



DISCRIMINATION AND HARASSMENT SOLUTIONS LLC

June 11, 2021

INVESTIGATION OF COMPLAINTS AGAINST SEFATIA ROMEO THEKEN AND

CHARLES PAYSON

BROUGHT BY THOMAS CIARAMETARO, JR.

FINDINGS OF FACTS, CONCLUSIONS, AND RECOMMENDATIONS

I. SCOPE OF INVESTIGATION

The City of Gloucester (hereinafter the “City”) Harbormaster Thomas Preston Ciarametaro, Jr., also known as “TJ” (hereinafter “Mr. Ciarametaro”), filed a complaint of harassment with the City Director of Human Resources Holly Dougwillo (hereinafter “Ms. Dougwillo”) on November 6, 2020 alleging that Mayor Sefatia Romeo Theken (hereinafter “Mayor Theken”) and General Counsel Charles “Chip” Payson (hereinafter “Mr. Payson”) violated the City’s Anti-Harassment and Discrimination Prevention Policy and applicable laws. (Exhibit 1) On January 27, 2021, Mr. Ciarametaro’s attorney, Liam T. O’Connell (hereinafter “Attorney O’Connell”), by way of email, reported to the City’s outside counsel Thomas Mullen (hereinafter “Attorney Mullen”) that the City’s Executive Leadership engages in repudiation, harassment, and bullying of Mr. Ciarametaro. (Exhibit 5) The City retained this investigator to determine whether Mayor Theken and/or Mr. Payson violated any of the City’s Policies and Procedures. (Exhibit 2 and 4)

II. SUMMARY OF THE ALLEGATIONS

In his November 6, 2020 complaint, Mr. Ciarametaro alleges that he witnessed Mayor Theken make countless inappropriate comments regarding race, religion, and sexual

orientation that were directed toward employees of the City and members of the community, and engage in extreme bullying tactics, including threats of physical violence. (Exhibit 1)

Specifically, Mr. Ciarametaro describes an incident on April 7, 2020, when he was a victim of Mayor Theken's and Mr. Payson's abusive tactics. They allegedly instructed [REDACTED] to contact Mr. Ciarametaro regarding his involvement as an expert witness in a federal civil lawsuit and was told to stop working on the case or his job would be at risk. After the phone conversation, Mr. Ciarametaro alleges that he tried to communicate with Mayor Theken, but she refused to speak to him and instead left him a message threatening his position as Harbormaster and called him a "[REDACTED] fraud and a liar." Two days later, Mr. Ciarametaro signed an affidavit that was filed in the United States District Court of Massachusetts describing the actions of Mayor Theken and Mr. Payson. (Exhibit 6) After Mayor Theken learned of the affidavit, he reports that she personally attacked him with "vicious name-calling and degrading comments" to other department heads ("names withheld, but known") and she and Mr. Payson consistently left him out of "critical meetings and decisions" that impacted his department, including shutting down the boat ramp and reneging on a promise to submit his request for a wage increase to City Council. (Exhibit 1)

Mr. Ciarametaro also alleges that after he selected a [REDACTED] for his department, Mayor Theken insisted he could not hire her because the [REDACTED] works at the [REDACTED] and has a history that includes [REDACTED] along with a variety of other allegations that would lead everyone to think that the candidate "only got the job because [REDACTED]." (Exhibit 1)

Lastly, Mr. Ciarametaro alleges that Mayor Theken threatened that her Sicilian friends and family would break his kneecaps and that Mr. Ciarametaro "doesn't know who he is

Confidential

██████████" (hereinafter the "threat incident"). (Exhibit 1) The Gloucester Police investigated the threat incident and determined that the Mayor's alleged conduct could not be corroborated. (Exhibit 8)

In a January 27, 2021 email from Attorney O'Connell to Attorney Mullen, on behalf of Mr. Ciarametaro, Attorney O'Connell alleges that Mayor Theken confronted Mr. Ciarametaro on that date about the matters set out in his complaint, "screamed and yelled, ranted and raved" at him, and admitted to every allegation that Mr. Ciarametaro made against her. Attorney O'Connell also reports that the City violated its own policy by failing to investigate Mr. Ciarametaro's complaint and by permitting Mayor Theken to confront Mr. Ciarametaro about these matters, knowing that he was represented by counsel¹. (Exhibit 5)

Regarding Mr. Payson, Mr. Ciarametaro alleges that by being complacent and acquiescing in the harassing behavior of Mayor Theken, he violated the City's policies.

III. EVIDENCE CONSIDERED

A. WITNESSES INTERVIEWED

1. Mr. Ciarametaro
2. ██████████
3. Mayor Sefatia Romeo Theken
4. ██████████
5. ██████████
6. ██████████

¹ ██████████ reports that when she received Mr. Ciarametaro's complaint she forwarded it to the City's insurance provider and took no further action because she mistakenly believed that an independent investigation was being conducted by the insurance provider.

7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]

B. DOCUMENTS RELIED UPON

- | | |
|------------|--|
| Exhibit 1 | November 6, 2020 complaint from Mr. Ciarametaro to [REDACTED] |
| Exhibit 2 | City of Gloucester Anti-Harassment and Discrimination Policy |
| Exhibit 3 | City of Gloucester Standards for Professional Communications Policy |
| Exhibit 4 | City of Gloucester Workplace Violence Prevention Policy |
| Exhibit 5 | January 27, 2021 email from Attorney O'Connell to Attorney Mullen |
| Exhibit 6 | Mr. Ciarametaro's USDC affidavit |
| Exhibit 7 | November 3, 2020 email from Attorney O'Connell to [REDACTED] |
| Exhibit 8 | November 5, 2020 Police Report regarding threat incident |
| Exhibit 9 | Statement of [REDACTED] |
| Exhibit 10 | March 1, 2019 handwritten notes of [REDACTED] meeting with Mayor
Theken |
| Exhibit 11 | November 4, 2020 Statement of Transcription of Interview of Mr.
Ciarametaro |

- Exhibit 12 November 4, 2020 Statement of Transcription of Police Interview of Ms. Carey
- Exhibit 13 Statement of [REDACTED]
- Exhibit 14 November 10, 2020 Memo to Mayor Theken regarding harassment complaint
- Exhibit 15 April 9, 2020 litigation hold letter of Attorney O'Connell
- Exhibit 16 April 15, 2020 email from Mayor Theken to Mr. Ciarametaro and [REDACTED]
[REDACTED]
- Exhibit 17 IT document regarding [REDACTED] March 19, 2019 communication
- Exhibit 18 March 13, 2019 Mayor Theken apology email regarding [REDACTED]

IV. SUMMARY OF EVIDENCE

The following evidence was considered as part of this investigation:

1. Mayor Theken was appointed mayor by the City Council in January 2015 and elected mayor in 2016. As mayor, she considers herself an employee of the City and confirms that all City personnel policies apply to her including the Standard of Professional Communications Policy, the Anti-Harassment and Discrimination Prevention Policy and the Workplace Violence Prevention Policy. (Interview of Mayor Theken)
2. Mr. Ciarametaro is the Harbormaster for the City of Gloucester and was hired on June 27, 2016. As Harbormaster, it is his duty to promote the responsible use of all waterways within the city limits of Gloucester through public education and enforcement of all local, state, and federal environmental laws. Further, Mr. Ciarametaro is responsible for responding to distress situations, ensuring safe

navigation through the City's waterways, and overseeing their maintenance.

