after being hired by the ACPD and while attending the Academy he learned the "schedule of narcotics"; learning that while not a narcotic, steroids - under certain circumstances - could be CDS.

Petitioner had a working knowledge of workers' compensation as well the limited privacy of workers' compensation medical records at the time he injured himself on the job with the ACPD and knew his workers' compensation medical records would be available for review by some Departments or employees of Atlantic City. He admitted to answering "yes" to a question about "chronic steroid use" on J-2 and answered J-2 truthfully. In his late teens and early twenties, petitioner ingested a number of supplements and other materials to increase musculature and came to learn he was given steroids. He had no idea from where those steroids were obtained or whether they were obtained legally.

Petitioner never failed a random drug test with either DDOC or the ACPD.

In answering Question B on J-7, it did not occur to him that the steroids he took in his late teens or early twenties would be considered either "narcotics" or "controlled dangerous substances" as set forth in the question thereby requiring an affirmative response. He did not purposely withhold his past steroid use from his ACPD application and understood Respondent's accusation of untruthfulness stemmed from a comparison of J-2 with J-7. He stated that he was truthful because if he were trying to hide his past

steroid use, he would have answered J-2 in the negative and perpetuated the alleged untruthfulness from his ACPD job application as reflected in J-7. He was a "civilian" with CO training at the time he filled out J-7 and had the application contained more guidance, his answer on J-7 would likely have been different.

Petitioner did not believe he should be held to the standard of a graduate of the Police Academy at the time he filled out J-7, since completion of the application occurred approximately seven months prior to graduation from the Academy. After graduating from the Academy, it did not occur that his ACPD job application may have been incorrect or needed to be amended based on his additional training and knowledge gained therefrom. Subsequent to being charged, he checked to see if his DDOC job application spoke to the issue of steroids. It did not.

Given this discussion and agreement of respondent to the information testified to by petitioner I **FIND** the above as **FACT**. Further, considering this information I **FIND** that the respondent has not proven by a preponderance of the evidence any of the allegation contained in its charge.

CONCLUSIONS OF LAW

In appeals concerning major disciplinary action, the appointing authority bears the burden of proof. N.J.A.C. 4A:2-1.4(a). The burden of proof is by a preponderance of the evidence, Atkinson v. Parsekian, 37 N.J. at 149, and the hearing is de novo, Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980.) On such appeals, the Civil Service Commission may increase or decrease the penalty, N.J.S.A. 11A:2-19, and the concept of progressive discipline guides that determination, In re Carter, 191 N.J. 474, 483–86 (2007.) Thus, an employee's prior disciplinary record is inherently relevant to determining an appropriate penalty for a subsequent offense, Id. at 483, and the question upon appellate review is whether such punishment is "so disproportionate to the offense, in the light of all the circumstances, as to be shocking to one's sense of fairness," Id. at 484 (quoting In re Polk, 90 N.J. 550, 578 (1982) (internal quotes omitted)).

In this case, I find that the City has not proven by a preponderance of the evidence the remaining allegation contained in its specification which was not settled prior to hearing. More pointedly, in 2016 Zissimopoulos completed the application form as provided with the guidance – such that it was - provided. There was not elaboration within the application on use, chronic or otherwise, of steroids. There was an area, as shown in J-7, which asked for information on narcotic, alcohol, “dangerous substances” and prescription drug use but there was no elaboration on what constituted a “dangerous substance”. Zissimopoulos did provide information under these sections but not regarding steroid use as he testified, credibly, that he was unaware that steroids would fall under this categorization. Furthermore, an extenuation of this position in any Internal Affairs Investigation does not constitute an intentional obfuscation of the facts.

Further, presuming that Zissimopoulos desired to intentionally mislead the City or obfuscate his prior health history he would have not provided information about his steroid use to the Rothman Institute in 2021. (J-2.)

Accordingly, I **CONCLUDE** that the City has not proven by a preponderance of the evidence the remaining charge contained in its final notice of disciplinary action, and that this case should be **DISMISSED**.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that petitioner be reinstated to his position of police officer, that he be **AWARDED** all back pay, seniority, and costs, including all attorney fees associated with this appeal, and that this case against him be **DISMISSED**.

