
In the Court of Common Pleas of York County, Pennsylvania

SCOTT HOCKENBERRY,

CIVIL ACTION - LAW

Plaintiff,

NO. 2013-SU-3712-74

vs.

COMPLAINT

JOHN MINITO individually, and in his capacity as township official, WILLIAM C. BROWN, individually and in his capacity as township official, MARIO PIRRATNINO, individually, and in his capacity as township official, CHRISTOPHER ALLEN, individually and in his capacity as township supervisor, STEPHEN SMITH, individually and in his capacity as township official, JOHN W. JONES, individually and in his capacity as township official and ROBERT STANLEY, individually, and in his capacity as township official

Filed on behalf of:
Scott Hockenberry, Plaintiff.

Counsel of record for this party:

Peter J. Daley & Associates, P.C.
Peter J. Daley II, Esquire
242 Wood Street
California, PA 15419
Phone: 724-938-8953
Atty. I.D. #70244

Defendants.

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SCOTT HOCKENBERRY,

Plaintiff,

vs.

JOHN MINITO individually, and in his capacity as township official, WILLIAM C. BROWN, individually, and in his capacity as township official, MARIO PIRRATNINO, individually, and in his capacity as township official, CHRISTOPHER ALLEN, individually, and in his capacity as township supervisor, STEPHEN SMITH, individually, and in his capacity as township official, JOHN W. JONES, individually, and in his capacity as township official and ROBERT STANLEY, individually, and in his capacity as township official

Defendants.

IN THE COURT OF COMMON PLEAS
OF
YORK COUNTY,
PENNSYLVANIA

CIVIL ACTION - LAW

No. 2013-SU-3712-74

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Notice

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Lawyer Referral Service
137 E. Market Street
York, PA
(717) 854-8755

Lawyer Referral Service
100 South Street
Harrisburg, PA
(717) 238-6807

SCOTT HOCKENBERRY

Plaintiff,

vs.

JOHN MINITO, individually, and in his capacity as township official, WILLIAM C. BROWN, individually, and in his capacity as township official, MARIO PIRRATNINO, individually, and in his capacity as township official, CHRISTOPHER ALLEN, individually, and in his capacity as township supervisor, STEPHEN SMITH, individually, and in his capacity as township official, JOHN W. JONES, individually, and in his capacity as township official, and ROBERT STANLEY, individually, and in his capacity as township official

Defendants.

IN THE COURT OF COMMON PLEAS
OF
YORK COUNTY,
PENNSYLVANIA

CIVIL ACTION - LAW

No. 2013-SU-3712-74

RECEIVED
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Complaint For Wrongful Termination, Defamation of Character, Libel, Slander, and Negligence

AND NOW, comes the Plaintiff, Scott Hockenberry, through his attorneys, Peter J. Daley & Associates, P.C., by Peter J. Daley II, Esquire, and files this Complaint upon the following:

1. Plaintiff, Scott Hockenberry, is an adult individual and citizen of the Commonwealth of Pennsylvania, currently residing at 330 Braeburn Drive, Etters, York County, Pennsylvania.

2. Defendant, John Minito is an adult individual who resides at 621 Old Quarter Road, Apartment 5, Lewisberry, PA 17337.

3. Defendant, Robert Stanley, is an adult individual who resides at 399 Jennifer Drive, New Cumberland, PA 17070.

4. Defendant, William C. "Chuck" Brown is an adult individual who resides at 29 Springer Lane, New Cumberland, PA 17070.

5. Defendant, Mario Pirratino is an adult individual who resides at 137 Forrest Drive, Camp Hill, PA 17011.

6. Defendant, Christopher Allen is an adult individual who resides at 710 Saw Mill Road, Lewisberry, PA 17339.

7. Defendant, John W. Jones is an adult individual who resides at 445 Granite Quarry Road, New Cumberland, PA 17070.

8. Defendant, Stephen Smith is an adult individual who resides at 455 Woodcrest Dr., Mechanicsburg, PA 17050.

9. Defendants, John Minito, William C. Brown, Mario Pirratino, and Robert Stanley are collectively elected members to the Fairview Township, York County, Board of Supervisors, hereinafter referred to as "Supervisors."

(a) Defendant, Stephen Smith, is an appointed Township Manager of Fairview Township, York County.

(b) The Fairview Township Municipal Offices are situated at 599 Lewisberry Road, New Cumberland, York County, Pennsylvania, 17010, hereinafter referred to as "Municipality."

(c) Fairview Township is a township of the Second Class in the Commonwealth of Pennsylvania.

(d) On or about March 16, 2012, Plaintiff was promoted to Chief of Police of the "Municipality."

(e) On September 27, 2011, Plaintiff received a letter from the Chairman of the Board, Perry Albert, offering Plaintiff the position of Chief of Police when Chief Dugan retired. Plaintiff was advised that it was an unanimous decision by the board, but Defendant Minito advised Plaintiff that he was not in favor of the promotion; however, he would vote with the entire board.

(f) Shortly after the promotion, Officer Baker asked Plaintiff to reinstate him as detective. Baker had been reassigned to patrol from detective after allegations of misconduct while working for the County Drug Task Force and engaging in a bar fight off duty. Principal Albin from Fishing Creek Elementary called regarding Officer Baker's conduct with teachers. He had received complaints that Baker was making inappropriate comments to teachers and showing up at their houses or telling them he knew where they lived. Plaintiff advised him that there were no positions open at the time, but that he could compete for a position if one came open.

(g) Officer Baker told other officers that he was going to make sure that Plaintiff got fired because of "what plaintiff was doing to him." Between March and May 2012, Defendant Minito requested copies of two police reports. One of the reports was a rape case, in which Defendant Minito friend's son was being investigated. Defendant Minito demanded Plaintiff give him a copy of the report, and Plaintiff advised him that he was not permitted by law to release the contents of an investigative report. Defendant Minito became angry and said he was going to have the solicitor instruct me to release the report. Defendant Minito proceeded to hang up the phone. Plaintiff shortly thereafter received a phone call from Solicitor Jones. Solicitor Jones advised Plaintiff that he again acted appropriately by not releasing the report.

(h) During the first week of October, 2012, Plaintiff received a call from Chairman of the Board, Chuck Brown. Defendant Brown asked Plaintiff to respond to his residence. Plaintiff did so, and Defendant Brown showed him a copy of a photograph of Plaintiff with a topless woman. Plaintiff advised him it was taken in Ocean City, Maryland, by a friend who sent it to Officer Pietro Picciurro. Plaintiff did not send the photograph, nor consented to the photograph being forwarded to anyone, or posted on any internet site or forum.

(i) During the next township meeting, Plaintiff overheard Defendant Stephen Smith, Township Manager, speaking to Defendant Stanley, advising him how embarrassed the secretary who received the photo was. Plaintiff spoke to the secretary, Donna Nissel, who advised that she opened the mail and found the picture, but it didn't bother her. Plaintiff apologized for any issues it may have caused her.

(j) On or about October 15, 2012, Plaintiff was told by Defendant Smith that the Board had hired an attorney to investigate an anonymous complaint that the Board had received about employees. Plaintiff and Defendant Smith then met with all employees and advised them of the investigation. Employees were told if they had complaints to call Anne Zerbe, Esquire and were given her business card.

(k) On November 9, 2012, Plaintiff was on a vacation day and was called by Defendant Stephen Smith to respond to the municipal building for a meeting. Plaintiff arrived and spoke to Defendant Brown who advised plaintiff, "You are going to be fine. The executive committee knows these complaints are from disgruntled employees."

(l) Defendant Smith went into a private, unadvertised meeting with the other supervisors, minus Defendant Allen.

(m) After a few minutes, Plaintiff was asked to come into the office, and was given a Letter of Termination and a PC affidavit. (A copy of the same is attached hereto and made a part hereof as Exhibit 1).

(n) Plaintiff was told he was being terminated for the prostitution arrest. Plaintiff advised that they had done several such arrests and had the support of the District Attorney's office on all of the arrests. Plaintiff asked if he would be provided an opportunity to refute the charges under the Pennsylvania Police Tenure Act and was told that they weren't interested in hearing any testimony and Plaintiff was escorted off of the property.

(o) In May of 2013, Defendant Minito was witnessed showing a document titled "Confidential Report of Special Counsel," (hereinafter referred to as Confidential Report) prepared for Fairview Township to bar patrons to discredit Plaintiff during the primary election for Township Supervisor. Plaintiff had never been provided a copy of the report. (A copy of which is attached hereto and made a part hereof as Exhibit 2).

(p) In October 2013, the Confidential Report prepared by Anne Zerbe, Esquire was requested by Pennlive and Marvin Beshore under the Pennsylvania Open Records Act. The board voted to release the document, and it was then posted on the internet and Facebook by Stanley and Jones for Supervisor.

(q) Plaintiff was formally terminated at a Board of Supervisors' meeting held on November 8, 2012 at 2:00 p.m.

(r) All Defendants were present with the exception of Defendant, Christopher Allen, Supervisor, who was absent.

(s) The Defendants adjourned to an Executive Session at 2:05 p.m. and reconvened at 3:00 p.m.

(t) Defendant Stanley made a motion, which was seconded by Defendant Minito to terminate the employment of Plaintiff, effective immediately. Defendants Brown, Pirratino, Stanley, and Minito voted in the affirmative.

(u) That meeting was recessed until Wednesday, November 14, 2012 at 2:00 p.m. (A copy of the minutes of which is attached hereto and made a part hereof as Exhibit 3).

(v) Plaintiff was hand delivered a letter of termination of at-will employment. The letter stated., "As a result of an anonymous complaint received by Fairview Township , Fairview Township retained special counsel to conduct an investigation as a result, Fairview Township has received publicly available documents that demonstrate unacceptable and unprofessional behavior that violates the Mission Statement of the Fairview Township Police Department." (A copy of the letter is attached hereto and made a part hereof as Exhibit 4).

(w) A Confidential Report for Special Counsel was prepared for Fairview Township by Anne E. Zerbe, SPHR, Esquire, 135 North George Street, York, PA 17401, and issued on May 16, 2013.

(x) The Police Tenure Act of 1951, P.C. §86, W. 44, as amended regulates the suspension, removal, furlough, and reinstatement of Police Officers (full time).... In townships of the second class.

(y) The Police Tenure Act, hereinafter referred to as the "Act 6," provides that a no personnel employed as a regular full time police officer in any police department in a township of the second class, except for probation officers, for a period of one (1) year or less, shall be suspended, removed or reduced in rank with the exception for the following reasons: physical or mental disability affecting his ability to continue in service..."

(z) Act 6 further provides that written statement of charges made against any person so employed shall be furnished to such person within five (5) days after the same are filed.

(aa) Act 6 further provides if a decision to proceed within these matters, a person to be suspended or removed shall be entitled to a public hearing. The board of supervisors shall provide a public hearing within a period of up to ten (10) days from the hearing which would be held relative to the filing of charges.

(bb) Act 6 further provided that written answers thereto shall be filed within five (5) days. The hearing shall have the accused in person or with counsel.

(cc) On or about September 30, 2013, a Right to Know request was made by "Pennlive" and Marvin Beshore to the Township Manager, Defendant Smith, for the release of information regarding the firing of Plaintiff, under the Pennsylvania Open Records Act.

(dd) Township Solicitor, David A Jones, II, Esquire, advised the Defendants that the report was a personnel matter and its contents should be kept confidential.

(ee) On or about October 1, 2013, the Defendant Supervisors voted 3-2 to release the report, in direct contravention to the advice of Attorney Jones.

(ff) Defendant Brown voted against the release of the confidential report, and released a statement "he felt that the issue being of confidentiality was outweighed by the need for the public to know. . ."

(gg) Defendant Stanley is currently a Republican Candidate seeking election to a two (2) year term of the Board, voted in favor of releasing the report, along with Defendants Minito and Allen.

(hh) Defendant Stanley was quoted in a Oct. 10, 2013 public news story reported on "Pennlive" and in the "Patriot News" stating, "three supervisors felt very strongly this information needs to be out there for voters and that someone running for public office should have disclosed why they were fired."

(ii) Defendant Jones was provided the Confidential Report and utilized, published, republished the same to further to perpetuate his political aspirations.

(jj) Defendant Minito was quoted in a Oct. 10, 2013 public news story reported on "PennLive" and in the "Patriot News" stating, "I felt from day one, to be honest with you, that the public has a right to know. The taxpayers of Fairview Township have a right to know why this individual was fired. . . . Unfortunately under the personnel matter, you can't speak up which is irritating to me because I feel taxpayers should know what's going on."

(kk) Defendant Stanley voted to release the information then proceeded to develop a website with information that was obtained in direct violation of the Right to Know Act of 2008 effective January 1, 2009 and against the advice of Solicitor Jones. (A copy is attached hereto and made a part hereof as Exhibit 5).

(ll) The Public Right to Know Act PL6 Section 708, exception for public records (b) exceptions provides the following records relative to an agency. (7) (ie) A performance rating or review (vi) written criticisms of an employee (viii) information regarding discipline, demotion or discharge contained in a personnel file. (17) a record of an agency relating to a non criminal investigation, including, (1) complaints submitted to an agency; (11) investigative materials, notes, correspondence and reports; (vi) a record that, if disclosed would do any of the following: (a) reveal the institution, progress or result of agency's investigation, (c) constitutes an unwarranted invasion of privacy.

(mm) Defendants Stanley and Jones have personally financed the purchase of yard signs that have been posted throughout the township that say "THETRUTHABOUTHOCKENBERRY.COM" hereinafter referred to as "website," with the specific purpose to defame, libel, and slander the Plaintiff.

(nn) Defendants Stanley and Jones have created and funded the internet website with the specific purpose to defame, libel and slander the Plaintiff. (See Exhibit 4).

(oo) Defendants Stanley and Jones have designed and purchased the installation of a billboard located along Interstate 83 on Reeser Summit., stating "... Fairview Township Voters.... For the truth about Hockenberry go to TRUTHABOUTHOCKENBERRY.COM... paid for by Stanley and Jones Supervisors," with the specific purpose to defame, libel and slander the Plaintiff. (A copy is attached hereto and made a part hereof as Exhibit 6).

(pp) On or about October 10, 2013, Plaintiff's Attorney Peter J. Daley II, Esquire, Peter J. Daley & Associates, P.C. directed correspondence to Defendants instructing them to cease and desist. (A copy of said correspondence is attached hereto and made a part hereof as Exhibit 7).

Count I- Wrongful Termination

(qq) Plaintiff incorporates herein by reference the allegations of paragraphs 1 through 51 inclusive fully as if set forth at length.

(rr) On or about November 8, 2012, the Defendants as members of the Fairview Township Supervisors met in a non-advertised meeting to discuss certain personnel issues with Plaintiff.

(ss) The November 8, 2012 meeting was in violation of the Sunshine Act, Act 93 of 1998 – PA Con 729 Chapter 7 of Title 65§ 703,709.