(Interview of Mr. Ciarametaro)

3. Pursuant to M.G.L. c. 102, sec. 19, Mayor Theken appoints the Harbormaster, determines his/her compensation, and the appointment "shall remain in force unless the harbor master is removed for neglect of duty, negligence or conduct unbecoming a harbor master."
4. The Gloucester Waterway Board works in cooperation with Mr. Ciarametaro and other City staff to ensure that the waterways are well-planned and maintained, utilized to the maximum extent possible, are safe, and reflect positively upon the City of Gloucester.
5. Mr. Ciarametaro reports hearing Mayor Theken make countless inappropriate comments regarding race, religion, and sexual orientation towards employees of the City of Gloucester and members of the community. (Interview of Mr. Ciarametaro and Exhibit 1)
6. [REDACTED] (hereinafter [REDACTED]"), the [REDACTED] for the City, reports that Mayor Theken referred to one of her contacts as the [REDACTED] and remembers hearing her say that local businessman [REDACTED] [REDACTED]
[REDACTED]
[REDACTED] [REDACTED] also reports hearing Mayor Theken make comments about people being [REDACTED] (Interview of [REDACTED])
7. Many of those who work closely with Mayor Theken deny that she ever made any inappropriate comments about the race, religion and sexual orientation of employees

or community members. (Interviews of [REDACTED]
[REDACTED])

8. Mayor Theken denies that she ever referenced [REDACTED] [REDACTED] or made any inappropriate comments about [REDACTED]. She also denies making any inappropriate comments about individuals' sexual orientation or race. (Interview of Mayor Theken)
9. Mr. Ciarametaro alleges that Mayor Theken engages in extreme bullying tactics and threatens employees with physical violence, saying things like [REDACTED] sending people threatening voice messages, and screaming and threatening employees with various employment consequences if they do not do what she wants. (Interview of Mr. Ciarametaro and Exhibit 1)
10. Mr. Ciarametaro identifies specific incidents of being yelled at or threatened by Mayor Theken, including when she confronted him at the Harbormaster's office regarding his decision to hire a part-time clerk, on a text message audio recording and from a City vendor, who told him that Mayor Theken had made threats of physical violence against him. In addition, Mr. Ciarametaro reports hearing Mayor Theken yell at employees and elected officials at countless meetings. (Interview of Mr. Ciarametaro and Exhibit 1)
11. In addition, Mr. Ciarametaro reports that many of his colleagues, including [REDACTED]
[REDACTED]
[REDACTED], have told him that they have been bullied or threatened by Mayor Theken. (Interview of Mr. Ciarametaro)

12. [REDACTED] reports that on Friday, January 22, 2021 she was asked to join a call about vaccine clinic planning with the Department of Public Health. After the call she met with Mayor Theken to inform her of what was discussed at the meeting. [REDACTED] [REDACTED] claims that Mayor Theken screamed at her for a half hour and told her she does not trust her talking to [REDACTED]. [REDACTED] became very upset and questioned how the Mayor could speak this way to her, as she considers herself a loyal and trusted employee. The following Sunday, [REDACTED] called Mayor Theken and her [REDACTED] and submitted her resignation. She reports she could not tolerate being treated that way by Mayor Theken. (Interview of [REDACTED])
13. [REDACTED] reports that on December 19, 2018, she filed a complaint against Mayor Theken based upon the way she treated her subordinate [REDACTED] (hereinafter [REDACTED]). She witnessed Mayor Theken engage in “horribly inappropriate” behavior with [REDACTED], who was on an improvement plan. She listened to Mayor Theken yell and scream at [REDACTED] and say, “you make me look like [REDACTED]” and yelled at [REDACTED] saying, “you need to get control over her.” (Exhibit 18) In addition, on March 1, 2019, [REDACTED] witnessed Mayor Theken act “wild” at a meeting. Mayor Theken spoke critically of the City’s [REDACTED] and the [REDACTED] [REDACTED] and how [REDACTED] “didn’t do her job and [the Mayor] wanted her gone.”² [REDACTED] reported to [REDACTED] what Mayor Theken said about her. Mayor Theken stopped talking to [REDACTED]

² [REDACTED] reports being so upset by this meeting that she wrote a summary of what happened. (Exhibit 10)

█████ thereafter and █████ was told that the Mayor referred to her as a “little █████ (Interview of █████ and Exhibit 10)

14. Further, [REDACTED] reports hearing Mayor Theken refer to her colleague [REDACTED] [REDACTED] During these communications, [REDACTED] describes Mayor Theken as “very hot headed and volatile” and someone who “yells all of the time with limited self-awareness.” She further explains that it is “scary” getting called into meetings with Mayor Theken and that [REDACTED] staff reports being afraid to meet with the her because she is so volatile. (Interview of [REDACTED] and Exhibit 10)

15. [REDACTED] reports that she has witnessed Mayor Theken “degrade, berate and threaten [her] colleagues, City Councilors, School Committee members, teachers and members of the public.” She further alleges that she has also been a victim of this conduct and notes that in June 2020 she reported Mayor Theken to [REDACTED] regarding an incident on June 23, 2020 in which Mayor Theken sent a threatening text message to her and berated her “perceived lack of quick action to close Main Street and the allowance for outdoor dining.” (Interview of [REDACTED])

16. Other employees who work with Mayor Theken report that she yells and screams at employees and elected officials. [REDACTED] who speaks highly of the Mayor explains that Mayor Theken has yelled at her and agrees that she “yells at everyone” and explains when referring to the Mayor, “that’s just who she is.” [REDACTED], who was reluctant to say anything negative about the Mayor, reports feeling “stressed” when he gets yelled at by Mayor Theken, and explains he is a “Sicilian Italian-

American as is the Mayor—so he understands her because sometimes things are said and then you move on.” (Interviews of [REDACTED])

17. Moreover, many employees have heard Mayor Theken repeatedly use profanity including the [REDACTED] in their presence. (Interviews of [REDACTED]

[REDACTED])