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision

within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 40A:14-204.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



January 12, 2023
DATE

CARL V. BUCK III, ALJ

Date Received at Agency:

Date Mailed to Parties:

CVB/tat

APPENDIX

Witnesses

For Appellant:

Kleovoulos Zissimopoulos

For Respondent:

None

Documents

Joint Exhibits:

- J-1 FNDA, August 30, 2022
- J-2 Rothman Statement, June 16, 2021
- J-3 Statement
- J-4 Employment application
- J-5 Statement of truth
- J-6 Arrest history
- J-7 Narcotics and alcohol usage

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This is an Agreement and General Release (the "Agreement") between the City of Atlantic City,¹ (the "City") with offices located at 1301 Bacharach Blvd., Atlantic City, New Jersey 08401, and Kleovolous Zissimopoulos ("Officer Zissimopoulos"), an individual who resides at 6 Mimi Court, Northfield, New Jersey 08225.

WHEREAS, Officer Zissimopoulos is employed as a police officer by the City, who is currently suspended without pay pending removal.

WHEREAS, the City issued a Final Notice of Disciplinary Action ("FNDA") dated August 30, 2022 following a Departmental Hearing seeking removal.

WHEREAS, Officer Zissimopoulos has filed a Notice of Appeal to the Office of Administrative Law ("OAL") as to that FNDA.

WHEREAS, Officer Zissimopoulos and the City have worked out a settlement as to the FNDA on all charges except "Atlantic City Police Department General Order Volume I, Chapter 2 Rules and Regulations, Section 3:5.7 Truthfulness".

WHEREAS, Officer Zissimopoulos and the City desire to work out a settlement as to a separate pension issue.

WHEREAS the City and Officer Zissimopoulos desire to set forth all the terms and conditions of their arrangement in this Agreement and General Release; and

THEREFORE, in consideration of the promises contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which each of the parties acknowledge, the City and Officer Zissimopoulos agree as follows:

1. This Agreement is only valid if Officer Zissimopoulos successfully defends the charge of "Atlantic City Police Department General Order Volume I, Chapter 2 Rules and Regulations, Section 3:5.7 Truthfulness" at the OAL and same is dismissed. If that charge is sustained, Officer Zissimopoulos will be deemed to have generally resigned from the City pursuant to N.J.A.C. 4A:2-6.3.

¹ The City of Atlantic City includes all its Departments, Agencies and Divisions, including but not limited to the City of Atlantic City Police Department.

2. Assuming Officer Zissimopoulos successfully defends the charge of "Atlantic City Police Department General Order Volume I, Chapter 2 Rules and Regulations, Section 3:5.7 Truthfulness" at the OAL and it is dismissed, then:
 - a. The City will amend the FNDA and drop that charge.
 - b. Officer Zissimopoulos will withdraw his plea of "not guilty" and enter a plea of "guilty" to all remaining charges.
 - c. The City will amend the "Specifications" of the FNDA and remove the last three sentences of the FNDA.
 - d. The City will amend the "Penalty" from "Removal" to "Suspension of 180 Working Days". Officer Zissimopoulos will receive credit for any days suspended without pay already served through the date of this Agreement.
 - e. Officer Zissimopoulos will withdraw further appeal at the OAL.
 - f. From the date of this Agreement through December 31, 2027, the City shall be able to send Officer Zissimopoulos for random drug testing as many times and as often as it see fit, even if that number exceeds the amount of testing allowed by the New Jersey Attorney General Guidelines and/or any governing Collective Bargaining Agreement PBA Local 22 and the City.
 - g. **Last Chance Agreement.** Officer Zissimopoulos agrees that any disciplinary infraction of which he is found guilty and would warrant major discipline (a suspension of 6 or more days) related to an "any violation of the Administrative Code" and/or "any violation of Atlantic City Police Department General Orders, and/or "any violation of Atlantic City Police Department Rules and Regulations", the appropriate penalty will be removal/termination.

Officer Zissimopoulos agrees that this penalty is not appealable and understands that he may only appeal whether or not the underlying action leading to the discipline occurred and/or warranted a major penalty.

This Paragraph shall not be triggered if Officer Zissimopoulos is involved in an incident that only warrants minor discipline, a counseling, additional training, or other informal corrective action.