(tt) As a result of the non-advertised, non-sunshined executive meeting, Plaintiff was terminated from employment.

(uu) The Defendants failed to provide certain due process rights and obligations which should have been afforded to Plaintiff under Police Tenure Act of 1951, P.C. 586. No. 44 as amended.

(vv) The Defendants failed to provide a written statement of any charges made against Plaintiff to the Plaintiff.

(ww) The Defendants failed to provide to the Plaintiff a copy of the anonymous complaint filed against Plaintiff which was the basis for an investigation of Plaintiff.

(xx) The Defendant failed to provide a copy of the Confidential Investigation Report that was a basis for the Defendants' termination of Plaintiff.

(yy) To date, Plaintiff has never received a copy of the anonymous complaint or a copy of the Confidential Investigative Report.

(zz) The Police Tenure Act clearly states that a copy of which shall be provided to Plaintiff within five (5) days of filing of the same, a copy of written statement of charges.

(aaa) The Defendants Supervisors after the decision to proceed shall be permitted to a public hearing to Plaintiff under the Police Tenure Act within ten (10) days after the demand for the same.

(bbb) The Police Tenure Act further provides that Plaintiff was entitled to written answers to allegations within five (5) days which Defendants failed to provide.

(ccc) The Defendants then in a public meeting held on November 8, 2012, at 2:00 p.m. adjourned said meeting to an executive session at 2:05 p.m. and reconvened the regular meeting at 3:00 p.m. and proceeded to terminate the employment of the Police Chief, Plaintiff.

(ddd) The action was clearly a violation of the Police Tenure Act.

(eee) On or about November 9, 2012 in correspondence captioned as PRIVATE and CONFIDENTIAL, Defendant William C. Brown, in his capacity, as a township supervisor terminated employment of Plaintiff. (See Exhibit 1)

(fff) The correspondence of November 9, 2012, indicated the termination was a result of an investigation by special counsel and that Plaintiff demonstrated "unacceptable and unprofessional behavior that violated the Fairview Township Police Department mission statement."

(ggg) The Defendant's actions were clearly a violation of Plaintiff's due process rights under Act 6.

(hhh) Plaintiff avers that Defendants failed to show he engaged in actions prohibited by the Police Tenure Act, more specifically they have failed to substantiate any evidence in support of the charges or conduct unbecoming of an officer or that he acted improperly regarding an investigation.

(iii) Plaintiff avers the Defendants failed to establish the charges were sufficient to warrant the removal, more specifically, the Confidential Report for Special Counsel was not completed until May 2013; however, Plaintiff was removed in part from the findings of the Confidential Report on November 8, 2012.

(jjj) This failure to afford Plaintiff his procedure due process under the Pennsylvania Police Tenure Act and the Defendant's release of confidential information, specifically prohibits as an exception under the Pennsylvania Right to Know Act, has permanently harmed Plaintiff's reputation in the community and his ability to seek further employment as a police officer.

WHEREFORE, Plaintiff demands judgment against Defendants for Wrongful Termination and respectfully requests this Honorable Court to award punitive and compensatory damages to Plaintiff.

Count II – Defamation of Character/Libel, Slander, Negligence

(kkk) Plaintiff incorporates herein by reference the allegations of paragraphs 1 through 70 inclusive fully as if set forth at length.

(lll) The Defendants have by their action, releasing of privileged personal information of Plaintiff, is a violation of the Public Right to Know Act of 42 Pa.C.S.A. §8343(a).

(mmm) Defendants by their vote to release privileged personnel information which was based upon a Confidential Report for Special Counsel which was not released, completed or compiled at the time of termination of Plaintiff, was done strictly to defame the character and reputation of Plaintiff.

(nnn) This defamation was evidenced by the release of said information, against the advice of Township Solicitor Jones and for the express purpose to place this information before the public prior to an election which Plaintiff was running as a Township Supervisor of Fairview Township.

(ooo) Defendant Stanley is currently a Republican Candidate for re-election for the two (2) year term as Supervisor and Plaintiff is unopposed for the six (6) year term as Supervisor.

(ppp) Defendant Jones is currently running as a Write-In Candidate against the Plaintiff for a six (6) year term as Supervisor.

(qqq) Defendant Stanley was quoted saying publicly to a reporter for "Pennlive" and the "Patriot News," "three supervisors felt very strongly this information needs to be out there for the voters and that someone running for public office should have disclosed why they were fired..."

(rrr) Defendants Stanley and Jones conspired to use the information for his own political agenda and did communicate the same via a website, billboards and yard signs.

(sss) Defendants by the release of this information nearly eleven months after the termination was clearly done in a manner and in a fashion to have Plaintiff's chances to win the election and to defame his character publicly.

(ttt) Defendants knew or should have known that the release of the confidential information and disclosure of the confidential investigation would be published by the various media sources, and understood that special harm would be caused by said release.

(uuu) Plaintiff knew the defamatory meaning of the release of the Confidential Report for Special Counsel by Defendants was intended to defame his character

publicly and the resulting harm would effect his future employment as a police officer, as well as his chances to win the election.

(vvv) Defendants knew or should have known with the public disclosure of privilege confidential information and the failure to provide Plaintiff with the due process to prove his innocence would create actual harm and adversely affect him in his lawful trade.

(www) By Defendants' actions, public statements and comments were intended to libel Plaintiff and were known to be false and defamatory.

(xxx) By Defendants' actions and subsequent publishing and republishing of the Confidential Investigative Report, as well as the circumstances regarding the police incident that occurred on or about August 3, 2012, were intended to be written, published and broadcasted on television, as well as on Defendants' websites, and through yard signs and by highway billboards. The communication was intended to reflect negatively on the Plaintiff's character, morality and integrity as a police officer and public servant.

(yyy) Defendants' actions were targeted to the residents of Fairview Township which was evidenced by the Billboards directing the voters of Fairview Township as well as yard signs placed only within the limits of Fairview Township.

(zzz) Defendants did by actual malice and negligence, targeted a public figure, a police officer, by knowing the falsity and/or had with reckless disregard of the truth of the statements published and republished.

(aaaa) Defendants failed to provide the due process as required by the Pennsylvania Police Tenure Act and by doing so and the subsequent release of privileged information, ten (10) months after the dismissal was intended to and cause harm by this negligent act.

(bbbb) Defendants' privileges and defense to defamation are defeated because Defendants' actions were done with the intent to be done with actual malice.

(cccc) Plaintiff's aforesated actions are clearly permissible pursuant to 42 Pa.Cons. Stat §5523(1).

(dddd) Defendants' actions and public statements are defamatory in character and are therefore, actionable by Plaintiff, and Plaintiff respectfully requests this Honorable Court to award compensatory and punitive damages against Defendants.

WHEREFORE, Plaintiff demands judgment against Defendants in the amount of \$1,500,000.00 dollars which is outside the limits of arbitration.

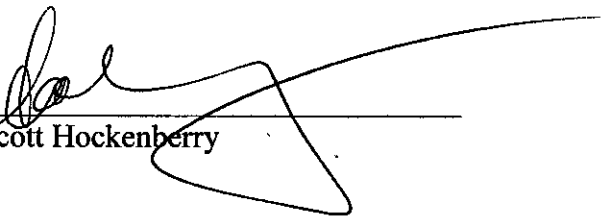
Respectfully submitted,


Peter J. Daley and Associates, P.C.
Peter J. Daley II

Verification

I, Scott Hockenberry, Plaintiff do hereby verify that the averments contained in the Complaint are true and correct to the best of my knowledge, information and belief.

This statement is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Scott Hockenberry

Dated 10/30/2013



BOARD of SUPERVISORS
William C. Brown, *Chairman*
Mario D. Pirritano, *Vice-Chairman*
John C. Minito, *Supervisor*
Christopher L. Allen, *Supervisor*
Robert P. Stanley, Jr., *Supervisor*

MANAGER
Stephen F. Smith

ASSISTANT MANAGER
Donald F. Martin, III

PRIVATE AND CONFIDENTIAL

November 9 2012

VIA HAND DELIVERY

Scott Hockenberry
Fairview Township Police
145 Limekiln Road, Suite 600
New Cumberland, PA 17070

Re: Termination of At-Will Employment

Dear Chief Hockenberry:

As a result of an anonymous complaint received by Fairview Township, Fairview Township retained counsel to conduct an investigation. As a result, Fairview Township has received publicly available documents that demonstrate unacceptable and unprofessional behavior that violates the Mission Statement of Fairview Township Police Department. Accordingly, Fairview Township voted to terminate your at-will employment effective immediately. You are required to turn in all Fairview Township property, including, but not limited to the Township's vehicle, cellular phones, all Township equipment, keys, badges, I.D.s and any and all other property and equipment belonging to the Township.

All Township sponsored benefits end effective November 9, 2012, with the exception of your health insurance benefits. Your health insurance benefits end on November 30, 2012. You and any qualified beneficiaries will receive the COBRA Election Notice following termination of your benefits.

Ex Robert
1

{00648837/1}



BOARD of SUPERVISORS
William C. Brown, *Chairman*
Mario D. Pirritano, *Vice-Chairman*
John C. Minito, *Supervisor*
Christopher L. Allen, *Supervisor*
Robert P. Stanley, Jr., *Supervisor*

MANAGER
Stephen F. Smith

ASSISTANT MANAGER
Donald F. Martin, III

In light of the circumstances resulting in your termination of employment, Fairview Township requests that you not contact any Fairview Township employees at any time while they are engaged in the business of Fairview Township. Fairview Township also requests that you not enter onto any property owned or controlled or occupied by Fairview Township. Should you have questions concerning your benefits or other information related to your employment or separation of employment, you should direct your questions to Steve Smith, Business Manager.

FAIRVIEW TOWNSHIP

By: 
William C. Brown, Chairman

c. Stephen Smith, Business Manager
David A. Jones, II, Esquire
Fairview Township Supervisors



Confidential Report from Special Counsel

Prepared for:

May 10, 2013

Fairview Township

ORIGINAL POOR COPY

Anne E. Zerbe, SPHR
Attorney
azerbe@cgalaw.com
717-848-4900

135 North George Street, York, PA 17401



Report From Special Counsel Prepared for Fairview Township
May 10, 2013

Anne E. Zerbe, SPHR, Esquire

CGA Law Firm
135 N. George Street
York, PA 17401
717-848-4900

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CONFIDENTIAL

REPORT FROM SPECIAL COUNSEL
INVESTIGATION CONCERNING ALLEGATIONS OF MISCONDUCT
REGARDING
FORMER POLICE CHIEF SCOTT HOCKENBERRY

I. BACKGROUND

On October 3, 2012, CGA Law Firm, P.C. was retained as Special Counsel to conduct an investigation into allegations of misconduct raised by an anonymous complainant against former Police Chief Scott Hockenberry. Over the course of 3 months, 18 witnesses were interviewed. The identity of the witnesses is being protected out of concerns of harassment or retaliation against those witnesses. To date, 2 witnesses reported concerns to Fairview Township regarding harassing and intimidating conduct by former Police Chief Scott Hockenberry (Hockenberry) subsequent to Hockenberry's termination.

During an Executive Session Meeting of the Board of Supervisors (Supervisors) and Fairview Township's Solicitor, David A. Jones, II, Esquire (Solicitor), Fairview Township confirmed that Hockenberry was hired as an at-will Chief of Police via an internal process. Fairview Township (Township or Fairview Township) and the Solicitor also confirmed that Hockenberry was not hired within the confines of the Civil Service Act. Accordingly, the Township confirmed that no contract of employment with Hockenberry existed, and that, as Fairview Township is a Second Class Township, Hockenberry was not subject to protections of the Civil Service Provisions. Accordingly, the only statutory protection for a police chief of a Second Class Township applicable in this case was the Police Tenure Act.

The Mission Statement of the Fairview Township Police Department as of November 2012 provided the following:

Our mission is to enhance the quality of life by ensuring the delivery of professional law enforcement and public safety services by maintaining order, protecting life and property and reducing the fear of crime to the residents, citizens and visitors of Fairview Township. The Fairview Township officers and staff stand ready to serve all equally and fairly, while respecting the constitutional rights of all.

According to the Fairview Township Police Department's website, the Chief's Message of November 5, 2012 informed its residents that the

police force would serve honorably. Former Chief Hockenberry's message stated, "We look forward to serving you with Courage, Pride and Commitment!"

In addition, relevant portions of the Pennsylvania Chiefs of Police Association Policy and Procedure Manual establish expectations for a chief of police and provide guidance concerning the delivery of police services. The Police Chiefs Desk Reference Manual stresses the importance of setting an example of ethical behavior at all times, avoiding even the perception of questionable actions or words.

Subsequent to engaging CGA Law Firm, P.C., the Township informed its employees that an investigation was being conducted by the Township with regard to certain conduct within the police force. Employees were advised that, should they have any concerns or information about the conduct of anyone in the police force that the employee feels may be relevant to the pending investigation, the employee should contact Anne Zerbe, Esquire of CGA Law Firm, P.C., at 717-848-4900. The employees were informed that Attorney Zerbe was conducting the investigation on behalf of the Township.

II. APPLICABLE LEGAL STANDARD

As noted above, because Hockenberry was employed as the Police Chief of a Second Class Township and was not hired through the Civil Service Act, he was an at-will employee subject to termination in accordance with Section 812 of the Police Tenure Act. In analyzing dismissal under the Police Tenure Act, Pennsylvania Courts have made it clear that a higher standard is applicable to police officers.

In *Powell v. Middletown Township Board of Supervisors*, 782 A.2d 617, 620 (Pa. Commw. 2001), the court held:

We demand from our law enforcement officers, and properly so, adherence to demanding standards which are higher than those applied to any other professions. It demands that in both officer's private and official lives he do nothing to bring dishonor upon his noble calling and in no way contribute to a weakening of the public confidence and trust of which he is [a] repository."

Id.

"Consequently, even off-duty conduct of a police officer maybe a basis for finding conduct unbecoming of an officer." *Id.*

The courts have defined "conduct unbecoming of an officer" under Section 812 of the Police Tenure Act as conduct tending to destroy public respect and confidence in the operation of municipal services or effecting the morale or efficiency of the police department. *Powell v. Middletown Township Board of Supervisors*, 782 A.2d 617, 620 (Pa. Commw. 2001).

In order to demonstrate "conduct unbecoming" of a police officer, it must be shown that his conduct adversely affected the morale or efficiency of the police force or tended to destroy public respect for municipal employees and confidence in the operation of municipal services. *Appeal of Herrington*, 73 Pa. Commonwealth Ct. 421, 458 A.2d 320 (1983); *Zeber Appeal*, 398 Pa. 35, 156 A.2d 821 (1959); *Kazmarek v. New Bethlehem Borough Council*, 84 Pa. Cmwlth. 19, 24, 478 A.2d 514, 517 (1984)

In *Powell*, the Commonwealth Court affirmed the Township's termination of the officer's employment under Section 2, as amended 53 P.S. § 812 of the Police Tenure Act. In the *Powell* case, the officer was on a meal break sitting with two other women at a diner. *Id.* at 619.