18. [REDACTED] describes Mayor Theken as “swearing like a truck driver” and [REDACTED], explains that regarding Mayor Theken he “worked in the military for 22 years and never saw anything like this – not even close – no one lacks that much professionalism.” (Interviews of [REDACTED])

19. A review of a Board of Health meeting dated October 15, 2020 regarding a Halloween parade reveals Mayor Theken raising her voice and using profanity such as [REDACTED] and “bitch” and referring to the then President of the United States as [REDACTED] stating, “I wanted to physically abuse someone” and “I wanted to [REDACTED] [REDACTED]”³

20. A review of the September 26, 2018 School Committee meeting shows Mayor Theken yelling with her arms flailing and slapping her hands together.⁴

21. Mayor Theken remembers saying “[REDACTED]” twice at city meetings recorded on Zoom, but denies it was directed at employees. She claims her comments referenced Gloucester parents and recalls saying “I will [REDACTED] them.” She explains that she

³ The meeting can be viewed at https://gloucester-ma.gov.zoom.us/j/9h9eK3XjE02nd_5LNmz68go5SYhZBFBLK7p-Cge1PRqKchcHN.AGUpcINC8dIIznOK_r

⁴ The meeting can be viewed at <https://www.youtube.com/watch?v=EiZODv-bIUY&t=6463s>

had recently learned the expression "[REDACTED]" from social media and was "excited to use it" but once she learned what it meant she stopped saying it. In using this language, Mayor Theken admits that she violated the Professional Communications Policy and "takes full responsibility." (Interview of Mayor Theken and Exhibit 3)

22. In addition, Mayor Theken admits calling [REDACTED] a "little [REDACTED]" but reports that she only did this in the privacy of her office or when on the phone with Mr. Payson or a family member. (Interview of Mayor Theken)

23. Mayor Theken also concedes that she uses the [REDACTED] in front of employees in [my] office or on the phone talking to [my] husband" but denies saying it publicly. (Id.)

24. Mr. Ciarametaro reports being present with other department heads where members of the City Council were called "[REDACTED]." Mr. Ciarametaro was present at a meeting on March 1, 2019 with other department heads, including [REDACTED], where Mayor Theken was upset with [REDACTED] and spoke about her having "[REDACTED]" (Interview of Mr. Ciarametaro)

25. [REDACTED] maintained notes from the meeting on March 1, 2019 because she was so upset by Mayor Theken's comments. The notes reflect that Mayor Theken spoke about [REDACTED] and her [REDACTED] and that the Mayor told the men in the room to [REDACTED] [REDACTED] (Interview of [REDACTED] and Exhibit 10)

26. Mayor Theken reports that when she learned that [REDACTED] had an affair with a married man, she may have called [REDACTED] [REDACTED] Mayor Theken reports being

upset because the wife of the man having the affair with [REDACTED] came to her at a gathering and, during a private conversation, referred to [REDACTED] as a [REDACTED] [REDACTED] (Interview of Mayor Theken)

27. [REDACTED] all report hearing Mayor Theken using the words [REDACTED] and that she frequently used these words when referring to [REDACTED] and [REDACTED]. They also remember hearing her say, "I have dirt on all of the City Councilors." (Interviews of [REDACTED], and [REDACTED])

28. [REDACTED] also reports hearing her use profanity quite often, including the word [REDACTED] (Interview of [REDACTED])

29. Regarding [REDACTED], Mayor Theken was heard saying [REDACTED] [REDACTED] (Interview of [REDACTED])

30. In addition, Mayor Theken was heard commenting about [REDACTED] husband and implying that he is an abusive spouse. (Interview of [REDACTED] [REDACTED])

31. Mayor Theken denies stating that [REDACTED] [REDACTED] [REDACTED], although she admits that she has heard this rumor and believes it happened when [REDACTED] worked with the [REDACTED]. (Interview of Mayor Theken)

32. Mayor Theken also denies stating that [REDACTED] husband abuses her, but claims he was verbally abusive to everyone at a City Council meeting and close to punching [REDACTED]. She then questioned whether he also abused his wife. (Id.)

33. Mr. Ciarametaro operates a separate business, Five Fathoms Consulting LLC, providing expert opinion testimony in admiralty cases. He was retained by the plaintiff in Lane et al v. Powell, et al., pending in the United States District Court of Massachusetts (the “Federal case”). The case involves an incident that occurred in Gloucester. A Good Samaritan’s rescue attempt failed, and a boat captain died. Mr. Ciarametaro reports that prior to accepting the assignment, he was told by Mr. Payson that if he cleared the assignment with the Massachusetts Ethics Commission, the City would not oppose his involvement. (Interview of Mr. Ciarametaro)
34. Mr. Ciarametaro reports that despite clearance by the Ethics Commission, Mayor Theken’s then [REDACTED], contacted him on April 7, 2020 and told him to “stop working on the case, and if [he] didn’t, that [his] job was at risk.” When Mr. Ciarametaro pushed back and stated he could not back out of the case, [REDACTED] stated “the Mayor was furious, and [his] actions would have consequences.” (Interview of Mr. Ciarametaro and Exhibit 1)
35. Mr. Ciarametaro reports that he then contacted Mr. Payson, who advised that being an expert witness in the case was an ethical violation and told him to “do the right thing.” (Interview of Mr. Ciarametaro)
36. Mr. Ciarametaro then texted Mayor Theken, asking if they could talk, to which she responded "NO." Shortly thereafter, Mayor Theken left Mr. Ciarametaro an audio message in which he asserts she threatened him and his position as Harbormaster,

calling him a "[REDACTED] fraud and a liar," and stating, "I should have never hired you" and "if you still want your job as Harbormaster you will stop this."⁵ (Id.)

37. [REDACTED] remembers the conversation differently. He is adamant that he never consulted with Mayor Theken before contacting Mr. Ciarametaro about his expert testimony. He remembers "running into" [REDACTED] who is [REDACTED] [REDACTED] [REDACTED] reported that his cooperative of lobster boats was being sued over a Good Samaritan matter and Mr. Ciarametaro was the expert against the Good Samaritan. (Interview of [REDACTED])
38. In response to this conversation, [REDACTED] says he called Mr. Ciarametaro and asked, "what's going on?" Mr. Ciarametaro explained that he was an expert witness in the case, to which [REDACTED] said that he thought it showed poor judgment, that the Mayor would likely be upset, and that it involved a captain of a boat "who was the most respected man in the whole harbor, and this would hurt TJ's reputation and his ability to do his job." [REDACTED] also told Mr. Ciarametaro that "the appearance and optics of it was not good" and asked, "is there any way you can get out of this?" TJ responded, "I will try", to which [REDACTED] said, "that would be a good idea." (Interview of [REDACTED])
39. [REDACTED] reports that after he called Mr. Ciarametaro, he called Mayor Theken and he told her the facts of the case. She became upset because Mr. Ciarametaro "didn't disclose during his interview for Harbormaster that he was an expert witness and felt

⁵ Mr. Ciarametaro asserts that because the message was sent as an audio text message it could not be saved.

he was untruthful.” [REDACTED] then told her that “TJ was trying to get out of it.”