This clause of the Agreement will remain in effective until December 31, 2024. In other words, this clause of the Agreement ceases to

exist after January 1, 2025 unless a case is still pending that occurred prior to January 1, 2025.

3. Other than the FNDA noted above, the parties recognize that Officer Zissimopoulos has no other pending administrative charges.

4. Officer Zissimopoulos has a separate matter pending with the Board of Trustees of the Police and Firemen's Retirement System over proper enrollment in that pension system. No part of this Agreement impacts or, in any manner, affects that matter.

5. As to the FNDA, Officer Zissimopoulos, for himself, his heirs, executors, administrators, successors, and assigns, hereby releases and forever discharges the City and its departments, political subdivisions, successors, and assigns, and their respective past, present and future representatives, council members, commissioners, officers, agents, employees, citizens, insurance carriers, successors, and assigns, and the estate(s) of theirs from any and all action, causes of action, lawsuits, claims, charges, debts, sums of money, accounts, covenants, contracts, controversies, agreements, promises, trespasses, damages, liabilities, judgments, executions, and/or demands of any nature whatsoever, whether in law or in equity, or with any individual, agency, organization, or governmental body, whether known or unknown, which Officer Zissimopoulos ever had, now has, or can, shall, or may have under any contract, tort or common law theory, and/or under any Federal, State, local statute, including but not limited to: the Age Discrimination in Employment Act, 29 U.S.C. §621 et seq., as amended by the Older Worker's Benefit Protection Act, specifically §626; Title VII of the Civil Rights Act of 1964 and 1991, as amended, 42 U.S.C. § 2000e, et seq. and laws amended thereby; the Civil Rights Act of 1966, 42 U.S.C. §1981, et seq.; the Civil Rights Statutes contained in 42 U.S.C. §1983, 1985 and 1986 and any related laws; the New Jersey Civil Rights Act, N.J.S.A. 10:6-2 et seq.; the Americans with Disabilities Act (ADA), 42 U.S.C. §12101, et seq.; the Federal Family and Medical Leave Act, 29 U.S.C. §2601, et seq.; the Employee Retirement Income Security Act, 29 U.S.C. §1001, et seq.; the Rehabilitation Act of 1973, 29 U.S.C. § 791, et seq.; the Equal Pay Act, 29 U.S.C. §206(d); the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq.; the New Jersey Family Leave Act, N.J.S.A. 34:11b-1, et seq.; the New Jersey Wage and Hour Law, N.J.S.A. 34:11-56a, et seq.; the New Jersey Wage Payment Law, N.J.S.A. 34:11-4.1, et seq.; the New Jersey Law Against Discrimination N.J.S.A. 10:5-1; and any other Federal, State or local equal employment opportunity laws, regulations, or ordinances; or under a theory of negligence; interference with contract/business advantage, fraud; intentional infliction of emotional distress; and/or any other duty or obligation of any kind or description. This release shall apply to all known, unknown, unsuspected, and anticipated claims, liens, injuries, and damages up to and including the day of the date of this Agreement. Specifically excluded from this waiver is any claim Officer Zissimopoulos may have in relation to workers compensation or with the Division of Pensions.

6. Officer Zissimopoulos represents that, he has not filed any complaint, claim or charge against any other party with any local, state, or federal agency or court and will not do so at any time hereafter, and that if any agency or court assumes jurisdiction of any complaint, claim or charge against the City, Officer Zissimopoulos will request such agency or court to withdraw from the matter. This provision shall not affect any rights Officer Zissimopoulos may have under the applicable law to challenge the validity of his waiver of claims under the ADEA.

7. The covenants in this paragraph apply to all claims accrued up to the date Officer Zissimopoulos executes this Agreement.

8. Officer Zissimopoulos understands that he is executing the agreement freely and voluntarily. The City and Officer Zissimopoulos agree, and Officer Zissimopoulos understands that he does not waive any rights or claims that may arise after the date he executes this Agreement. Officer Zissimopoulos and the City agree that any modifications to this Agreement, whether material or immaterial, must be made immediately.