Another officer came over and asked Powell how his wife would react if he saw her with these two women. *Id.* at 632. Officer Powell proceeded to pull out his gun and hold it within three feet of the other officer's face. *Id.* The other officer walked out of the diner. *Id.* The Commonwealth Court affirmed the township's decision to terminate Officer Powell on the basis that he engaged in conduct unbecoming of an officer, noting that an officer holding a revolver to another individual's face as a joke constitutes conduct unbecoming of an officer. *Id.*

In *Kazmarek v. New Bethlehem Borough Council*, 478 A.2d 514 (Pa. Commw. 1984), the Commonwealth Court affirmed the Borough's determination that improper solicitations made to female members of the community constitutes conduct unbecoming of an officer and upheld the termination of the police chief. *Id.* at 517.

In *Kazmarek*, the police chief made several unsolicited remarks to three members of the community. *Id.* at 515. In one instance, the police chief made improper advances to one of the females, offered her gifts and

promised to repair her automobile. *Id.* at 516. Additionally, he made remarks three times that he would like to visit her at her apartment. *Id.*

On another occasion, the police chief made improper advances to another female, and he requested that she meet him at the police station for a late night date. *Id.* Later, the police chief made advances and remarks to another female, physically nudged her and suggested that they meet at the police station for a 2 a.m. rendezvous. *Id.*

The Commonwealth Court confirmed the decision of the Borough to terminate the police chief's employment for actions unbecoming an officer. *Id.*

III. DESCRIPTION OF ALLEGATIONS

This investigation arises out of an anonymous complaint (Complaint) received by Fairview Township on September 21, 2012. The Complaint is attached as Exhibit A. The Complaint was addressed to "Steve Smith and Supervisors." The Complaint listed approximately 13 allegations of misconduct concerning Hockenberry. The Complaint also enclosed a photocopy of a photograph of Hockenberry with his arm around a topless woman. The photograph, although of poor quality, clearly shows Hockenberry smiling and looking at the camera. Hockenberry's thumb is visible on the right arm of the topless woman.

As a result of the Complaint, an investigation was authorized by the Supervisors into the alleged misconduct as noted above.

IV. TERMINATION OF FORMER POLICE CHIEF HOCKENBERRY

As a result of the initial information obtained at the commencement of the investigation, a request to obtain publicly available records was submitted seeking all prostitution charges filed in 2012 by Fairview Township Police Department. On November 5, 2012, the undersigned received public records concerning the request for all prostitution charges filed in 2012 by Fairview Township Police Department.

In response to the request for records concerning all prostitution charges filed by Fairview Township in 2012, the undersigned received a total of 4 criminal complaints involving charges of prostitution filed by Fairview Township Police Department. Three of the four cases follow what appears to be standard procedure, and the arrest was made as soon as the undercover officer verbally confirmed that the female would accept money in exchange for a sexual act. With the exception of the

case docketed at CR-388-12, no other cases involved disrobing or undressing or physical contact between the officer and the prostitute.

The information included a Police Criminal Complaint dated August 13, 2012, Docket No. CR-388-12. According to the Police Criminal Complaint, on August 3, 2013, Hockenberry participated as the "John" in a prostitution arrest. Hockenberry recounted the events of August 3, 2012 to the prosecuting officer as set forth in the Affidavit of Probable Cause (Affidavit).

Pursuant to the Affidavit, on August 3, 2012, Hockenberry located an advertisement for erotic services. Hockenberry telephoned a female who identified herself as "Maggie," and advised Hockenberry to respond to the Days Inn at 1100 hours. Hockenberry arrived at the Days Inn and contacted "Maggie," who directed him to room 117.

According to the Affidavit, upon arriving at room 117, Hockenberry knocked on the door. An Asian female answered the door in her underwear. The female invited Hockenberry into the room. The female instructed Hockenberry to disrobe. The female assisted Hockenberry with removing his shirt.

The female asked for money, and Hockenberry responded by asking how much. The female replied \$160.00.

According to the Affidavit, the female began kissing Hockenberry's chest and unbuckled his belt and removed his pants. The female also removed all of her clothing.

The Affidavit continues to state the following:

(8) She then took a tube of what appeared to be lubrication and rubbed the contents onto her vagina.

(9) She then opened a condom and attempted to put it on Chief Hockenberry's penis.

(10) Chief Hockenberry then halted the investigation and opened the door allowing your affiant to enter the room and take the female into the custody.

Affidavit of Probable Cause, Police Criminal Complaint docketed at CR-388-12, attached as Exhibit B.

On November 9, 2012, the Supervisors met in an Executive Session with the undersigned and the Solicitor for the Township. The Supervisors

were informed of the information obtained to date and were shown the Police Criminal Complaint and Affidavit of Probable Cause describing, in graphic detail, Hockenberry's actions during the prostitution arrest. The Supervisors accepted the recommendation of counsel that Hockenberry's conduct constituted conduct unbecoming of an officer under Section 812 of the Police Tenure Act. In addition, Hockenberry's conduct violated the standards of police service set forth in the Mission Statement of the Fairview Township Police Department.

Accordingly, in the Executive Session, the Supervisors voted to terminate Hockenberry's at-will employment as Chief of Police effective November 9, 2012. Immediately thereafter, Hockenberry was asked to meet with the Supervisors in an Executive Session with Fairview Township's Solicitor and the undersigned on November 9, 2012. At the meeting, Hockenberry was presented with the letter dated November 9, 2012, informing Hockenberry of the following:

As a result of an anonymous complaint received by Fairview Township, Fairview Township retained counsel to conduct an investigation;

As a result, Fairview Township received publicly available documents that demonstrate unacceptable and unprofessional behavior that violates the Mission Statement of Fairview Township Police Department; and

Accordingly, Fairview Township voted to terminate your at-will employment effective immediately.

The letter dated November 9, 2012, is attached as Exhibit C.

Contemporaneously with providing Hockenberry with the Notice of Termination, Hockenberry was informed by the undersigned that, as a result of the investigation, Fairview Township obtained a Police Criminal Complaint in which Hockenberry participated in a prostitution arrest and demonstrated conduct unbecoming of a police officer that resulted in the termination of his employment. Hockenberry was shown the Affidavit and the Police Criminal Complaint docketed at CR-388-12.

In response, Hockenberry informed the Supervisors, the Solicitor and the undersigned that Hockenberry received approval from the District Attorney's Office to conduct the arrest in this manner, and that the prostitution arrest was part of an attempt to identify and prevent human trafficking. The termination was confirmed in light of the fact that Hockenberry's conduct, regardless of whether or not it was approved by

the District Attorney's Office, clearly demonstrated unprofessional conduct that was unbecoming of a police officer. Further, no evidence of any effort to address a potential human trafficking situation was referenced in the pleadings. The decision to terminate Hockenberry's at-will employment was based strictly on his conduct set forth in the Affidavit.

On or about November 12, 2012, Chief County Detective Darryl Albright was provided with a copy of the Police Criminal Complaint and Affidavit. Detective Albright was informed that Hockenberry advised the Supervisors that Hockenberry received approval from the District Attorney's Office to conduct the arrest in the manner outlined in the Affidavit prior to conducting the arrest, and that the arrest was part of an attempt to identify and prevent human trafficking. Chief Detective Albright was asked to provide any information concerning the incident.

On January 20, 2013, District Attorney Tom Kearney responded to the undersigned's request for information concerning the prostitution arrest made by former Chief Hockenberry docketed at CR-388-12. Counsel for Hockenberry was also copied on the response from District Attorney Kearney. According to District Attorney Kearney, his first knowledge of the prostitution arrest by Hockenberry occurred when his staff brought to his attention the Police Criminal Complaint and Affidavit charging Suhua Zahng with prostitution. According to the District Attorney's internal records, the case was entered into their system on August 8, 2012. Thus, District Attorney Kearney's first knowledge of Hockenberry's prostitution arrest occurred five days after the incident took place.

After the case was brought to his attention, District Attorney Kearney showed a copy of the Police Criminal Complaint and Affidavit to Chief County Detective Albright and placed the matter on the agenda for Executive Staff where the handling of the prostitution arrest was discussed. According to the results of the review with Executive Staff, Hockenberry's conduct was inappropriate and went beyond the elements that were necessary to establish the crime of prostitution. The District Attorney's Office indicated that Hockenberry's behavior was not deemed illegal.

District Attorney Kearney also advised that the Police Criminal Complaint and Affidavit was brought to his attention by Chief Public Defender Bruce Blocher (Blocher) who showed District Attorney Kearney the Police Criminal Complaint and Affidavit.

The response also advised that, at some point after the charges were filed, District Attorney Kearney spoke with Hockenberry and suggested that, while Hockenberry's actions were not illegal, Hockenberry went beyond what was necessary during Hockenberry's investigation. Hockenberry claimed that, due to a language barrier, Hockenberry thought his conduct was necessary to establish the elements of the offense. At that same time, after the August 3, 2012 arrest, Hockenberry also mentioned the possibility of human trafficking occurring. District Attorney Tom Kearney noted that human trafficking could have occurred as he had previously represented Asian women from Flushing, New York in the past.

See, Response from District Attorney Tom Kearney, attached as Exhibit C.

In light of District Attorney Tom Kearney's response, Hockenberry's claim that he received prior (or any) approval from the District Attorney's Office to conduct the arrest in such a manner was false. Further, the District Attorney's Office also concluded that Hockenberry's behavior was inappropriate. In addition, Hockenberry made no effort to address any concerns of human trafficking related to the August 3, 2012 arrest until after Hockenberry was informed by the District Attorney that Hockenberry's actions were inappropriate.

V. INTERVIEWS WITH WITNESSES

A. Specific Allegations Set Forth in the Anonymous Complaint

The Complaint was reviewed with each witness. Responses concerning the allegations varied depending on the witness's knowledge of and involvement with Hockenberry, the Township and/or the Fairview Township Police Department.

1. Big Salary

A Witness reported that Hockenberry bragged about the money he made as Chief and his "toys" and "motorcycles." Another Witness reported that the salary is set by the Township. Another Witness stated that Hockenberry received a \$7,000 raise when he was promoted to Chief.

2. Take Home Car

Numerous Witnesses expressed concerns that Hockenberry violated the Township's policy limiting personal use of a Township vehicle.

Witnesses reported that Hockenberry violated the Township's vehicle use policy by driving the Township vehicle on personal errands and for personal use, as well as transporting his son and his former girlfriend in the Township's vehicle. Witnesses indicated that the Township vehicle use policy prohibited anyone who was not an employee of the Township from riding in the Township vehicle. Witnesses reported that Hockenberry would pick up his girlfriend from Red Land High School and take her to lunch in his Township vehicle, that Hockenberry took his son to and from school in the Township vehicle, and that he used the Township's vehicle and gas for personal errands and personal use. Another Witness indicated that a prior police chief was suspended for 2 weeks for violating the Township's vehicle use policy by driving his wife to work, but nothing happened to Hockenberry. Hockenberry reportedly placed a Harley Davidson license plate on the Township vehicle, tinted the windows and painted the wheels. One Witness reported seeing Hockenberry on a Sunday morning in his Township vehicle with a woman inside. According to some of the Witnesses, Hockenberry "flaunted" his personal use of the Township vehicle. Other Witnesses reported that Hockenberry was off-roading in the Township vehicle in the snow and the vehicle got stuck. Hockenberry had to call Ken's Service Center to pull the Township vehicle out of the field/area.

3. Free Gas

Various Witnesses provided information concerning the allegation of "free gas." Two Witnesses noted that the Township provided a key for the gas card and free gas for all Township vehicles. Other Witnesses noted that Hockenberry used the Township's gas for his personal errands. One Witness reported that Hockenberry bragged that Hockenberry did not have to pay for gas.

4. Average 4-Day Work Week

Numerous Witnesses reported that Hockenberry was supposed to be on a regular shift like other officers, and that the schedule showed Hockenberry's hours of work as a Chief from 8 a.m. to 4 p.m. However, numerous Witnesses reported that Hockenberry took off a lot of Fridays. Hockenberry would also come in on a Tuesday (as opposed to Monday) if he did not take off the Friday before. According to the Witnesses, the schedule showed that Hockenberry should be at work, but many times he was not at work. Hockenberry took a lot of Fridays off and took a lot of 3-day weekends according to a number of Witnesses.

5. Average 6-Hour Day

Witnesses noted that there were complaints that Hockenberry left early every day, that Hockenberry was observed taking 1-2 hour lunches and left early almost every day in order to pick up his son at school by 3:30. Other Witnesses noted that Hockenberry had a lot of short days, despite the fact that he was on the schedule from 8-4 each day. Hockenberry was supposed to complete a timesheet, but the timesheets were never provided to Fairview Township Police Department. A number of Witnesses reported that Hockenberry started at 8:30 or 9 (as opposed to his 8 a.m. start time) and left at 2:30 or 3:00. (as opposed to 4:00 p.m.) Hockenberry would take his son to school and would arrive to work at least 30 minutes late. On many days, at 2:00 p.m. or 2:30 p.m., Hockenberry would change to go to the gym in order to pick up his son at school by 3:30. Other Witnesses reported that Hockenberry would change into gym clothes while at work and leave early in his gym clothes to go to the gym on a daily basis. According to other Witnesses, the officers complained that Hockenberry was leaving early and going to the gym or disappearing when he was supposed to be working.

One Witness noted that Hockenberry took off on the same days/weekends that his Lieutenant was off, and it was not appropriate for the Chief to be off and/or out of the area on the same days that his Lieutenant was unavailable.

6. Average 1-2 Hour Lunch

Hockenberry was seen numerous times at Summit Restaurant having lunch for over two hours with the police cars running. Witnesses also noted that Hockenberry was having lunch with a number of his officers. Hockenberry frequently took Jane, an employee of the Fairview Township Police Department, as well as Hockenberry's girlfriend to lunch. Numerous Witnesses reported that Hockenberry's lunch was at least 1½ to 2 hours. Hockenberry frequently had officers with him. The officers were in uniform, but Hockenberry never wore his uniform. A number of Witnesses reported that officers commented that Hockenberry had an open door policy, but because he left early and took long lunches, the open door policy was only available from 10:00 a.m. to 2:00 p.m., but he was not there from 11:00 a.m. to 1:00 p.m. because of lunch. In addition, other Witnesses reported that Hockenberry violated the Fairview Township Police Department's Gratuity Policy that prohibits police officers from accepting free meals/coffee/beverages. Witnesses reported that, in addition to an average 1½ - 2 hour lunch, Hockenberry did not pay for his meals.