(Id.)

40. [REDACTED] remembers [REDACTED] calling her about Mr. Ciarametaro being an expert witness and telling her that he just talked to “TJ and [she’s] got to get him under control. Who does he think he is?” He then said that “[REDACTED] was just here and said TJ’s going after the local fisherman and a Good Samaritan on top of that.” She reports they talked some more and then [REDACTED] said, “you actually need to stay out of this.” (Interview of [REDACTED])

41. Mayor Theken reports that she learned that Mr. Ciarametaro was an expert witness from a newspaper article. She remembers [REDACTED] stating to her, “You better call your boy – he’s going against the fishermen – he’s an expert witness in the Foxy Lady case,” but she was distracted with the COVID-19 shutdown and did not pay close attention to what [REDACTED] was saying. (Interview of Mayor Theken)

42. Mayor Theken admits that she left Mr. Ciarametaro an audio text message asking him: “what are you doing? Do you have another job? Why are you doing this to me? I can’t even trust you. You’re losing the trust of the fishermen – why are you going against the fishermen – I didn’t even know you had another job.” She denies threatening his job but did say “why did I hire you? You’re not supposed to have two jobs” because she understood that no employee could have two jobs. She cannot remember what else she said but might have called him a [REDACTED] fraud and a liar.” (Interview of Mayor Theken)

43. Mr. Ciarametaro texted her and asked whether he could call her. She claims that she responded “no not right now” because she was busy with COVID-19 issues. (Id.)

44. On April 9, 2020, Mr. Ciarametaro advised the plaintiff's counsel in the Federal case of his communications with the City officials and their request that he withdraw as an expert witness. In response, a motion for sanctions was filed in the USDC case. As part of that motion, counsel filed the Affidavit of Thomas Ciarametaro, Jr. In the affidavit, Mr. Ciarametaro reported under oath his communications with Mayor Theken, [REDACTED], and Mr. Payson. (Exhibit 6)
45. In addition, Attorney O'Connell sent a "litigation hold" letter to Mayor Theken on April 9, 2020 advising her that he represented Mr. Ciarametaro relating to the issue involving him being an expert witness and requesting that she preserve all evidence. (Exhibit 15)
46. After the motion was filed, which generated much media attention in Gloucester, Mr. Ciarametaro alleges that Mayor Theken and Mr. Payson retaliated against him by consistently leaving him out of critical meetings and decisions that directly impacted his department and personnel and denied him a pay raise or a stipend that he had been promised. (Interview of Mr. Ciarametaro and Exhibit 1)
47. Mayor Theken admits she was angry with Mr. Ciarametaro because of the expert witness matter. (Interview of Mayor Theken)
48. [REDACTED] remembers Mayor Theken saying, "TJ and his department will get nothing", "TJ is ruining my life – he won't stop" and "I hate that little [REDACTED]" (Interview of [REDACTED])
49. Mr. Ciarametaro reports that Mayor Theken interfered with his job as Harbormaster by shutting down the boat launch during the pandemic. He asserts that Mayor Theken went to the Board of Health and "threatened and bullied" [REDACTED] into reporting

that it was a danger to keep the public boat launch open, while never consulting him as Harbormaster. (Interview of Mr. Ciarametaro)

50. [REDACTED] denies that she was bullied or threatened by Mayor Theken and reports that she agreed that the boat ramp should be shut down because the governor had issued a stay-at-home order due to the pandemic. [REDACTED], however, does agree that Mr. Ciarametaro was oddly excluded from the communications and that [REDACTED] [REDACTED], was the voice of the Harbormaster's office.

(Interview of [REDACTED])

51. [REDACTED] remembers Mayor Theken calling and texting him while sitting next to Mr. Ciarametaro and asking him questions that he believes should have been addressed to Mr. Ciarametaro. Based on his military experience and his understanding of the chain of command, he was uncomfortable with her approach. (Interview of [REDACTED] [REDACTED])

52. Mayor Theken denies excluding Mr. Ciarametaro from meetings and attributes the shutdown of the boat ramp to [REDACTED]. She also reports that Mr. Ciarametaro kept insisting that we cannot shut down the boat ramp because it is a state boat ramp. Mayor Theken then called the Lt. Governor and was told that the City could shut it down. (Interview of Mayor Theken)

53. [REDACTED] recalls that Mr. Ciarametaro was not included on the phone call with the Lt. Governor; only himself and Mayor Theken were present on the call. (Interview of [REDACTED])

54. An email from Mayor Theken regarding the boat ramp was sent to Mr. Ciarametaro and [REDACTED] on April 15, 2020. (Exhibit 19)

55. Mr. Ciarametaro also reports that he was entitled to a raise or a stipend because the City had an external audit of the Harbormaster position before he was hired and when he took over he “cleaned up” the office and merged the shellfish department, taking control of both. He states that the merger and additional personnel under his authority created additional responsibilities and a major increase in workload. In response, Mr. Ciarametaro reports that [REDACTED] endorsed a memorandum dated March 12, 2019 encouraging the administration to reclassify his pay and compensation due to the increase in responsibility. Mr. Ciarametaro also reports that he discussed the matter with Mayor Theken, and she assured him that she would submit this into the Mayor's report for the City Council. (Interview of Mr. Ciarametaro)
56. As a result of the Mayor's discontent with the expert witness matter, Mr. Ciarametaro asserts that she retracted her offer to go to the City Council with the reclassification and advised Mr. Ciarametaro “that the timing was not right because they had just paid the new police chief off scale and too much money.” She then promised him a stipend at the end of the summer of 2020 for his additional work, however, he never received the stipend. (Interview of Mr. Ciarametaro and Exhibit 1)
57. [REDACTED] reports that because the Harbormaster's office salaries were controlled by budget and because Mr. Ciarametaro requested and was granted a new position for the office, she told Mayor Theken that although [REDACTED] supported a pay increase for Mr. Ciarametaro, she did not think it was warranted. (Interview of [REDACTED])
58. [REDACTED] agrees that a salary increase was not warranted and reported this to Mayor Theken. (Interview of [REDACTED])