9. Should any provision of this Agreement be declared or determined by a court to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected, and the illegal or invalid part, term, or provision shall be deemed not to be a part of this Agreement. The remainder of the Agreement shall remain in full force and effect. If, however, the Release contained in this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, Officer Zissimopoulos agrees, promptly upon the request of the City, to execute a new release that is valid and enforceable. In the absence of a valid, enforceable release, this Agreement shall be null and void.

10. This Agreement shall not be construed in favor of or against any party on the basis that the party did or did not author this Agreement. It is intended that this Agreement shall be comprehensive in nature and shall be construed liberally to affect its purposes.

11. This Agreement shall not in any way be construed as an admission on the part of the City or the Releasees that the City or the Releasees wrongfully or in any manner or fashion whatsoever violated any law or obligation to Officer Zissimopoulos.

12. This Agreement is binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, executors, administrator, successors, and assigns.

13. This Agreement sets forth the entire agreement between the parties, fully supersedes all prior agreements or understandings between the parties and may not be modified orally.

14. The parties may execute this Agreement in counterparts. Each counterpart, when executed will be deemed to be an original, all of which together will constitute one Agreement. The parties agree that faxed or PDF scanned counterpart signatures render this Agreement binding.

15. This Agreement is subject to formal approval and ratification by the City's governing body and appropriate authority, whomever is deemed by the City and their attorney.

16. It is understood between the parties that neither party has relied upon any representation, express or implied, made by any other party or their counsel or any of their representatives, and that this Agreement constitutes the entire understanding of the parties and cannot be modified except in writing signed by all the parties hereto.

17. The parties agree that this Agreement shall be interpreted in accordance with the laws of the State of New Jersey and that any dispute involving the terms of this Agreement shall be brought in the Superior Court of New Jersey, Atlantic County, which the parties agree shall have exclusive jurisdiction of any such claims.

18. BY SIGNING THIS SETTLEMENT AGREEMENT, OFFICER ACKNOWLEDGES:

- A. HE HAS READ IT.
- B. HE UNDERSTANDS IT AND KNOWS HE IS GIVING UP IMPORTANT RIGHTS.
- C. HE AGREES WITH EVERYTHING IN IT.
- D. HIS ATTORNEY NEGOTIATED THIS SETTLEMENT AGREEMENT WITH HIS KNOWLEDGE AND CONSENT.
- E. HE HAS BEEN ADVISED TO CONSULT WITH HIS ATTORNEY AND PBA UNION PRESIDENT PRIOR TO EXECUTING THIS SETTLEMENT AGREEMENT, AND HAS IN FACT DONE SO; AND
- F. HE HAS SIGNED THIS SETTLEMENT AGREEMENT KNOWINGLY AND VOLUNTARILY.

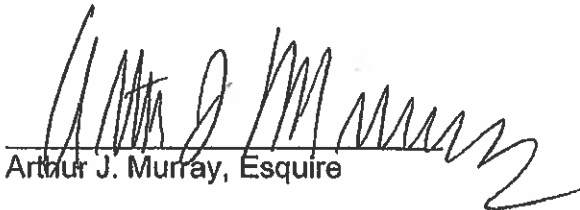
IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement and General Release to be executed and signed the day and year first written above.

Dated: 11-8-22


KLEOVOLOUS ZISSIMOPOULOS

Attorney for Officer Zissimopoulos

Dated: 11-8-22


Arthur J. Murray, Esquire

19. BY SIGNING THIS SETTLEMENT AGREEMENT, THE DESIGNATED AUTHORIZED REPRESENTATIVE OF THE CITY ACKNOWLEDGES:

- A. HE/SHE HAS READ IT.
- B. HE/SHE UNDERSTANDS IT AND KNOWS THE CITY IS GIVING UP IMPORTANT RIGHTS.
- C. HE/SHE AGREES WITH EVERYTHING IN IT.
- D. HIS/HER ATTORNEY NEGOTIATED THIS SETTLEMENT AGREEMENT WITH THE CITY'S KNOWLEDGE AND CONSENT.
- E. HE/SHE HAS BEEN ADVISED TO CONSULT WITH THE CITY'S OUTSIDE LABOR ATTORNEY AND THE CITY SOLICITOR PRIOR TO EXECUTING THIS SETTLEMENT AGREEMENT, AND HAS IN FACT DONE SO; AND
- F. HE/SHE HAS SIGNED THIS SETTLEMENT AGREEMENT KNOWINGLY AND VOLUNTARILY.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