Other Witnesses reported that they observed various restaurants tell Hockenberry there was no charge for his meal, and Hockenberry would accept the free meals. However, police officers were prohibited from accepting the gratuity, and had to pay for their meals.

7. Depletes Shift Coverage

Witnesses reported that Hockenberry pulled his "favorites" off shifts to clean rifles and depleted scheduling during some of the busiest shift times in order to perform accreditation work. A few Witnesses reported that, on a few occasions, Hockenberry pulled an officer off his shift to work on accreditation, and, the same day, pulled the officer off accreditation duties in order to paint rims on Hockenberry's Township vehicle. Other Witnesses noted that, especially when Hockenberry was interested in prostitution stings, Hockenberry would call one of the 2:00 shift officers in early for a special project, even though the officer on dayshift was taking all the calls and was extremely busy. The schedule normally included a dayshift officer plus Hockenberry plus the Lieutenant plus the Detective. Hockenberry would pull one officer to do a special investigation and leave the dayshift officer by himself. Hockenberry should have had the Detective help him or have someone else provide overlap coverage. Witnesses also reported that, for dayshift officers, if they needed help, Hockenberry would not help. Instead, he would call other officers to come in early. Other Witnesses reported that Hockenberry told officers to paint Hockenberry's office. Hockenberry did not take calls. The Witnesses reported that it was beneath Hockenberry to take calls.

Witnesses reported that, on August 3, 2012, Hockenberry decided to set up a prostitution arrest when only one uniformed officer was on shift. During the prostitution arrest, Witnesses reported that Hockenberry called Officer Lotier in, even though he was off, and paid him overtime to assist with the detail. Witnesses reported that there was not enough manpower to handle the calls coming in when Hockenberry decided to pursue the prostitution sting. Other Witnesses reported that Hockenberry pulled the Detective off his investigation, and the Detective was upset because he had too much to do that day.

Witnesses reported that Hockenberry would pull his "favorites" off patrol and give them jobs to do at the station. Hockenberry would pull officers off night shift to build lockers or paint the Fairview Township Police Department. Other Witnesses reported that second shift is the busiest shift and Hockenberry would pull officers off second shift to ride with Hockenberry to the dealership for vehicle repairs.

8. Meaningless Expenses

A Witness reported that Hockenberry installed cameras in the hallways of the Fairview Township Police Department that Hockenberry could access from home in order to watch what was happening at the Fairview Township Police Department. Other expenses were questioned, such as expensive computer systems for police vehicles that Hockenberry purchased, while at the same time telling officers there was no money and officers might be laid off because of budgetary constraints. Other Witnesses reported that Hockenberry submitted expenses to the Township to provide food for officers and their families during the hurricane, while employees of other Departments paid for their food out of their own pockets. Another Witness reported that Hockenberry spent \$10,000 to remodel his office. Witnesses also reported that Hockenberry would buy "plasti-dip" to paint the rims of Hockenberry's Township vehicle. A Witness indicated that Hockenberry purchased an iPad through Fairview Township Police Department to test whether the iPad could be used in police vehicles, and then took the iPad home for personal use because it was not suitable for police work. In addition, other Witnesses reported that Hockenberry almost never wore his uniform and purchased "BDU" and cargo pants and polo shirts with Township money. Witnesses also reported that Hockenberry bought an assault rifle with Township dollars. Hockenberry was observed showing off the rifle and wearing it strapped around him in Fairview Township Police Department. Another Witness reported that Hockenberry bought a \$2,500 gun that only Hockenberry was permitted to use.

*** 9. Makes Meaningless Prostitution Arrests to Satisfy Personal Desires**

A number of Witnesses reported that Hockenberry bragged about the prostitution arrests he conducted. Other Witnesses reported that Hockenberry talked about prostitution a lot, and discussed in detail what the prostitute would do for the dollar amount. Hockenberry also talked about the August 3, 2012 prostitution arrest and told witnesses that it "got close" and relayed that he had his "pants down to his knees" and then he arrested her. Other Witnesses reported that Hockenberry was bragging about the prostitution arrest and was constantly talking about women and having sex. This occurred in Fairview Township Police Department and in public areas of the Township building. Multiple Witnesses reported that, on the August 3, 2012 arrest, Hockenberry pulled officers off their regular duties to conduct a sting. The Witnesses questioned why Hockenberry conducted a sting on a day when Fairview Township Police Department was short staffed.

Witnesses confirmed that an officer was called in from his day off. The Witnesses indicated that no planning was involved with the prostitution arrest. Other Witnesses stated that Hockenberry had no instruction and no training on how to appropriately handle prostitution arrests. Witnesses stated that York County provides specialized training and that prostitution arrests are conducted according the standard training and protocol. Hockenberry reportedly did not have this training. Other Witnesses reported that Hockenberry was bragging that the woman who he arrested was naked, that she stripped his pants down, and he bragged about what she did to him. Other Witnesses reported that Hockenberry was frequently on a website looking for prostitutes and habitually commented about their breasts. Witnesses confirmed that prostitution stings are tightly controlled, and officers are instructed not to let the suspected prostitute touch them. Witnesses also stated that officers should never be without their weapon or their ability to communicate. Witnesses confirmed that touching and removing clothing in a prostitution arrest should never have occurred. Other Witnesses reported that, after a few individuals questioned the manner in which the arrest was conducted, Hockenberry got scared and tried to find a way to "spin" the arrest. After a Detective discovered a human trafficking aspect, Hockenberry spun the arrest as a human trafficking incident after the arrest occurred. Witnesses also reported that Hockenberry described how the prostitute "stripped down, got a bottle of lube and rubbed it on her." Hockenberry was discussing sex acts and the money needed for the arrest. Witnesses noted that Hockenberry demonstrated how the prostitute was rubbing "lube" on her crotch. Witnesses noted that Hockenberry got worried about the arrest after concerns were raised about the way the arrest was handled. It was reported that Blocher told Hockenberry that Blocher would take the Police Criminal Complaint to the media if Hockenberry pressed charges. According to page 2 of the Police Criminal Complaint, on August 29, 2012, the charges were withdrawn, the defendant plead guilty to a summary offense.

A request for prostitution arrests filed by Fairview Township Police Department in 2011 revealed no records of prostitution arrests in 2011.

10. Makes Sexual Comments to School District Personnel

Some Witnesses heard Hockenberry make sexual comments to teachers. At one time, Hockenberry dated a secretary at a local school. Witnesses reported that teachers would complain about Hockenberry's sexual comments. Hockenberry embarrassed the Township by making sexual comments to secretaries at a local school. Hockenberry also made

sexual innuendos to his girlfriend at the school. Other Witnesses reported that Hockenberry made sexual comments constantly, and said things like "suck my dick," "let's fuck" and "let's have a threesome." Witnesses reported that Hockenberry would talk about the size of his penis in Fairview Township Police Department and in public areas of Township buildings. Hockenberry made these comments to males and females. Witnesses reported that Hockenberry talked about sex "all the time." Hockenberry discussed his "stamina and size." Witnesses reported that Hockenberry talked about prostitution very frequently. Complaints were made to the former Chairman of the Board of Supervisors about Hockenberry's vulgar behavior, but nothing was done. In addition, other Witnesses reported that Hockenberry made embarrassing comments to waitresses at various restaurants. Witnesses heard Hockenberry say "Nice tits" to waitresses. Hockenberry also made comments like "Nice shirt; it would look good on my floor." The patrons heard these comments because they looked up when Hockenberry said them. Hockenberry also made comments to waitresses such as, "Tits looking great today." Hockenberry would make these comments to waitresses with other police officers present in their uniforms. Hockenberry never wore his uniform. Other patrons in the restaurants heard Hockenberry's inappropriate comments. Hockenberry embarrassed Fairview Township police officers with his comments. One restaurant informed Hockenberry that he was not to return because of the sexual comments he made to a waitress.

11. Poses in Photos with Topless Woman

Numerous witnesses saw the photo of Hockenberry posing with a topless woman. Witnesses reported that they were aware of complaints that Hockenberry was circulating a photo of himself with a topless woman in Fairview Township Police Department. Some Witnesses reported that they received a copy of the photograph from Mike Treaster (Treaster), who shared it with police officers, Supervisors and members of the Volunteer Fire Department. Witnesses reported that Treaster sent the topless photo to three officers in the Department. A number of Witnesses reported that Hockenberry himself circulated the photo within Fairview Township Police Department and Fairview Township. Hockenberry showed the topless photo to a female employee in front of one of the Witnesses. Hockenberry commented, "Do you want to see the worst boobs?" Hockenberry was joking about the photo until he got a call from one of the Supervisors. Some of the Witnesses reported that Hockenberry began to change his conduct after receiving the call from one of the Supervisors. Other Witnesses reported that Hockenberry posted the photo on his Facebook page, commenting

about the "twins." One of his posts occurred on September 16, 2012. Other Witnesses reported that Hockenberry showed the picture of him with the topless woman to everyone. Hockenberry was proud of the photo until he got a call from one of the Supervisors. Witnesses reported that, after Hockenberry became concerned that he would get in trouble for the photo, Hockenberry started threatening officers with being sued and getting fired for circulating the photo. Hockenberry tried to blame a few of the officers for circulating the photo. Hockenberry also tried to claim he was surprised about the photo. Some of the Witnesses observed that Hockenberry's explanation was false, and noted the relaxed stance of Hockenberry with his arm around the woman and the fact that he was smiling and looking directly at the camera when the photo was taken. Other Witnesses stated that Hockenberry would show photos of naked women that he had on his Fairview Township Police Department cell phone. Another Witness reported that Hockenberry displayed pornographic photos on his work cell.

12. Perhaps He Should Be Held to the Same Standards as Others and be Relieved of his Command

Numerous Witnesses indicated that Hockenberry should be held to the same or higher standards than other officers. A number of Witnesses reported that officers would get fired if they did what Hockenberry did, that officers could not disappear during the day, could not leave so early to go to the gym and agreed that Hockenberry should be relieved from command. Witnesses reported that Hockenberry did not act in a professional manner and embarrassed Fairview Township Police Department by talking about sexual exploits with females in public places where other people overheard. Witnesses reported that Hockenberry did not impose discipline evenly, and his "favorites" were not disciplined or reprimanded while other officers were disciplined. Witnesses noted that Hockenberry could come in late, but officers would get in trouble if they did the same things that Hockenberry did.

13. Threatens Officers with Layoffs and Firings

Witnesses reported that Hockenberry frequently threatened to layoff or fire some officers if they did not do what Hockenberry wanted. Other Witnesses reported that Hockenberry frequently threatened to layoff or fire police officers. Witnesses reported that Hockenberry claimed he was fighting to keep the officers, but it was untrue. Other Witnesses noted that Hockenberry spent significant amounts of money on cameras for patrol vehicles, while threatening to layoff officers because of budget

constraints. Witnesses reported Hockenberry constantly made comments about laying off officers, and would blame the Township. After Hockenberry became worried about his photo with the topless woman being circulated, Hockenberry increasingly threatened to layoff the officers whom he thought circulated the photos.

14. These are Facts

Witnesses generally did not comment about this statement. Witnesses reported both first hand observations and second hand knowledge concerning the allegations set forth in the Complaint.

15. Ask His Command Staff

Some Witnesses felt that the Command Staff referred to the Lieutenant and three Sergeants.

16. I Am Sure the Media Would be Interested if Nothing Were Done....or if the Right Thing isn't Done

Generally, Witnesses did not have specific comments or knowledge about this allegation. Many Witnesses expressed concern about Hockenberry's conduct and the negative impact on Fairview Township and Fairview Township Police Department as a result of his behavior.

17. It's a Great Township, Can We Get a Chief that Will Stop Embarrassing it and Cares About Something More Than Himself

Some Witnesses reported that Fairview Township Police Department's name/reputation has declined over the past few years, and officers do not want to be associated with it. Witnesses cited double standards and inappropriate behavior and comments by Hockenberry. Other Witnesses noted that Hockenberry badmouthed Fairview Township and the Supervisors. Hockenberry made the Supervisors look bad with his comments to members of the public. Hockenberry acted inappropriately in public. Other Witnesses felt Hockenberry embarrassed the Township and Fairview Township Police Department by his inappropriate behavior. Another Witness reported that Hockenberry was "severely immature" and bragged about driving 130 mph in his Mustang with this child in the backseat. A Witness described Hockenberry as sarcastic and "wildly inappropriate."

B. ADDITIONAL CONCERNS/ALLEGATIONS

1. Sale of Confiscated Weapons

A number of Witnesses reported concerns that Hockenberry arranged for Fairview Township Police Department to purchase handguns seized in an arrest. Some Witnesses expressed concerns that an appropriate inventory was not filed. Other Witnesses reported that sales tax may not have been paid and the money from the sale may not have been deposited into Fairview Township Police Department. Other Witnesses reported that the money went to the Township. Some Witnesses reported that only Hockenberry's friends had an opportunity to purchase the seized weapons. One Witness expressed concerns about whether the weapons were purchased at fair market value and reported that Hockenberry allegedly sold one of the weapons and pocketed \$600 in profit. Witnesses noted concerns about whether or not a complete inventory was taken or exists with regard to the handguns that were seized and sold to Fairview Township Police Department.

2. Allegations that Hockenberry was Aware of or Involved with Underage Drinking

Some Witnesses expressed concern that Hockenberry and the former Chief of Police, Chief Dugan (Dugan), forced one officer to resign as he took the blame for allegedly being present with underage minors who were consuming alcohol. Witnesses reported that Hockenberry was also present at the time, and that Dugan appointed Hockenberry to conduct the investigation despite the fact that Hockenberry was involved. Some Witnesses reported that a concerned parent contacted Fairview Township to report the allegation. Witnesses reported that Hockenberry was present with underage girls who were drinking. Witnesses expressed concern that Hockenberry investigated the complaint when he was involved himself and that only one officer was reprimanded despite the fact that others were present.

3. Concerns/Allegations Concerning a Party with Teenage Girls in a Hot Tub

Some Witnesses noted that a concerned parent contacted Fairview Township about a party in which teenage girls were in a hot tub and officers from Fairview Township allegedly made the girls exit the hot tub, without looking away or allowing some modesty for the girls even though they were naked. Other Witnesses confirmed that three girls were told by Fairview Township Police Officers to exit the hot tub, and that one of the individuals asked if the officers could look away while

they got out of the tub because they did not have any clothes on. Witnesses reported that the officers shown flashlights on the three girls and the four boys as each person got out of the hot tub. The Witnesses were not able to identify which officers were involved. Other Witnesses reported that they heard that Hockenberry was involved with the hot tub incident.