59. Mayor Theken denies ever telling Mr. Ciarametaro that she would submit his raise request in her report to the City Council and denies saying that he could not get a raise because of the police chief's salary. She remembers talking to him in August 2020 and telling him that his role had changed, and that she would consider his request for a raise after the budget was finalized, which has not happened yet. (Interview of Mayor Theken)
60. Mr. Ciarametaro also reports that he was in the process of hiring a part-time clerk, [REDACTED] for the administrative assistant position in the Harbormaster's office—a temporary position funded by the CARES Act—when Mayor Theken insisted he could not hire [REDACTED] “because her boyfriend works at the [REDACTED]” and his history of [REDACTED] and a variety of other allegations would lead everyone to think that [REDACTED] [REDACTED] and that she could “not let anything from the old [REDACTED] be brought back up.” (Interview of Mr. Ciarametaro and Exhibit 1)
61. Mayor Theken denies that she made these comments about [REDACTED] and reports that when [REDACTED] told her that [REDACTED] was recommended by Mr. Ciarametaro for the position at the Harbormaster's office and he was seeking to have her sign off on the hire, she stated that Mr. Ciarametaro should not have participated in the interviewing process because [REDACTED] is dating [REDACTED] [REDACTED], with whom Mr. Ciarametaro is friends. This presented a conflict of interest. Moreover, Mayor Theken reports that she was concerned because in the recent past, [REDACTED] was investigated because a storage place that he owned

known as the [REDACTED] was rumored to have “terrible things going on” and it tarnished the City’s public image. As a result, she did not want his girlfriend to be hired for the Harbormaster’s position. Mayor Theken reports telling [REDACTED] that she would approve her hire in another department and [REDACTED] responded that [REDACTED] was already told that “she had the job” in the Harbormaster’s office and she wanted it. Mayor Theken felt like she was “set up” and said, “OK, ladies she’s hired” which she describes as her “giving into Mr. Ciarametaro and [REDACTED] [REDACTED] (Interview of Mayor Theken)

62. Mayor Theken reports she then went to the Harbormaster’s office with [REDACTED] to view the new facility, and while in Mr. Ciarametaro’s office she said to him and [REDACTED] [REDACTED] “I want to help you, but you can’t do the hiring; I hire.” She alleges that Mr. Ciarametaro then said, “I don’t know her” (referring to [REDACTED]), to which Mayor Theken responded, “I know you know her, and you go out on your boat with her,” which caused Mr. Ciarametaro to “start yelling and they were going back and forth.” She then stated, “do you know what it looks like to hire her? It has taken five years to clean this city up. [REDACTED] can’t get a Chief’s job – everyone hated [him].” (Interview of Mayor Theken)

63. [REDACTED] reports accompanying Mayor Theken to the Harbormaster’s office to see the new facility. While they were there, they discussed [REDACTED]. Mayor Theken was upset that Mr. Ciarametaro did not tell human resources that he knew the candidate and she expressed concern about her, given [REDACTED] history. Mayor Theken said to Mr. Ciarametaro, “I love you, but [REDACTED] is tied to the [REDACTED] [REDACTED] and mentioned the [REDACTED] – “we don’t want to give the

Harbormaster's office a bad name." She remembers Mr. Ciarametaro apologizing for not disclosing that he knew her but insisting that [REDACTED] was the best candidate. She never heard Mayor Theken say anything bad about [REDACTED]. (Interview of [REDACTED])

64. [REDACTED] reports that Mayor Theken said, "you can't hire [REDACTED]"; [REDACTED] [REDACTED] (Interview of [REDACTED])

65. Next, Mr. Ciarametaro alleges that on November 3, 2020 he learned that Mayor Theken threatened him with physical violence. He was made aware that Mayor Theken made "private" comments regarding her Sicilian friends and family "breaking [his] kneecaps" and "doing what they have to do" as well as making additional statements, such as "he doesn't know who he is fucking with", to [REDACTED]. (Interview of Mr. Ciarametaro and Exhibit 1)

66. [REDACTED] is not a City employee but operates [REDACTED] [REDACTED]. [REDACTED] [REDACTED] As such, she creates visitor guides, goes to trade shows promoting Gloucester, and works to welcome people to the City. (Interview of [REDACTED])

67. In her role, she has weekly meetings with Mayor Theken. Mr. Ciarametaro alleges that she reported to him after a meeting with Mayor Theken that she is afraid of Mayor Theken and that Mayor Theken made these threatening statements against him. (Interview of Mr. Ciarametaro)

68. Mayor Theken denies ever talking about "breaking kneecaps" or making threats against Mr. Ciarametaro. (Interview of Mayor Theken)

69. On November 3, 2020 Attorney O'Connell reported these threats by email to

████████████████████. ██████████ then ordered ██████████
to investigate. (Exhibits 7 and 8)

70. ██████████ interviewed Mr. Ciarametaro and ██████████ as part of his
investigation. Mr. Ciarametaro reported that on November 3, 2020 ██████████ told
him that she had a conversation with Mayor Theken, and she told him of the
aforementioned threats. Mr. Ciarametaro also alleged that ██████████ said that the
words Mayor Theken used scared her and he should be careful when interacting with
her. (Exhibit 8 and 11)

71. ██████████ denied Mr. Ciarametaro's assertions to ██████████ during her
interview with him on November 4, 2020. She denied relaying information to Mr.
Ciarametaro that implied any threat made by Mayor Theken and denied mentioning
the breaking of kneecaps or hurting people. Moreover, she reported that she is not
afraid of Mayor Theken and never told Mr. Ciarametaro that she fears her. (Interview
of ██████████ and Exhibit 12)

72. ██████████ reports that she met with Mr. Ciarametaro and told him that she had a
meeting with Mayor Theken where they had laughed about a story involving the
Mayor Theken's Sicilian cousins. When she shared this story with Mr. Ciarametaro,
"he took the information and applied it so somehow it was [a]ffecting him – totally out
of context and out of nowhere." ██████████ describes being totally surprised about Mr.
Ciarametaro's allegations. She flatly denies that Mayor Theken ever made threats or
comments to her about Mr. Ciarametaro and explains that she is "so taken aback by

what TJ said that she hasn't talked to him since." Further, she reports that "there are no behaviors by the Mayor that have caused [her] concern." (Interview of [REDACTED])

73. At the conclusion of the police investigation, [REDACTED] reported to [REDACTED]

[REDACTED] that the matter "does not meet the Probable Cause threshold to go further in relation to a Criminal matter" but advised he would keep the investigation open pending any new information. (Interview of [REDACTED] and Exhibit 8)

74. [REDACTED] sent a copy of the police report to the Essex County District Attorney's office, the Attorney General's office, and he notified the Massachusetts Ethics Commission. (Interview of [REDACTED])

75. Mr. Ciarametaro next alleges, as raised in the email from Attorney O'Connell to Attorney Mullen, that on January 26, 2021 Mayor Theken called a meeting with her newly appointed [REDACTED], and Mr. Ciarametaro and she confronted Mr. Ciarametaro about his pending hostile work environment complaint. (Interview of Mr. Ciarametaro and Exhibit 5)

76. Mr. Ciarametaro reports that during the meeting Mayor Theken admitted to many of the allegations in his hostile work environment complaint and that she insisted that they continue to talk about these issues after he told her multiple times that he was represented by counsel. According to Mr. Ciarametaro, Mayor Theken admitted to leaving him an audio text message screaming at him and threatening his job if he testified as a witness in the federal court case scheduled for trial weeks later, conceded that he was entitled to a pay raise, and admitted being critical of [REDACTED]. (Id.)