Dated: November 17, 2022

Michael J. Pennino
AUTHORIZED REPRESENTATIVE OF
ATLANTIC CITY (PRINT NAME)

[Signature]
(SIGNATURE)

Attorney for the City

Dated: November 17, 2022

Steven Glickman
Steven Glickman, Esquire

Angiulo, Nicholas [CSC]

From: Arthur J. Murray <AMurray@ALTERMAN-LAW.COM>
Sent: Tuesday, January 17, 2023 10:14 AM
To: Angiulo, Nicholas [CSC]
Cc: Steve Glickman
Subject: [EXTERNAL] RE: CSR 08515-22

Director Angiulo,

Appellant Zissimopoulos' first day suspended without pay was September 8, 2022.

The parties jointly agree the 180 days will be 180 calendar days will run from September 8, 2022 to March 7, 2023.

Additionally, it is the parties' preference that the Commission would note that while it affirms the ALJ's finding regarding the remaining charge, it rejects any remedies provided by the ALJ in favor of the parties agreed upon remedies in the settlement.

Please confirm this joint email is acceptable and the Commission needs nothing further from us.

-Art

From: Angiulo, Nicholas [CSC] <Nicholas.Angiulo@csc.nj.gov>
Sent: Friday, January 13, 2023 1:17 PM
To: Arthur J. Murray <AMurray@ALTERMAN-LAW.COM>
Cc: Steve Glickman <sglickman@rrlaborlaw.com>
Subject: RE: CSR 08515-22
Importance: High

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Murray:

Since the settlement is contingent on whether the remaining charge is sustained by the ALJ/Commission, the Commission will be required to act on the ALJ's initial decision. However, given that the parties apparently agree to abide by that determination as to the remaining charge and not file any exceptions, while I cannot guarantee that the Commission will affirm that finding, it is nearly certain that the Commission will affirm it. Additionally, given the settlement agreement presented, along with affirming the ALJ's decision, the Commission can also acknowledge the settlement of the parties at the same time, which would, in effect allow for the terms/contingencies detailed in that agreement to be effected. In that regard, the Commission would note that while it affirms the ALJ's finding regarding the remaining charge, it rejects any remedies provided by the ALJ in favor of the parties agreed upon remedies in the settlement.

HOWEVER, upon reviewing the settlement, there appears to be a term that require clarification prior to the Commission's acknowledgement. The settlement indicates that the removal will be settled to a "suspension of 180 working days." Such a suspension is not in compliance with Civil Service law and rules, as a suspension, not involving

criminal charges, cannot be more than 180 calendar day (or six-months). See *N.J.S.A.11A:2-20* and *N.J.A.C. 4A:2-2.4(a)*. In this matter, assuming his removal date of August 22, 2022 was his first day separated without pay, his suspension can only span to February 22, 2023. If he was without pay before the August 22, 2023 date, his suspension can only span six-months from that date. If that is the case, any gap in time from the last date of suspension to the date of reinstatement would have to be accounted for either with back pay, or approved leave without pay.

Please provide clarification to the above as soon as possible. An email is acceptable as long as it is agreed upon by both parties.

Sincerely,

Nicholas F. Angiulo
Director
Division of Appeals & Regulatory Affairs
New Jersey Civil Service Commission

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From: Arthur J. Murray [<mailto:AMurray@ALTERMAN-LAW.COM>]
Sent: Friday, January 13, 2023 12:28 PM
To: Angiulo, Nicholas [CSC] <Nicholas.Angiulo@csc.nj.gov>
Cc: Steve Glickman <sglickman@rrlaborlaw.com>
Subject: [EXTERNAL] CSR 08515-22

Director Angiulo,

The Administrative Law Judge in the above matter issued an Initial Decision on January 12, 2023. See attached.

The parties had in place a signed Settlement Agreement which called for different contingencies depending on how the Initial Decision went. See attached.

Neither party will be submitting Exceptions and both parties want the case to be treated as a "Settled Case".

Do we need to do anything else or submit anything else to accomplish that?

-Art

ARTHUR J. MURRAY, ESQUIRE
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