4. Concerns/Allegations that Hockenberry Assisted an Individual with Avoiding a DUI Arrest

Some Witnesses reported hearing rumors that a friend of Hockenberry avoided a DUI arrest. Witnesses reported that they heard a rumor that Hockenberry gave the man, who allegedly crashed his vehicle while intoxicated, a ride to another officer's house and then called another officer to report the damage. The incident allegedly occurred in early 2011. The Traffic Citations docketed at TR-388-11, TR-389-11 and TR-390-11 confirm that a [redacted] pled guilty to operating a vehicle at an unsafe speed, leaving the scene of an accident without notifying the police and operating a motor vehicle with two open alcoholic beverage containers. The Traffic Citations are attached as Exhibit C.

Another Witness reported that Hockenberry instructed another officer to drop the charges on a DUI because the person was a friend of another officer. Hockenberry approved dismissal of the charges in the Spring of 2009. The Witness could not remember the name of the individual. Other Witnesses reported that Hockenberry went to the Magisterial District Justice's (MDJ) Office and dismissed traffic tickets for friends. Other Witnesses reported that Hockenberry would dismiss citations for people who were his friends. Hockenberry could delete reports on the computer and the Incident Number would disappear.

5. Concerns/Allegations that Hockenberry Wrecked a Motorcycle and/or Did Not Report the Accident and/or Was Operating a Motorcycle Without Insurance or Registration

Numerous Witnesses reported that Hockenberry wrecked an unregistered, uninsured motorcycle on a Township road in front of his house while wearing flip flops. Witnesses reported that Hockenberry was bragging about wrecking the motorcycle, and showed Witnesses his brush burn from the incident. Some Witnesses reported that Hockenberry got the motorcycle from Ken's Service Center after the motorcycle was reported as stolen and declared an abandoned vehicle. Witnesses reported that Hockenberry told police officers that Hockenberry was doing "wheelies" on his street when he wrecked the motorcycle. Hockenberry told officers that he hurt his foot. Witnesses

observed Hockenberry limping. Some Witnesses indicated that, because Hockenberry hurt his foot or his leg, the accident was a reportable crash and was required to be reported under the Pennsylvania Motor Vehicle Code. Witnesses reported that Hockenberry did not file a report, and Hockenberry continued to talk about the accident. Other Witnesses indicated that Hockenberry could have been charged with a misdemeanor offense concerning an accident involving injury to any person and operating a motor vehicle without insurance, registration or title. One Witness expressed concern about neighbors observing Hockenberry doing "wheelies" on his motorcycle in the development when Hockenberry was supposed to enforce traffic laws. Numerous Witnesses reported that the accident was a reportable injury based on the fact that Hockenberry injured his foot/leg. Other Witnesses reported that Hockenberry was wearing flip flops at the time and his neighbors saw him wreck the motorcycle. Other Witnesses expressed concern that Hockenberry did not report his motorcycle accident, yet he criticized another officer who had a non-reportable accident.

6. Other Concerns

Numerous Witnesses expressed concern about low morale in the Fairview Township Police Department when Hockenberry was Chief. Numerous Witnesses also felt that there was little, if any, level of professionalism with Hockenberry as Chief. Witnesses also expressed that Hockenberry did not lead by example. Witnesses also indicated that rules and discipline were not evenly applied to officers. Some Witnesses indicated Hockenberry's "favorites" did not receive discipline when they should have been disciplined. Witnesses also reported that Hockenberry held officers to disciplinary standards and productivity standards, but Hockenberry never met those standards. Witnesses reported that Hockenberry was never in uniform and abused his power. Witnesses also reported that Hockenberry was not a leader. Some of the Witnesses reported that Hockenberry publicly bad-mouthed the Supervisors, as well as the Township Manager. Other Witnesses reported that Hockenberry did little police work. Hockenberry was observed spending most of his time talking to other officers or employees in Fairview Township Police Department. A Witness reported that Hockenberry was vindictive and told officers "I am going to get you for this" when they did something he did not like or refused to go along with his requests. Witnesses reported that other police departments, specifically Newberry Township Police Department, had knowledge of Hockenberry's inappropriate behavior. Witnesses reported that Hockenberry had photographs of naked women on his

work cell phone, and stated that Hockenberry made constant sexual remarks and embarrassed the Township with his actions.

V. CONCLUSION

Based on the conduct Hockenberry recounted as an officer and under penalty of law as set forth in the Affidavit describing Hockenberry's inappropriate conduct surrounding the prostitution arrest on August 3, 2012, the Township obtained clear and convincing evidence that Hockenberry engaged in actions unbecoming of a police officer in accordance with the Police Tenure Act.

In light of the high standards against which police officers are judged under the Police Tenure Act, any one of Hockenberry's admitted actions of permitting a prostitute to unbuckle his belt, remove his pants, kiss his chest, disrobe in front of him, remove his shirt, rub lubricant onto her vagina and attempt to place a condom on his penis demonstrate clear and convincing evidence that his actions destroyed the public confidence in the operation of municipal services and affected the morale or efficiency of the Fairview Township Police Department. See, *Powell, supra*.

Considering that the Police Tenure Act demands that an officer do nothing to bring dishonor upon his noble calling in both his private and official lives, Hockenberry's actions as the Chief of Police on August 3, 2012 clearly dishonored the noble profession of law enforcement and undermined the public confidence and trust. Accordingly, the Township terminated Hockenberry's employment based on his unprofessional and inappropriate actions on August 3, 2012 that clearly constituted conduct unbecoming of a police officer. See, *Powell, supra* and *Kazmarek, supra*.

Further, when confronted with the evidence of inappropriate conduct, Hockenberry lied to the Supervisors and claimed that he had approval to conduct the prostitution arrest in such an illicit and inappropriate manner. His claims were proven false by the response from the District Attorney.

In addition, notwithstanding the fact that Hockenberry was terminated based on his misconduct set forth in the Affidavit, the subsequent investigation unearthed multiple examples of conduct that were unprofessional, inappropriate, unbecoming of an officer, and, in some cases, not only exposed the Township to potential liability, they were also illegal.

For example, where the courts upheld the dismissal of a police chief for making advances on 3 women, Hockenberry's lewd, sexual comments to teachers and waitresses clearly provide grounds for termination under the Police Tenure Act. Making sexual comments in the workplace also exposed the Township to claims of sexual harassment.

In addition, it is clear that Hockenberry's private life was subject to scrutiny by virtue of his position as a police chief. *Powell, supra*. As such, even his actions in posing with a topless women for a photo served as grounds for termination. In addition, Hockenberry's circulation of the photo in the Fairview Township Police Department is another example of conduct that justifies termination under the Police Tenure Act.

Flagrant violations of the policy limiting personal use of the Township's vehicle and violations of the gratuity policy also support termination of Hockenberry's at-will employment under the Police Tenure Act. Repeatedly "shorting" the Township by consistently working less than 8 hours days, by leaving early and taking 1 ½ to 2 hour lunches is also grounds for termination and is conduct unbecoming of an officer.

Depleting shift coverage, refusing to take calls and creating a shortage of officers to handle calls during the August 3, 2013 prostitution arrest also serve as prime examples of conduct unbecoming of an officer. In addition, selling a confiscated weapon and pocketing the proceeds is another example of conduct that could support termination under the Police Tenure Act. Assisting an individual with avoiding a DUI arrest, dismissing traffic citations for friends and/or deleting reports in the system also serve as a basis to terminate Hockenberry's employment under the Police Tenure Act.

Hockenberry's admission of riding and then wrecking an unregistered, uninsured motorcycle are not only examples of clear misconduct, these actions are in fact, illegal and violate the mandatory insurance provisions under the Pennsylvania Motor Vehicle Financial Responsibility Act. Further, the fact that he injured himself while operating an uninsured, unregistered motorcycle and failed to report the accident as required under the Pennsylvania Motor Vehicle Code is also a crime.

Accordingly, in addition to the clear and convincing evidence supporting termination based on Hockenberry's actions in the August 3, 2012 prostitution arrest, the results of the investigation demonstrated clear and convincing evidence that Hockenberry engaged in conduct unbecoming of a police officer in his private and official lives, further supporting the Township's prior decision to terminate Hockenberry's at-will employment.

Respectfully Submitted,



Anne E. Zerbe, SPHR, Esq.
CGA Law Firm, P.C.

Special Counsel for Fairview Township

EXHIBIT A

BIG SALARY

TAKE HOME CAR

FREE GAS

AVERAGE FOUR DAY WORK WEEK

AVERAGE SIX HOUR DAY

• AVERAGE ONE TO TWO HOUR LUNCH

• DEPLETES SHIFT COVERAGE

• MEANINGLESS EXPENSES

2, MAKES MEANINGLESS PROSTITUTION ARRESTS TO SATISFY PERSONAL DESIRES

3, MAKES SEXUAL COMMENTS TO SCHOOL DISTRICT PERSONNEL

POSES IN PHOTOS WITH TOPLESS GIRLS

PERHAPS HE SHOULD BE HELD TO THE SAME STANDARD AS OTHERS AND BE
RELIEVED OF COMMAND

THREATENS OFFICERS WITH LAYOFFS AND FIRING

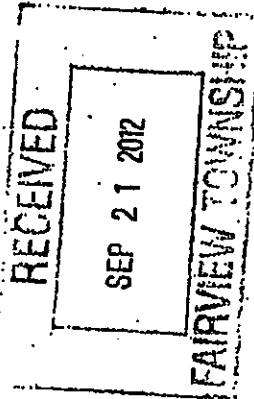
THESE ARE FACTS

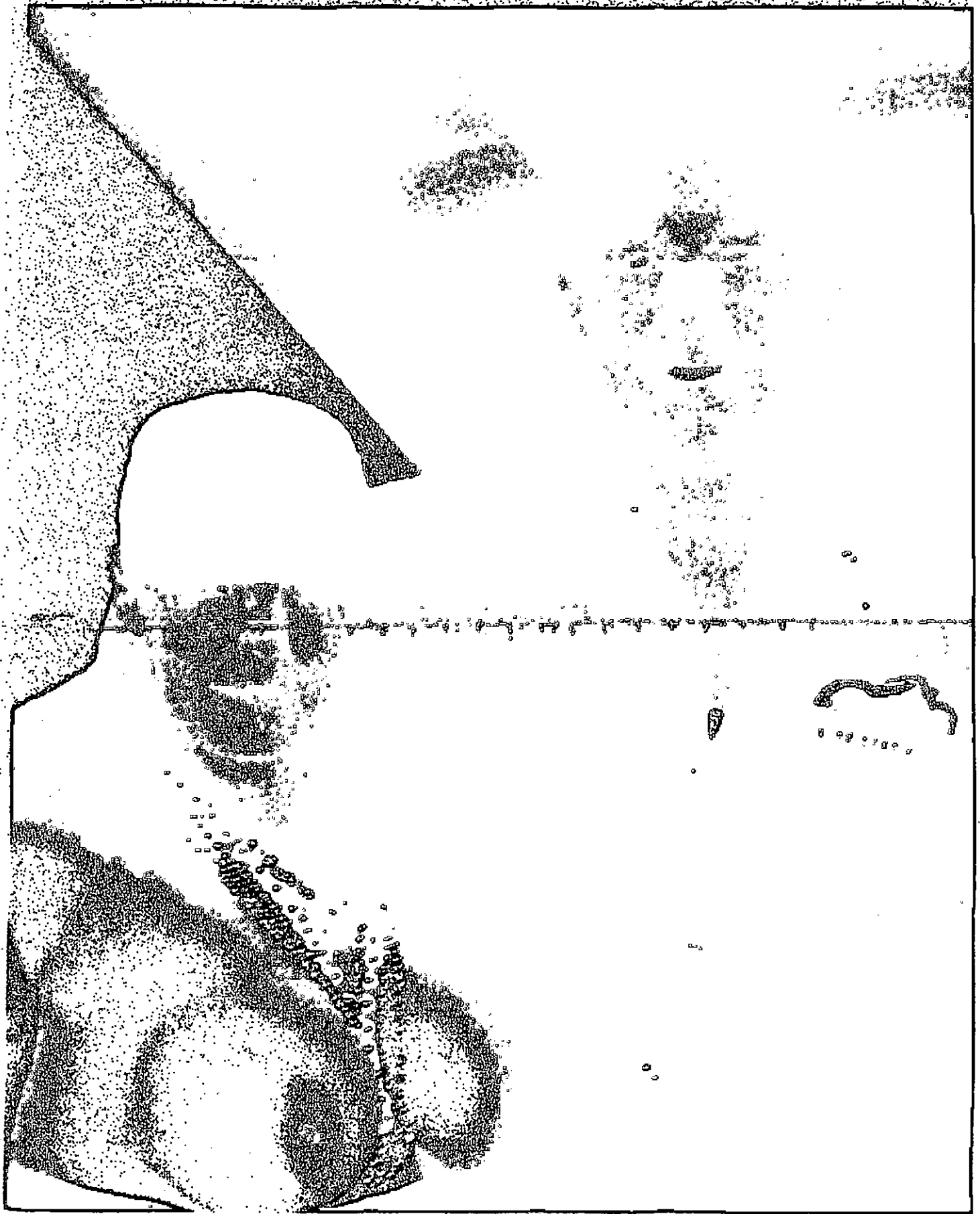
ASK HIS COMMAND STAFF

I AM SURE THE MEDIA WOULD BE INTERESTED IF NOTHING WERE DONE...OR IF
THE RIGHT THING ISN'T DONE

IT'S A GREAT TOWNSHIP, CAN WE GET A CHIEF THAT WILL STOP EMBARRASSING
IT AND CARES ABOUT SOMETHING MORE THAN HIMSELF

STEVE SMITH AND SUPERVISORS





ORIGINAL POOR COPY

EXHIBIT B

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF YORK

Magisterial District Number: 19-3-09

MDJ Non. DISTRICT JUDGE SCOTT J. GRO
Address: 700 YORKTOWNE ROAD
LEWISBERRY, PA 17339

Telephone: (717)938-2523



POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA

VS.

(NAME and ADDRESS)

DEFENDANT:

SUHUA

First Name

Middle Name

ZHANG

Last Name

Gen.