77. Mr. Ciarametaro reports that Mayor Theken approached him after a January 26, 2021 department head meeting and requested that he attend a meeting in her office

immediately thereafter with [REDACTED] to discuss police details. At this follow-up meeting, Mr. Ciarametaro reports that the conversation about police details lasted approximately one minute and then she switched topics and started discussing his complaint. Mr. Ciarametaro reports that he immediately told Mayor Theken that he did not want to discuss what happened because there is “pending litigation” and he is represented by counsel. At that time Mr. Ciarametaro describes Mayor Theken as becoming upset and crying and stating, “I treated you like a son – we had a great relationship – I’m going to make you whole – you don’t need counsel – it is all [REDACTED] fault – I wasn’t privy to what was going on” and then she walked over to him and hugged him. At that time, Mr. Ciarametaro reports telling Mayor Theken that “if there is any chance of us moving forward then you need to tell the truth.” To which she responded, “what are you talking about?” He told her, “you ran my name through the mud, and you tried to fire me”, to which she replied, “yes, fine – I did threaten your job because I was under a lot of pressure because of COVID. I did say those things about [REDACTED] but you didn’t know the history.” She further explained to him that the comments about knee breaking were taken out of context and agreed that he deserved a raise. In response, Mr. Ciarametaro reports saying, “I want a public apology” and at that time [REDACTED] intervened and Mr. Ciarametaro responded sarcastically about her being there for a short period of time, but apologized to her shortly thereafter. (Interview of Mr. Ciarametaro and Exhibit 5)

78. Mayor Theken reports that the purpose of the meeting was to discuss dredging, an updated boat for police, fire, and to discuss a contract that she heard Mr. Ciarametaro had entered into as the Harbormaster about which she had questions. The meeting

started with her addressing Mr. Ciarametaro's accounting of the Harbormaster's financial records, his administrative assistant, and she asked him to define his hours because [REDACTED] "doesn't know when [he] works." At that point she describes Mr. Ciarametaro as "losing it" and yelling and screaming at her and [REDACTED] intervening, saying "don't talk to the Mayor that way", to which Mr. Ciarametaro responded, "you're as new as a cup of coffee"—a comment for which he later apologized. (Interview of Mayor Theken)

79. Mayor Theken denies that she knew anything about his November 6, 2020 complaint and his allegations of a hostile work environment before calling him in for the meeting. (Interview of Mayor Theken)

80. [REDACTED] reports that she never gave the complaint or reported it to the Mayor prior to this meeting; instead, she reports that she gave her a memo explaining that Mr. Ciarametaro filed a complaint of harassment against her and she forwarded it to the City's insurance company for an investigation. (Interview of [REDACTED] and Exhibit 14)

81. [REDACTED] remembers [REDACTED] bringing a copy of Mr. Ciarametaro's complaint to Mayor Theken in November 2020 and hearing her cry when learning that Mr. Ciarametaro filed a complaint against her. (Interview of [REDACTED])

82. Mayor Theken reports stating to Mr. Ciarametaro at the January 26, 2021 meeting that they would work through their issues and Mr. Ciarametaro, saying "I have a lawyer I'm working with and you're going to be in so much trouble." She also remembers him saying, "I know you've given stipends and raises, and I want a stipend." Mayor Theken denies saying, "I wanted to fire you," but remembers saying that she left him

an iPhone voice memo screaming that she wishes she had not hired him. She then told Mr. Ciarametaro, “I loved you like a son – I was like your mother – we had a great relationship” to which Mr. Ciarametaro said, “my mother would never do what you did; she would never have treated me that way.” At this point she remembers walking over to where he was seated and hugging him. Mr. Ciarametaro then said, “I’ve got to go – you knew I had a lawyer” and walked out of her office. (Interview of Mayor Theken)

83. It appears undisputed that the meeting became emotional, and that Mayor Theken and Mr. Ciarametaro raised their voices at each other. (Interviews of [REDACTED] and Exhibits 9 and 13)

84. [REDACTED] reports that she had only been on the job for seven days, and that prior to the January 26, 2001 meeting Mayor Theken reported to her that there was tension between her and Mr. Ciarametaro regarding his salary and the expert witness issue. She describes Mr. Ciarametaro as being aggressive and disrespectful to Mayor Theken during the meeting by calling her a liar and raising his voice. [REDACTED] reports that approximately three-quarters through the meeting she heard Mr. Ciarametaro say, “I don’t want to talk about this as there is pending litigation and I’m represented by counsel,” but they both kept talking and no one responded to his request to shut down the communications. (Interview of [REDACTED])

85. [REDACTED] has limited memory of the meeting but reports hearing [REDACTED] named discussed in terms of her position being funded by the enterprise account and Mayor Theken telling Mr. Ciarametaro that his department is not bringing in enough money for his staff, so she could not justify making [REDACTED] position

permanent. She denies that Mayor Theken said anything negative about [REDACTED].

[REDACTED] describes “things escalating” between Mayor Theken and Mr.

Ciarametaro. They raised their voices when the discussion about his testifying as an expert witness was raised; however, [REDACTED] concedes she was unfamiliar with the issue. [REDACTED] agrees that Mr. Ciarametaro brought up a request for a raise that [REDACTED] had approved and reports that Mayor Theken said she had no idea that [REDACTED] had agreed to the raise or that he had requested it. She apologized and said, “how could I have known this?” Mr. Ciarametaro responded by telling her she needed to take responsibility as she is “the head of the ship.” Mayor Theken then said she would see what she could do about the raise. (Interview of [REDACTED])

86. [REDACTED] reports she emailed a letter supporting a pay raise for Mr. Ciarametaro to [REDACTED], who rejected her proposal. She believes that Mayor Theken was included on the email. (Interview of [REDACTED])

87. [REDACTED] reports that after reviewing the human resource files, it does not appear that [REDACTED] email regarding Mr. Ciarametaro’s pay raise was ever emailed to Mayor Theken which has been confirmed by the City’s IT department. (Interview of [REDACTED] and Exhibit 17)

88. [REDACTED] remembers seeing Mayor Theken shaking during the meeting, but she never felt like the Mayor’s safety was at risk, as Mr. Ciarametaro remained seated the whole time. She remembers watching Mayor Theken leaning on her desk and walking over to Mr. Ciarametaro and hugging him. (Id.)

89. [REDACTED] remembers Mayor Theken starting the meeting with a discussion about details with the police department and the Harbormaster’s department and then

“pivoting,” indicating that she wanted to talk about Mr. Ciarametaro and some outstanding issues involving his taking a day off and not reporting it to [REDACTED]

[REDACTED] reports that Mr. Ciarametaro responded by saying, “are you looking at me and other department heads or are you singling me out?” and “Mayor we shouldn’t be having this discussion. I have a lawyer and an open case.” Mayor Theken then said, “why? we used to be so close” and Mr. Ciarametaro again said two more times, “I have a lawyer and we shouldn’t be having this discussion.” [REDACTED]

[REDACTED] remembers Mayor Theken being persistent with continuing the conversation and Mr. Ciarametaro saying, “fine if you want to have this conversation lets go.” He remembers Mayor Theken telling him that she is upset because they used to talk so much, that [REDACTED] and [REDACTED] have kept her in the dark and she was not aware that the Harbormaster’s department was reorganizing, and that she did not know he wanted a raise, but she wishes they could talk like they used to. Mr. Ciarametaro and Mayor Theken were speaking over each other, and Mr. Ciarametaro said, “are you denying that you left me a threatening message where you stated that you wanted me off the case and wanted me fired” to which Mayor Theken responded, “I was under a lot of pressure – I did make that call.” [REDACTED] remembers Mr. Ciarametaro saying, “You are captain of the ship, and you are ultimately responsible for what happens and can’t blame everyone else.” At one point she walked over to Mr. Ciarametaro to hug him. (Interview of [REDACTED])

90. [REDACTED] recalls that when Mr. Ciarametaro said he was represented by counsel, Mayor Theken disregarded him. She was speaking with emotion and Mr. Ciarametaro would disagree and they would talk over each other. The topics of the expert witness

matter and Mr. Ciarametaro's affidavit were raised. Mayor Theken blamed [REDACTED] [REDACTED] "for everything." [REDACTED] remembers Mr. Ciarametaro discussing [REDACTED] [REDACTED] but he does not remember if Mayor Theken responded. He also recalls Mr. Ciarametaro discussing her "Sicilian relatives" and the knee breaking comments, and Mayor Theken responding that the comments were taken out of context. (Interview of Chief Conley)

91. After Mr. Ciarametaro left the meeting, [REDACTED] stayed and talked to Mayor Theken with [REDACTED], and Mr. Payson. They discussed Mr. Ciarametaro's aggressive and disrespectful behavior towards Mayor Theken to which he disagreed. (Interview of [REDACTED])

92. The City's Anti-Harassment and Discrimination Prevention Policy (hereinafter the "Anti-Harassment Policy") provides the following: "It is a violation of the City of Gloucester's policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluation standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, gender, sexual orientation, gender identity, genetic information, marital status, pregnancy and pregnancy related medical conditions, veteran's status, or uniformed military service. Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination. (Exhibit 2)

93. The Anti-Harassment Policy further "prohibits harassment of any kind" and explains that "harassment is any verbal or physical conduct designed to threaten, intimidate or coerce an employee.... Verbal taunting (including racial and ethnic slurs) that, in the

employee's opinion, impairs his or her ability to perform his or her job is included in the definition of harassment." (Exhibit 2)

94. The Anti-Harassment Policy states that "During a formal complaint process, however, the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complaining person will be protected to as great a degree as is possible." It further provides that, "Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy." (Exhibit 2)

95. If a violation is found, or if the investigation is inconclusive but "potentially problematic," the HR Director will recommend preventive action or discipline. (Exhibit 2)

96. The Professional Communications in the Workplace Policy (hereinafter the "Communications Policy") provides that, "[i]f expressing concern or disagreement with a fellow employee, including a subordinate employee or a supervisor, do so privately and do not engage others in the concern. Address the issue as soon as you are able to engage in rational discussion." (Exhibit 3)

97. The Communications Policy further states that employees should "avoid using profanity, demeaning language, hostile looks or gestures in the workplace" and "an employee who becomes angry during a conversation should remove himself or herself from the scene until he or she can continue the discussion rationally, without anger or heightened emotion. Employees who experience anger during a discussion with a supervisor are reminded to request permission to continue the discussion at a later time." (Exhibit 3)

98. The Workplace Violence Prevention Policy (hereinafter the “Violence Prevention Policy”) provides that “[c]onduct that threatens, intimidates or coerces another employee...will not be tolerated” and “[e]mployees are prohibited from making threats or engaging in violent activities.” (Exhibit 4)

V. FINDINGS AND CONCLUSIONS

Having considered all the evidence and testimony and giving the appropriate weight thereto and drawing inferences therefrom, based on a preponderance of the evidence, I make the following findings of fact and conclusions:

It is quite clear that Mayor Theken has violated the City of Gloucester Standards for Professional Communications in the Workplace. While some communications are disputed by the parties, the Mayor herself admits to using “profanity [and] demeaning language...in the workplace.” (Exhibit 3) She admits that she “may” have called [REDACTED] [REDACTED] [REDACTED] I credit [REDACTED], and [REDACTED] that she did so, and I credit [REDACTED] contemporaneous notes of the March 1, 2019 meeting⁶. The Mayor also concedes that she uses the [REDACTED] in front of employees, although she denies doing so in public. Her use of the [REDACTED] is also reported by [REDACTED] [REDACTED] to whom I credit. [REDACTED] was credible in reporting that Mayor Theken referred to Mr. Ciarametaro as a “little [REDACTED] and the Mayor also admits to having referred to [REDACTED] as a “little [REDACTED] On recorded Zoom meetings, the Mayor can be heard using the words “ass,” “bitch,” and referring to President Trump as an “[REDACTED] that she wanted to [REDACTED]

⁶ The allegations that Mayor Theken made inappropriate comments about [REDACTED] and [REDACTED] can not be substantiated.

Furthermore, although the recording of the Mayor's controversial voice memo "automatically erased itself" (Exhibit 6), there is little doubt that it alleged that Mr. Ciarametaro was a "[REDACTED] fraud and a liar." The Mayor herself admits that she "may" have used these words and Mr. Ciarametaro described the incident under oath in his federal court affidavit. (Exhibit 6) In the affidavit, Mr. Ciarametaro does not specifically allege that the [REDACTED] was used by Mayor Theken—only that she said he was a "fraud" and that she never should have hired him—but it is reasonable to conclude that Mr. Ciarametaro or the attorney submitting the affidavit did not think that using such explicit language was appropriate in the formal setting of the USDC. Accordingly, I find that the Mayor violated the Communications Policy for using profanity and demeaning language and when she left the voice memo for Mr. Ciarametaro.