3309 150TH ST
FULSHING, NY 11354

FLUSHING

NCIC Extradition Code Type

- ☐ 1 - Felony Full ☐ 4 - Felony No Ext. ☐ B - Misdemeanor Limited ☐ E - Misdemeanor Pending
☐ 2 - Felony Ltd. ☐ 5 - Felony Pend. ☐ C - Misdemeanor Surrounding States ☐ Distance: _____
☐ 3 - Felony Surrounding States ☐ A - Misdemeanor Full ☐ D - Misdemeanor No Extradition

DEFENDANT IDENTIFICATION INFORMATION

Docket Number CR-388-12	Date Filed 8-3-12	OTN/LiveScan Number L724271-2	Complaint/Incident Number 00217337/20120803M0004	SID 6100-29-478	Request Lab Service? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
GENDER <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	DOB 07/16/1967	POB	Add'l. DOB	Co-Defendants? <input type="checkbox"/>	
AKA	First Name	Middle Name	Last Name	Gen.	
Moved to NT-577-12					
RACE <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown					
ETHNICITY <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown					
HAIR COLOR <input type="checkbox"/> Gry (Gray) <input type="checkbox"/> Red (Red/Aubn) <input type="checkbox"/> SDY (Sandy) <input type="checkbox"/> BLU (Blue) <input type="checkbox"/> PLE (Purple) <input type="checkbox"/> BRO (Brown) <input type="checkbox"/> Blk (Black) <input type="checkbox"/> Ong (Orange) <input type="checkbox"/> WHI (White) <input checked="" type="checkbox"/> XXX (Ink./Bald) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> Bln (Blonde / Strawberry)					
EYE COLOR <input type="checkbox"/> Blk (Black) <input type="checkbox"/> Blu (Blue) <input type="checkbox"/> BRO (Brown) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> GRY (Gray) <input type="checkbox"/> HAZ (Hazel) <input type="checkbox"/> MAR (Maroon) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> MUL (Multicolored) <input checked="" type="checkbox"/> XXX (Unknown)					

Driver License	State	License Number	Expires	WEIGHT (lbs.)
DNA	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DNA Location		0
FBI Number		MNU Number		Ft. HEIGHT in.
Defendant Fingerprinted	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			0 0
Fingerprint Classification				

DEFENDANT VEHICLE INFORMATION

Plate #	State	Hazmat <input type="checkbox"/>	Registration Sticker (MM/YY)	Comm'l Veh Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. Same as Def. <input type="checkbox"/>
VIN	Year	Make	Model	Style	Color		

Office of the attorney for the Commonwealth ☐ Approved ☐ Disapproved because: _____

(The attorney for the Commonwealth may require the complaint, arrest warrant affidavit, or both, be approved by the attorney for the Commonwealth prior to filing. See PA. R. Crim. P 507.)

(Name of the attorney for the Commonwealth - Please Print or Type)

(Signature of the attorney for the Commonwealth)

(Date)

I, **OFFICER JASON M. LOTIER**

(Name of the Affiant)

of **FAIRVIEW TOWNSHIP POLICE DEPARTMENT**

(Identify Department or Agency Represented and Political Subdivision)

16/MO34766A

PSP/MPOETC - Assigned Affiant ID Number & Badge #

PA0670600

(Police Agency ORI Number)

do hereby state:

- ☒ I accuse the above named defendant who lives at the address set forth above
☐ I accuse the defendant whose name is unknown to me but who is described as

- ☐ I accuse the defendant whose name and popular designation are unknown to me and whom I have therefore designated as John Doe or Jane Doe

with violating the penal laws of the Commonwealth of Pennsylvania at [**208**] **FAIRVIEW TWP**

353 LEWISBERRY RD 117 NEW CUMBERLAND, DAYS INN, FAIRVIEW TOWNSHIP, YORK (

in **YORK** County [**66**] on or about **3 AUGUST 2012 AT 1030 HRS.**

(County Code)



POLICE CRIMINAL COMPLAINT

Docket Number CE-388-12	Date Filed 8-3-12	OTN/LiveScan Number L724271-2	Complaint/Incident Number 00217337/20120803M0004
Defendant Name	First SUHUA	Middle	Last ZHANG

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits 204 PA §§ 213. - 213.7.)

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
<input checked="" type="checkbox"/> Lead?	1	5902	A1
	of the	18	1
	M3		
Offense #	Section	Subsection	PA Statute (Title)
			Counts
			Grade
			NCIC Offense Code
			UCR/NIBRS Code
PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
Statute Description (Include the name of statute or ordinance):			
PROSTITUTION AND RELATED OFFENSES			

Withdrawn Per ADA McVeigh 8-29-12

Acts of the accused associated with this Offense:

PROM PROS-INMATE IN HOUSE OF PROST/BUSINESS The actor, Suhua Zhang, on or about August 3, 2012, in the county of York, is guilty of prostitution if she is an inmate of a house of prostitution or otherwise engages in sexual activity in exchange for money, in violation of Section 5902(A)(1) of the Pennsylvania Crimes Code as amended, 18 PA C.S. 5902(A).

Add Charge Summary DC 5503 (aka)

JM 8-29-12

I plead guilty to summary Disorderly Conduct

✓ 张素花

Date 8/29/12



POLICE CRIMINAL COMPLAINT

Docket Number CL-388-12	Date Filed 8-3-12	OTN/LiveScan Number L 724271-2	Complaint/Incident Number 00217337/20120803M0004
Defendant Name	First SUHUA	Middle	Last ZHANG

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of section 4904 of the Crimes Code (18 PA C.C. 4904) relating to unsworn falsification to authorities.
- This complaint is comprised of the preceding page(s) numbered 1 through 2.

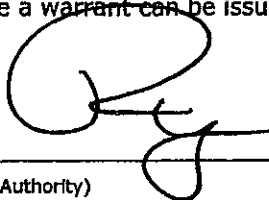
The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of Assembly, or in violation of the statutes cited.
(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

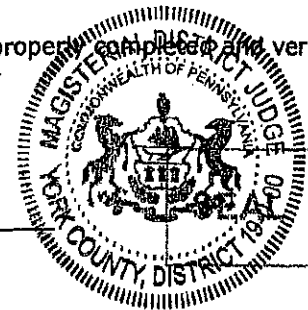
 (Date)


 (Signature of Affiant)

AND NOW, on this date 8/13/12 I certify that the complaint has been properly completed and verified.
 An affidavit of probable cause must be completed before a warrant can be issued.

19-3-09
 (Magisterial District Court Number)


 (Issuing Authority)



POLICE CRIMINAL COMPLAINT

Docket Number CL-388-12	Date Filed 8-3-12	OTN/LiveScan Number 67242712	Complaint/Incident Number 00217337/20120803M0004
Defendant Name	First SUHUA	Middle	Last ZHANG

AFFIDAVIT of PROBABLE CAUSE

Your affiant is Officer Jason M. Lotier of the Fairview Township Police Department. Based on the following information your affiant believes probable cause exists for the charge of Prostitution against Suhua Zhang.

- (1) On Friday August 3, 2012 Chief Hockenberry located an advertisement for erotic services on www.backpge.com for a female identifying herself as "Maggie".
- (2) Chief Hockenberry made telephone contact with "Maggie" who advised him to respond to the Days Inn at 1100hrs and to call back when he gets there.
- (3) Chief Hockenberry again made contact with Maggie who directed him to room 117.
- (4) Upon arriving at room 117 Chief Hockenberry knocked on the door and an Asian female answered the door in her undergarments.
- (5) She invited Chief Hockenberry in and once he came inside he was directed by the female to disrobe and she assisted him with removing his shirt.
- (6) She then said "money" at which time Chief Hockenberry responded with how much and she replied \$160.00.
- (7) She then began kissing his chest and unbuckled his belt and removed his pants. She also removed all of her clothing.
- (8) She then took a tube of what appeared to be lubrication and rubbed the contents onto her vagina.
- (9) She then opened a condom and attempted to put it on Chief Hockenberry's penis.
- (10) Chief Hockenberry then halted the investigation and opened the door allowing your affiant to enter the room and take the female into custody.
- (11) Your affiant was able to identify the female as Suhua Zhang by her passport.

This information is true and correct to the best of your affiant's knowledge and belief.

I, **OFFICER JASON M. LOTIER (16)**, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

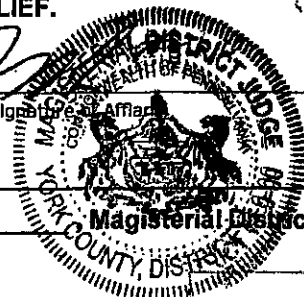
Sworn to me and subscribed before me this _____ day of _____

8/13/12

Date _____

My commission expires first Monday of January, _____

(Signature of Affiant)



SEAL

EXHIBIT C

Anne E. Zerbe

From: Kearney, Thomas L. (DA) [TLKearney@YorkCountyPA.gov]
Sent: Friday, January 25, 2013 5:26 PM
To: Anne E. Zerbe
Cc: Paskey, Edward (epaskey@yorklaw.com)
Subject: Former Chief Hockenberry
Attachments: Chief Hockenberry.doc

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Anne:

I am responding to your request for my recollections surrounding the arrest of Suhua Zhang made by former Chief Hockenberry. I am also sending a copy to Ed Paskey as he was quoted in the paper as representing the Chief.



Tom Kearney
York County District Attorney

York County Judicial Center
45 N George St
York PA 17401
Work: 717-771-9600 x304
Email: TLKearney@YorkCountyPA.gov
www.yorkda.com

SAVE PAPER – THINK BEFORE YOU PRINT
Supporting Paperless Office Concepts

CONFIDENTIALITY NOTICE - This email message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

My first knowledge of prostitution arrest on the part of Chief Hockenberry occurred when a filed complaint and probable cause affidavit charging Suhua Zhang was brought to my attention by my staff. Our internal records show that the case was entered into our system on August 8, 2012. I showed a copy of the complaint and probable cause affidavit to Chief County Detective Albright and also placed the matter on the agenda for Executive Staff where it was discussed. The view of executive staff was that what had occurred was inappropriate as it went beyond what we considered necessary to establish the elements of the offense, but was not illegal.

That same day, prior to staff meeting, the matter also was brought to my attention by Chief Public Defender Bruce Blocher who also showed me the complaint and probable cause affidavit.

On July 3, 2012, I attended a meeting of the Chiefs of Police at York Area Regional Police Department. After the meeting was over I went to lunch with Chief County Detective Darryl Albright and David MacVeigh. I believe Lt. Loper was along. It is possible on this occasion Chief Hockenberry spoke of human trafficking concerns. I cannot be certain one way or another. The luncheon was for the purpose of congratulating Chief Hockenberry on his new position. I inquired of Dave MacVeigh what he recalled of that luncheon and he only recalled that the topic of motorcycles was discussed.

I also recall discussing the matter with the Chief at some point after the charges were filed and I became aware of the affidavit. I cannot recall where this occurred. I suggested to him that while not illegal, I thought he went beyond what was necessary during his investigation. He responded that there was a language barrier and he believed his conduct was necessary to insure that the elements of the offense were established.

At that time, he also mentioned the possibility of human trafficking occurring. I responded that I suspected as much as I noted the address of the defendant was Flushing, NY and I had, on the defense side, represented Asian women in the past from Flushing, NY.

EXHIBIT D

STEVE SMITH AND SUPERVISORS

RECEIVED

SEP 21 2012

FAIRVIEW TOWNSHIP

BIG SALARY

TAKE HOME CAR

FREE GAS

AVERAGE FOUR DAY WORK WEEK

AVERAGE SIX HOUR DAY

• AVERAGE ONE TO TWO HOUR LUNCH

• DEPLETES SHIFT COVERAGE

• MEANINGLESS EXPENSES

2. MAKES MEANINGLESS PROSTITUTION ARRESTS TO SATISFY PERSONAL DESIRES

3. MAKES SEXUAL COMMENTS TO SCHOOL DISTRICT PERSONNEL

POSES IN PHOTOS WITH TOPLESS GIRLS

PERHAPS HE SHOULD BE HELD TO THE SAME STANDARD AS OTHERS AND BE
RELIEVED OF COMMAND

THREATENS OFFICERS WITH LAYOFFS AND FIRING

THESE ARE FACTS

ASK HIS COMMAND STAFF

I AM SURE THE MEDIA WOULD BE INTERESTED IF NOTHING WERE DONE....OR IF
THE RIGHT THING ISN'T DONE

IT'S A GREAT TOWNSHIP, CAN WE GET A CHIEF THAT WILL STOP EMBARRASSING
IT AND CARES ABOUT SOMETHING MORE THAN HIMSELF

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF YORK

Magisterial District Number: 19-3-09

MDJ Non. DISTRICT JUDGE SCOTT J. GRO
Address: 700 YORKTOWNE ROAD
LEWISBERRY, PA 17339

Telephone: (717)938-2523



POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA

DEFENDANT:

VS.
(NAME and ADDRESS)

SUHUA

First Name

Middle Name

ZHANG

Last Name

Gen.

3309 150TH ST
FLUSHING, NY 11354

FLUSHING

NCIC Extradition Code Type

- ☐ 1 - Felony Full ☐ 4 - Felony No Ext. ☐ B - Misdemeanor Limited ☐ E - Misdemeanor Pending
☐ 2 - Felony Ltd. ☐ 5 - Felony Pend. ☐ C - Misdemeanor Surrounding States ☐ Distance: _____
☐ 3 - Felony Surrounding States ☐ A - Misdemeanor Full ☐ D - Misdemeanor No Extradition

DEFENDANT IDENTIFICATION INFORMATION

Docket Number 02-388-12 Date Filed 8-3-12 OTN/LiveScan Number L724271-2 Complaint/Incident Number 00217337/20120803M0004 SID 6100-29-478 Request Lab Service? ☐ YES ☒ NO

GENDER ☐ Male ☒ Female DOB 07/16/1967 POB Add'l. DOB Co-Defendants? ☐

AKA First Name Middle Name Last Name Gen.

Moved to NT-577-12

RACE ☒ White ☐ Asian ☐ Black ☐ Native American ☐ Unknown

ETHNICITY ☐ Hispanic ☒ Non-Hispanic ☐ Unknown

HAIR COLOR ☐ Gry (Gray) ☐ Red (Red/Aubn) ☐ SDY (Sandy) ☐ BLU (Blue) ☐ PLE (Purple) ☐ BRO (Brown)
☐ Blk (Black) ☐ Ong (Orange) ☐ WHI (White) ☒ XXX (Ink./Bald) ☐ GRN (Green) ☐ PNK (Pink)
☐ Bln (Blonde / Strawberry)

EYE COLOR ☐ Blk (Black) ☐ Blu (Blue) ☐ BRO (Brown) ☐ GRN (Green) ☐ GRY (Gray)
☐ HAZ (Hazel) ☐ MAR (Maroon) ☐ PNK (Pink) ☐ MUL (Multicolored) ☒ XXX (Unknown)

Driver License State License Number Expires WEIGHT (lbs.)

DNA ☐ YES ☒ NO DNA Location 0

FBI Number MNU Number Ft. HEIGHT in.

Defendant Fingerprinted ☐ YES ☒ NO 0 0

Fingerprint Classification

DEFENDANT VEHICLE INFORMATION

Plate # State Hazmat ☐ Registration Sticker (MM/YY) Comm'l Veh Ind. ☐ School Veh. ☐ Oth. NCIC Veh. Code Reg. Same as Def. ☐
VIN Year Make Model Style Color

Office of the attorney for the Commonwealth ☐ Approved ☐ Disapproved because: _____

(The attorney for the Commonwealth may require the complaint, arrest warrant affidavit, or both, be approved by the attorney for the Commonwealth prior to filing. See PA. R. Crim. P 507.)

(Name of the attorney for the Commonwealth - Please Print or Type)

(Signature of the attorney for the Commonwealth)

(Date)

I, OFFICER JASON M. LOTIER

(Name of the Affiant)

of FAIRVIEW TOWNSHIP POLICE DEPARTMENT

(Identify Department or Agency Represented and Political Subdivision)

16/MO34766A

PSP/MPOETC - Assigned Affiant ID Number & Badge #

PA0670600

(Police Agency ORI Number)

do hereby state:

- ☒ I accuse the above named defendant who lives at the address set forth above
☐ I accuse the defendant whose name is unknown to me but who is described as

- ☐ I accuse the defendant whose name and popular designation are unknown to me and whom I have therefore designated as John Doe or Jane Doe

with violating the penal laws of the Commonwealth of Pennsylvania at [208] FAIRVIEW TWP
353 LEWISBERRY RD 117 NEW CUMBERLAND, DAYS INN, FAIRVIEW TOWNSHIP, YORK (

In YORK County [66] on or about 3 AUGUST 2012 AT 1030 HRS.

(County Code)



POLICE CRIMINAL COMPLAINT

Docket Number CE-388-12	Date Filed 8-3-12	OTN/LiveScan Number L7242712	Complaint/Incident Number 00217337/20120803M0004
Defendant Name SUHUA	First SUHUA	Middle	Last ZHANG

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a **brief** summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits 204 PA §§ 213. - 213.7.)

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input checked="" type="checkbox"/> Lead?	1	5902	A1	of the	18	1	M3		
	Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code	
PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone			
Statute Description (Include the name of statute or ordinance): PROSTITUTION AND RELATED OFFENSES <i>Withdrawn Per ADA McVeigh 8-29-12</i>									

Acts of the accused associated with this Offense:

PROM PROS-INMATE IN HOUSE OF PROST/BUSINESS The actor, Suhua Zhang, on or about August 3, 2012, in the county of York, is guilty of prostitution if she is an inmate of a house of prostitution or otherwise engages in sexual activity in exchange for money, in violation of Section 5902(A)(1) of the Pennsylvania Crimes Code as amended, 18 PA C.S. 5902(A).

Add Charge Summary DC 5503(axu)
JPM 8-29-12

I plead guilty to summary Disorderly Conduct

✓ 张素花

Date 8/29/12



POLICE CRIMINAL COMPLAINT

Docket Number CL-388-12	Date Filed 8-3-12	OTN/LiveScan Number L 724271-2	Complaint/Incident Number 00217337/20120803M0004
Defendant Name	First SUHUA	Middle	Last ZHANG

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of section 4904 of the Crimes Code (18 PA C.C. 4904) relating to unsworn falsification to authorities.
- This complaint is comprised of the preceding page(s) numbered 1 through 2.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of Assembly, or in violation of the statutes cited. **(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)**

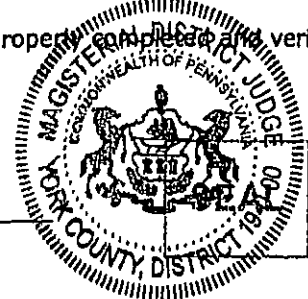
_____,
(Date) _____, (Signature of Affiant) *JML #5216*

AND NOW, on this date 8/13/12 I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed before a warrant can be issued.

19-3-09

(Magisterial District Court Number)

(Issuing Authority)



POLICE CRIMINAL COMPLAINT

Docket Number CL-388-12	Date Filed 8-3-12	OTN/LiveScan Number 67242712	Complaint/Incident Number 00217337/20120803M0004
Defendant Name		First SUHUA	Middle
		Last ZHANG	

AFFIDAVIT of PROBABLE CAUSE

Your affiant is Officer Jason M. Lotier of the Fairview Township Police Department. Based on the following information your affiant believes probable cause exists for the charge of Prostitution against Suhua Zhang.

- (1) On Friday August 3, 2012 Chief Hockenberry located an advertisement for erotic services on www.backpge.com for a female identifying herself as "Maggie".
- (2) Chief Hockenberry made telephone contact with "Maggie" who advised him to respond to the Days Inn at 1100hrs and to call back when he gets there.
- (3) Chief Hockenberry again made contact with Maggie who directed him to room 117.
- (4) Upon arriving at room 117 Chief Hockenberry knocked on the door and an Asian female answered the door in her undergarments.
- (5) She invited Chief Hockenberry in and once he came inside he was directed by the female to disrobe and she assisted him with removing his shirt.
- (6) She then said "money" at which time Chief Hockenberry responded with how much and she replied \$160.00.
- (7) She then began kissing his chest and unbuckled his belt and removed his pants. She also removed all of her clothing.
- (8) She then took a tube of what appeared to be lubrication and rubbed the contents onto her vagina.
- (9) She then opened a condom and attempted to put it on Chief Hockenberry's penis.
- (10) Chief Hockenberry then halted the investigation and opened the door allowing your affiant to enter the room and take the female into custody.
- (11) Your affiant was able to identify the female as Suhua Zhang by her passport.

This information is true and correct to the best of your affiant's knowledge and belief.

I, **OFFICER JASON M. LOTIER (16)**, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

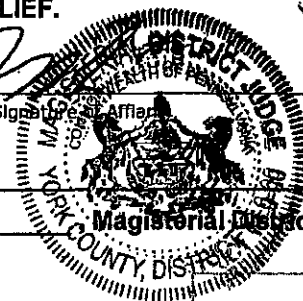
Sworn to me and subscribed before me this _____ day of _____

8/13/12

Date _____

My commission expires first Monday of January, _____

(Signature of Affiant)



SEAL

[HOME](#) [CRIME BLOTTER NOTIFICATION](#) [CRIME TIP](#) [CONTACT US](#) [OFFICER COMMENTS](#) [DIRECTIONS](#)

THURSDAY 03RD OCTOBER 2013, 11:42:20 PM

[HOME](#) [ABOUT US](#) [CRIME PREVENTION](#) [SERVICES](#) [F A Q](#) [STATISTICS](#) [USEFUL LINKS](#)

DISCLAIMER:

PLEASE NOTE: An arrest does not mean a person is guilty, only that probable cause existed for the arrest.

Mission Statement

Our mission is to enhance the quality of life by ensuring the delivery of professional law enforcement and public safety services by maintaining order, protecting life and property, and reducing the fear of crime to the residents, citizens and visitors of Fairview Township. The Fairview Township Officers and staff stand ready to serve all equally and fairly, while respecting the constitutional rights of all.

ARCHIVES

October 2013
M T W T F S S
1 2 3 4 5 6
7 8 9 10 11 12 13
14 15 16 17 18 19 20
21 22 23 24 25 26 27
28 29 30 31
« Sep

Search for:

CATEGORIES

[Accident](#)[Arrest](#)[Assault](#)[Burglary](#)[Department News](#)[Drugs](#)[News Release](#)[Robbery](#)[Sexual Assault](#)[Theft](#)[Township Emergency](#)[Vandalism](#)

Contact Us

145 Limekiln Rd.
Suite 600
New Cumberland, PA 17070
717-901-5267

Lobby Hours: 8:00 - 4:30 (M-F)

Send us an [email](#)





BOARD of SUPERVISORS
William C. Brown, *Chairman*
Mario D. Pirritano, *Vice-Chairman*
John C. Minito, *Supervisor*
Christopher L. Allen, *Supervisor*
Robert P. Stanley, Jr., *Supervisor*

MANAGER
Stephen F. Smith

ASSISTANT MANAGER
Donald F. Martin, III

PRIVATE AND CONFIDENTIAL

November 9 2012

VIA HAND DELIVERY

Scott Hockenberry
Fairview Township Police
145 Limekiln Road, Suite 600
New Cumberland, PA 17070

Re: Termination of At-Will Employment

Dear Chief Hockenberry:

As a result of an anonymous complaint received by Fairview Township, Fairview Township retained counsel to conduct an investigation. As a result, Fairview Township has received publicly available documents that demonstrate unacceptable and unprofessional behavior that violates the Mission Statement of Fairview Township Police Department. Accordingly, Fairview Township voted to terminate your at-will employment effective immediately. You are required to turn in all Fairview Township property, including, but not limited to the Township's vehicle, cellular phones, all Township equipment, keys, badges, I.D.s and any and all other property and equipment belonging to the Township.

All Township sponsored benefits end effective November 9, 2012, with the exception of your health insurance benefits. Your health insurance benefits end on November 30, 2012. You and any qualified beneficiaries will receive the COBRA Election Notice following termination of your benefits.



BOARD of SUPERVISORS

William C. Brown, *Chairman*

Mario D. Pirritano, *Vice-Chairman*

John C. Minito, *Supervisor*

Christopher L. Allen, *Supervisor*

Robert P. Stanley, Jr., *Supervisor*

MANAGER

Stephen F. Smith

ASSISTANT MANAGER

Donald F. Martin, III

In light of the circumstances resulting in your termination of employment, Fairview Township requests that you not contact any Fairview Township employees at any time while they are engaged in the business of Fairview Township. Fairview Township also requests that you not enter onto any property owned or controlled or occupied by Fairview Township. Should you have questions concerning your benefits or other information related to your employment or separation of employment, you should direct your questions to Steve Smith, Business Manager.

FAIRVIEW TOWNSHIP

By:

William C. Brown, Chairman

- c. Stephen Smith, Business Manager
David A. Jones, II, Esquire
Fairview Township Supervisors

Anne E. Zerbe

From: Kearney, Thomas L. (DA) [TLKearney@YorkCountyPA.gov]
Sent: Friday, January 25, 2013 5:26 PM
To: Anne E. Zerbe
Cc: Paskey, Edward (epaskey@yorklaw.com)
Subject: Former Chief Hockenberry
Attachments: Chief Hockenberry.doc

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Anne:

I am responding to your request for my recollections surrounding the arrest of Suhua Zhang made by former Chief Hockenberry. I am also sending a copy to Ed Paskey as he was quoted in the paper as representing the Chief.



Tom Kearney
York County District Attorney

York County Judicial Center
45 N George St
York PA 17401
Work: 717-771-9600 x304
Email: TLKearney@YorkCountyPA.gov
www.yorkda.com

SAVE PAPER – THINK BEFORE YOU PRINT
Supporting Paperless Office Concepts

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My first knowledge of prostitution arrest on the part of Chief Hockenberry occurred when a filed complaint and probable cause affidavit charging Suhua Zhang was brought to my attention by my staff. Our internal records show that the case was entered into our system on August 8, 2012. I showed a copy of the complaint and probable cause affidavit to Chief County Detective Albright and also placed the matter on the agenda for Executive Staff where it was discussed. The view of executive staff was that what had occurred was inappropriate as it went beyond what we considered necessary to establish the elements of the offense, but was not illegal.

That same day, prior to staff meeting, the matter also was brought to my attention by Chief Public Defender Bruce Blocher who also showed me the complaint and probable cause affidavit.

On July 3, 2012, I attended a meeting of the Chiefs of Police at York Area Regional Police Department. After the meeting was over I went to lunch with Chief County Detective Darryl Albright and David MacVeigh. I believe Lt. Loper was along. It is possible on this occasion Chief Hockenberry spoke of human trafficking concerns. I cannot be certain one way or another. The luncheon was for the purpose of congratulating Chief Hockenberry on his new position. I inquired of Dave MacVeigh what he recalled of that luncheon and he only recalled that the topic of motorcycles was discussed.

I also recall discussing the matter with the Chief at some point after the charges were filed and I became aware of the affidavit. I cannot recall where this occurred. I suggested to him that while not illegal, I thought he went beyond what was necessary during his investigation. He responded that there was a language barrier and he believed his conduct was necessary to insure that the elements of the offense were established.

At that time, he also mentioned the possibility of human trafficking occurring. I responded that I suspected as much as I noted the address of the defendant was Flushing, NY and I had, on the defense side, represented Asian women in the past from Flushing, NY.

Incident Report



FAIRVIEW TOWNSHIP POLICE DEPARTMENT
145 LIMEKILN RD
SUITE 600
NEW CUMBERLAND, PA 17070

Phone: (717)901-5267 Fax: (717)901-5234

Municipality **FAIRVIEW TWP (208)**
Report Type **OFFENSE**

Incident #

20120803M0004

Reference #

Location **353 LEWISBERRY RD & ROOM 117 -
NEW CUMBERLAND 17070**

Landmark **DAYS INN**

Premise

Point of Entry
Meth. of Entry

Patrol Zone **01** Grid **K-4 - K-4**

Reported **08/03/2012 @ 10:30 (Fri)**

Discovered **08/03/2012 @ 10:30 (Fri)**

Last Secure **08/03/2012 @ 10:29 (Fri)**

Received **10:30** Dispatched **10:30**

Arrived **10:30** Cleared **12:00**

Status **CLOSED/CLEARED**

Disposition **CLEARED BY ARREST**

Clear Date **08/03/2012**

Badge **16 - OFFICER JASON M. LOTIER**

Criminal Code	Title	: 18
	Section	: 5902
	Sub-Section	: A
	Description	: PROSTITUTION AND RELATED OFFENSES

UCR Codes **1600 PROSTITUTION AND COMMERCIALIZED VICE**

Additional Officers

Officers		Date	Activity
01	CHIEF SCOTT E. HOCKENBERRY	08/03/2012	ASSIST FT OFFICER
06	DETECTIVE JARRETT L. BOYLES	08/03/2012	ASSIST FT OFFICER
15	OFFICER WILLIAM H. BUZZARD III	08/03/2012	ASSIST FT OFFICER

Evidence

Item	Tag #	Date Received	Bin Location
T MOBILE SAMSUNG CELL PHONE	12-0000346	08/03/2012	EVIDENCE ROOM
NOTEBOOK WITH PHONE NUMBERS	12-0000347	08/03/2012	EVIDENCE ROOM

Investigating Officer

Signature

Date

Approving Officer

Signature

Date **8-6-12**

Persons Involved

ZHANG, SUHUA

Arrest Date : 8/3/2012

Disposition Date :

Role	Incident Classification	How Charged	Disposition
OFFENDER	1600 PROSTITUTION AND COMMERCIALIZED VICE	ARRESTED	

Alias
Age-DOB 45 - 07/16/1967 Height 5'05"
Race WHITE Weight 130 Home Addr 3309 150TH ST
Sex FEMALE Hair BLACK FULSHING, NY 11354
Ethnicity NON-HISPANIC Eyes BROWN
Marital Stat Build
Residency Non-Resident Complex.
SSN Home Ph #
Gang Work Ph #
Tattoo Cell Ph #
Clothing Other Ph #
E-Mail
Employer
GBM Id
-Entered // Occupation PROSTITUTE
-Released // Addl Addr None
OLN/State /
Injury



Comment

ORIGINAL POOR COPY

Main Narrative
OFFICER JASON M. LOTIER (16)

08/03/2012 10:30 - 16 OFFICER JASON M. LOTIER

Narrative by Chief Hockenberry:

I called a subject named "Maggie" who was listed on Backpage as an escort. She advised that she was located at the Days Inn. I asked if I could meet her at 1100 am. She advised that I could.

At 1100 hours I went to the Days Inn and called Maggie. She told me to come to room 117. I advised Ofc Lotier and Det Boyles the room number and went to the room. The door was answered by an Asian female in under garments. She motioned me in. She was the only person in the room. She obviously did not speak much English.

She motioned for me to disrobe, and assisted me with removing my shirt. She then said "money" and I asked how much she said "160". I asked what I would get for the money, but got no response. She then began kissing my chest. She motioned me to the bed and unbuckled my belt. She then removed my pants, but my underwear remained on. During this time she removed all of her clothing.

I sat on the edge of the bed and she squatted in front of me. She took a tube of what appeared to be lubrication squeezed it into her hand and rubbed it on her vagina. She then took a condom from the same shelf and opened it. She then grabbed my covered penis and attempted to pull it out of my underwear. She attempted to put my penis in her mouth. I told her that I had to "pee" and got up. I went to door and summoned the back up officers into the room. Ofc Lotier took the subject into custody.

SEH

Narrative by Officer Lotier:

On Friday August 3, 2012 at 1030hrs Chief Hockenberry made contact with a female going by the name Maggie based on an erotic advertisement on Backpage.com. Chief Hockenberry arranged to meet Maggie at the Days Inn at 1100hrs. At 1100hrs Chief Hockenberry along with this officer and Det. Boyles responded to the Days Inn. Chief Hockenberry again contacted the number and spoke to "Maggie" who directed him to room 117.

Chief Hockenberry went to the room and was invited in. This officer and Det. Boyles responded and waited outside the door in the hallway. After approximately 1 minute Chief Hockenberry opened the door wearing only his underwear. This officer and Det. Boyles entered the room. This officer observed an asian female standing in the room completely naked. This officer showed the female my police badge and she immediately threw an unwrapped condom onto the floor. This officer had the female get dressed and then took her into custody by placing the handcuffs in front. This officer double-locked the handcuffs.

This officer was unable to communicate with the female due to a language barrier. A passport was located which showed the female's picture and identified her as Suhua Zhang of Malaysia.

Ofc. Buzzard responded and took custody of Zhang and transported her to FTPD where she was secured to the bench in the holding area. This officer responded to FTPD and completed a criminal complaint against Zhang charging her with one count of prostitution. This officer and Chief Hockenberry then transported Zhang to York County Central Booking where she was turned over to the Sheriff's Department for arraignment and processing.

Cleared.

20120803M0004

1600 - PROSTITUTION AND COMMERCIALIZED VICE



Supplemental Narrative
DETECTIVE JARRETT L. BOYLES (06)

SUPPLEMENTAL 08/06/2012 12:42 - 06 DETECTIVE JARRETT L. BOYLES

On August 3, 2012 I assisted Chief Hockenberry and Ofc Lotier with this incident. Once we arrived at our police department, I met with Suhua Zhang in the prisoner holding area. Zhang was seated on the prisoner's bench and handcuffed in accordance to our policy.

I attempted to communicate with Suhua to ensure she understood why she had been arrested and exactly what would happen as a result. My efforts to communicate with Suhua were totally unsuccessful.

I contacted SA Heather Thew with the FBI in an attempt to gain access to an interpreter. SA Thew arranged for me to contact one of their Linguists, Li Min Zhang.

I contacted Li via telephone. I advised Li what took place and explained that Suhua was currently in custody for prostitution. I asked Li if he would explain everything to Suhua and confirm that she understands what will be happening as we have her fingerprinted, photographed, and arraigned for this arrest. Li advised he would explain the entire process. Additionally, I asked Li if he would speak to Suhua about whether or not she was doing these activities on her own or if she had been coerced by other subjects. I told Li that I was concerned she had been a victim of human trafficking based on the facts related to this case. Specifically, the fact that the original call placed by Chief Hockenberry was answered by another subject that spoke fluent English who seemed to be an operator at a call center.

Li spoke to Suhua via telephone for approximately ten minutes. After they spoke the telephone was handed back to me by Suhua. Li relayed the following information:

Suhua confirmed her identity that we had obtained from her passport. Suhua traveled to Hong Kong with an unknown female friend. While in Hong Kong the two women obtained business Visas to allow them to travel to the United States. On February 1, 2012 the two women arrived in the United States. Initially, Suhua obtained a job at an unknown Chinese restaurant. Suhua worked for that restaurant until they no longer needed an extra person because the business was not very successful. Suhua claimed her friend returned to Hong Kong and she elected to remain in the United States and find another job. After not being able to get another job, Suhua advised she began being a prostitute in order to get money. Suhua was adamant that she had not been forced into being a prostitute.

I asked Li to speak to Suhua a second time and specifically question her about the apparent call center that Chief Hockenberry had contacted originally. Li spoke to Suhua a second time. Suhua denied receiving the call from a call center and claimed she had no help at all in obtaining customers.

Prior to Suhua leaving our police department, I had Li confirm she understood exactly what would happen at the booking center. Additionally, I had Li tell her that we already informed the booking center that she did not speak English so they would be prepared and have a interpreter available when she arrived.

Meeting Minutes and Agendas

[Home](#)[Phone Listing](#)

2012-11-08

[Refuse / Recycling](#)

FAIRVIEW TOWNSHIP BOARD OF SUPERVISORS

November 8, 2:00 p.m.

[Zoning / Permits](#)

(Continued from October 29, 2012)

[Public Works](#)

MINUTES

[Police](#)

I. CALL TO ORDER

[Fire](#)

The meeting was called to order by the Chairman, Mr. Brown, at 2:00 p.m.

[E.M.S](#)

II. ROLL CALL:

[Twp. News/Events](#)

PRESENT: William C. Brown, Chairman

[Meeting Schedules](#)

Mario D. Pirritano, Vice-Chairman

[Public Notices](#)

John C. Minito, Supervisor

Robert P. Stanley, Jr., Supervisor

Stephen F. Smith, Manager

Donald F. Martin, Assistant Manager

[Minutes / Agendas](#)

David A. Jones, Stock & Leader, Solicitor

[History](#)

ABSENT: Christopher L. Allen, Supervisor

Scott Hockenberry, Chief of Police

[Budget / Audit](#)[Permanent Documents](#)

III. EXECUTIVE SESSION:

[Fire Hall Rental](#)

The Board recessed to Executive Session at 2:05 p.m.

[Contact Us](#)

IV. RECONVENE MEETING:

The meeting was reconvened at 3:00 p.m.

V. ANNOUNCEMENT OF EXECUTIVE SESSION:

Mr. Jones announced that the Executive Session was held to discuss personnel issues.

VI. AGENDA:

Mr. Stanley made a motion, seconded by Mr. Minito to terminate the employment of Chief of Police, Scott E. Hockenberry, effective immediately.

Vote on the motion: Mr. Brown, yes; Mr. Pirritano, yes; Mr. Stanley, yes; Mr. Minito, yes.

The motion carried.

Exhibit 3

VII. ADJOURNMENT:

The meeting was recessed until Wednesday, November 14 at 2p.m.

[[Home](#) | [Phone Listing](#) | [Refuse/Recycling](#) | [Zoning/Permits](#) | [Public Works](#) | [Police](#) | [Fire](#) |
[E.M.S.](#) | [Township News](#) | [Meeting](#) | [Minutes](#) | [History](#) | [Budget/Audit](#) | [Fire Hall Rental](#) | [Contact Us](#)]

The Truth About Ex-Chief Scott

The information provided on this web page was obtained through right-to-know through Township Meeting minutes. The bullet points below are a timeline of the leading up the termination of the Ex-Chief.

- September 21, 2012, the Fairview Township Board of Supervisors received an anonymous letter with more than a dozen complaints of improper conduct by Chief Hockenberry. [Click to view letter](#)
- October 3, 2012, the Board of Supervisors retained the CGA law firm of York as special counsel for the complaints.
- November 8, 2012, the board of Supervisors met and unanimously, 4 - 0, voted to terminate Chief Hockenberry's employment with the Township. [Click to view meeting minutes](#)
- The letter terminating the Chief stated that "as a result [of the special counsel's investigation] the Township has received publicly available documents that demonstrate unacceptable behavior that violated the Mission Statement of the Fairview Township Police Department."
- August 3, 2012, Chief Hockenberry personally posed as a 'john', initiated a response to an internet advertisement, responded to the solicitation, and after preparing to engage with the woman, arrested her and filed a criminal complaint. [Click to view criminal complaint](#)
- Chief Hockenberry's conduct in the August 3rd prostitution arrest violated accepted standards of police conduct as demonstrated by the police conduct in other such arrests. [Click to view other such arrests](#)
- Chief Hockenberry's conduct in the August 3rd arrest which did not comply with the standards of such arrests violated his commitment to "professional law enforcement and public service" as stated in the Mission Statement of the Fairview Township Police Department. [Click to view Mission Statement](#)



PETER J. DALEY & ASSOCIATES, P.C.
ATTORNEYS AT LAW

PETER J. DALEY II, ESQUIRE

Cynthia C. Skelton, Paralegal

242 WOOD STREET • CALIFORNIA, PA 15419

PHONE: (724) 938-8953 ♦ FAX: (724) 938-8959 ♦ E-MAIL: pjdassoc@zoominternet.net

October 14, 2013

Robert Stanley
599 Lewisberry Road
New Cumberland, PA 17070

RE: Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319

Dear Mr. Stanley:

My office has been retained by Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319, regarding certain statements both written and oral, as well as a published Facebook page and websites in which confidential personal information has been released publicly in direct violation of the Pennsylvania State Ethics Laws, as well as numerous state and federal laws.

You must immediately cease and desist from any further release, publication and republication of any confidential and personal information, as well as any slanderous or defamatory statements, and tortuous interference regarding my client.

You must immediately cancel the Facebook page which has been developed and possible undertaking the direction and authority of the public elected Fairfield Township officials.

If you fail to do so, I have been instructed by my client to immediately pursue all legal remedies that may be available at both the State and Federal levels.

If you have any questions, please do not hesitate to contact the office at the above-listed telephone number and address.

Very truly yours,

PETER J. DALEY & ASSOCIATES, P.C.


Peter J. Daley II

PJD/os

cc: Scott Hockenberry

Exhibit 5



PETER J. DALEY & ASSOCIATES, P.C.
ATTORNEYS AT LAW

PETER J. DALEY II, ESQUIRE

Cynthia C. Skelton, Paralegal

242 WOOD STREET • CALIFORNIA, PA 15419

PHONE: (724) 938-8953 ♦ FAX: (724) 938-8959 ♦ E-MAIL: pjdassoc@zoominternet.net

October 11, 2013

Stephen Smith
599 Lewisberry Road
New Cumberland, PA 17070

RE: Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319

Dear Mr. Smith:

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Very truly yours,
PETER J. DALEY & ASSOCIATES, P.C.

Peter J. Daley II

PJD/cs

cc: Scott Hockenberry

COPY



PETER J. DALEY & ASSOCIATES, P.C.
ATTORNEYS AT LAW

PETER J. DALEY II, ESQUIRE

Cynthia C. Skelton, Paralegal

242 WOOD STREET • CALIFORNIA, PA 15419

PHONE: (724) 938-8953 ♦ FAX: (724) 938-8959 ♦ E-MAIL: pjdassoc@zoominternet.net

October 11, 2013

Mario Pirratino
599 Lewisberry Road
New Cumberland, PA 17070

RE: Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319

Dear Mr. Pirratino:

My office has been retained by Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319, regarding certain statements both written and oral, as well as a published Facebook page and websites in which confidential personal information has been released publicly in direct violation of the Pennsylvania State Ethics Laws, as well as numerous state and federal laws.

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Very truly yours,
PETER J. DALEY & ASSOCIATES, P.C.

Peter J. Daley II
PJD/cs
cc: Scott Hockenberry

COPY



PETER J. DALEY & ASSOCIATES, P.C.
ATTORNEYS AT LAW

PETER J. DALEY II, ESQUIRE

Cynthia C. Skelton, Paralegal

242 WOOD STREET • CALIFORNIA, PA 15419
PHONE: (724) 938-8953 ♦ FAX: (724) 938-8959 ♦ E-MAIL: pjdassoc@zoominternet.net

October 11, 2013

William C. Brown
599 Lewisberry Road
New Cumberland, PA 17070

RE: Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319

Dear Mr. Brown:

My office has been retained by Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319, regarding certain statements both written and oral, as well as a published Facebook page and websites in which confidential personal information has been released publicly in direct violation of the Pennsylvania State Ethics Laws, as well as numerous state and federal laws.

You must immediately cease and desist from any further release, publication and republication of any confidential and personal information, as well as any slanderous or defamatory statements, and tortuous interference regarding my client.

You must immediately cancel the Facebook page which has been developed and possible undertaking the direction and authority of the public elected Fairfield Township officials.

If you fail to do so, I have been instructed by my client to immediately pursue all legal remedies that may be available at both the State and Federal levels.

If you have any questions, please do not hesitate to contact the office at the above-listed telephone number and address.

Very truly yours,
PETER J. DALEY & ASSOCIATES, P.C.

Peter J. Daley II
PJD/cs
cc: Scott Hockenberry

COPY



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October 11, 2013

John W. Jones
445 Granite Quarry Road
New Cumberland, PA 17070

RE: Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319

Dear Mr. Jones:

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Peter J. Daley II
PID/cs
cc: Scott Hockenberry

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October 11, 2013

Christopher Allen
599 Lewisberry Road
New Cumberland, PA 17070

RE: Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319

Dear Mr. Allen:

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If you have any questions, please do not hesitate to contact the office at the above-listed telephone number and address.

Very truly yours,
PETER J. DALEY & ASSOCIATES, P.C.

Peter J. Daley II

PJD/cs

cc: Scott Hockenberry

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October 11, 2013

John Minito
599 Lewisberry Road
New Cumberland, PA 17070

RE: Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319

Dear Mr. Minito:

My office has been retained by Scott Hockenberry – 330 Braeburn Drive, Etters, PA 17319, regarding certain statements both written and oral, as well as a published Facebook page and websites in which confidential personal information has been released publicly in direct violation of the Pennsylvania State Ethics Laws, as well as numerous state and federal laws.

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PETER J. DALEY & ASSOCIATES, P.C.

Peter J. Daley II

PJD/cs

cc: Scott Hockenberry

COPY

FAIRVIEW TOWNSHIP VOTERS

FOR THE TRUTH ABOUT HOCKENBERRY GO TO:

www.1uthabouthockenberry.com

MORE THAN "JUST A PHOTO"

PALEMB

STANLEY JONES FOR SUPERVISOR

ORIGINAL POOR COPY

Exhibit 16