Whether Mayor Theken uses derogatory statements concerning race, religion, or sexual orientations is less clear. [REDACTED] and Mr. Ciarametaro state that they have heard her use such terms about employees and City residents. [REDACTED] claimed that the Mayor referred to one of her contacts as a [REDACTED] and stated that [REDACTED]. Nevertheless, employees, including many who stated that Mayor Theken often uses profane language, deny that she has made inappropriate comments about race, religion, and/or sexual orientation. These employees include [REDACTED]. Accordingly, there is not sufficient evidence that Mayor Theken's profane language was discriminatory. Furthermore, Mr. Ciarametaro does not allege that any discriminatory language was directed at him.

In addition to violating the City's Communication Policy, the Mayor's frequent use of profanities and the anger that often accompanied those words violate the City's Anti-Harassment Policy, which prohibits "any verbal or physical conduct designed to threaten, intimidate or coerce an employee" and moreover states that "Verbal taunting...that, in the employee's opinion, impairs his or her ability to perform his or her job is included in the definition of harassment." (Exhibit 2) I credit [REDACTED] report that Mayor Theken "screamed" at her for a half hour on January 22, 2021 causing her to become very upset; the following Sunday she submitted her resignation. I also credit [REDACTED] description of her staff as afraid to attend meetings with Mayor Theken because she is "very hot headed and volatile" and "yells all of the time with limited self-awareness." I further credit her description of the March 1, 2019 meeting with department heads in which Mayor Theken warned that the men at the meeting to "look out" for [REDACTED] causing [REDACTED] to leave the meeting "very upset." I further credit [REDACTED] report that she has seen the Mayor "degrade, berate, and threaten [her] colleagues, City Counselors, School Committee members, teachers, and members of the public" and she has been on the receiving end of her tirades. Lastly, I credit both [REDACTED], who explains that the Mayor "yells at everyone", and [REDACTED], who feels "stressed" when he gets yelled at by her.

Mayor Theken also violated City policy with respect to confidentiality and retaliation. The Anti-Harassment and Discrimination Prevention Policy provides that "[d]uring a formal complaint process...the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complaining person will be protected to as great a degree as is possible" and "Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy. (Exhibit 2) On

Confidential

January 26, 2021, the Mayor convened a meeting with newly appointed [REDACTED], and Mr. Ciarametaro under the guise of wanting to address work related matters but there appears to be no dispute that the topic of conversation included the subject of Mr. Ciarametaro's complaint. [REDACTED] recalls some discussion about the threatening message left by Mayor Theken, Mr. Ciarametaro's involvement as an expert witness, and the affidavit Mr. Ciarametaro signed in federal court. The threat of the knee-breaking Sicilian relatives was also discussed. [REDACTED] recalls Mr. Ciarametaro indicating during the meeting that he was represented by counsel and that he was not inclined—at least initially—to discuss these matters at the meeting.

Mayor Theken contends that at the time of the January 26, 2021 meeting she was not aware that Mr. Ciarametaro had filed a complaint against her. This assertion is not credible. Exhibit 14 is a memorandum addressed to the Mayor from [REDACTED] stating, "I am writing to advise you that you have been named in a complaint alleging harassment by Harbormaster T.J. Ciarametaro." The memorandum is dated November 10, 2020. Further, Attorney O'Connell sent letters to various officials in Gloucester, including Mayor Theken, requesting a litigation hold of relevant documents. The letters indicate that Mr. Ciarametaro is his client and that the Mayor's office's and the Law Department's interactions with Mr. Ciarametaro are germane to his claim. (Exhibit 15) Further, [REDACTED] recalls the Mayor crying in November 2020 after learning that Mr. Ciarametaro had filed a complaint against her. Accordingly, Mayor Theken's decision to address the issues of Mr. Ciarametaro's complaint in the presence of other City employees, after he had indicated that he was represented by counsel, constitutes a breach of the Anti-Harassment and Discrimination Prevention Policy with regards to confidentiality. Moreover, Mayor Theken's decision to

Confidential

blindsided Mr. Ciarametaro about these confidential matters in the presence of his colleagues was upsetting to him and retaliatory for his filing the complaint in violation of said policy.

The remaining claims of Mr. Ciarametaro are not sufficiently supported by the evidence. Mr. Ciarametaro asserts that the Mayor's opposition to his appearance as an expert witness violated City policy.⁷ His claim further asserts that the Mayor inappropriately threatened to fire him if he did not stop his work as an expert witness.

I do not find, however, that Mayor Theken or Mr. Payson violated City policy by insinuating, if not explicitly stating, that Mr. Ciarametaro may be terminated if he did not withdraw as an expert witness. The Mayor and Mr. Payson expressed a legitimate concern that Mr. Ciarametaro's involvement in the case was causing some disruption in the Gloucester fishing community, one of the Harbormaster's main constituencies.

Mr. Ciarametaro next alleges that he was "left out of critical meetings" regarding the closing of the boat ramp in retaliation for the friction caused by his involvement in the federal lawsuit. ██████ remembers that Mayor Theken was calling and texting him while he was sitting next to Mr. Ciarametaro and asking him questions that he believes should have been addressed to Mr. Ciarametaro—a breach in the traditional chain of command which made him uncomfortable. ██████ also recalls that Mr. Ciarametaro was oddly excluded. Mayor Theken denies any intent to exclude Mr. Ciarametaro from the process. She was dealing with multiple departments—including the board of health and the Lt. Governor's office—and the novel, demanding, and rapidly changing world of COVID-19 restrictions. In support of her position, she presents an email she wrote on April 15, 2020, sent to both ██████

⁷ Mayor Theken's use of profane language during this incident is separately discussed above and I have already concluded that it is violative of the City's Communications Policy.

██████ and Mr. Ciarametaro, outlining the pertinent events. (Exhibit 16) The email describes an almost frantic attempt to understand how the COVID restrictions would apply, if at all, to the boat ramp. According to the email, Mr. Ciarametaro sent a text to Mayor Theken and ██████ requesting guidance on the boat ramps. The Mayor then sought advice from state officials, and when she could not answer their questions, had Mr. Ciarametaro join the conversation. During this time, the Mayor had not been able to reach ██████, and when he eventually called Mayor Theken shortly thereafter, the two of them called the Lt. Governor's office back without Mr. Ciarametaro. ██████ was able to add pertinent information to the conversation that had been missing, and the Lt. Governor responded by indicating that she was working on updated guidance and that a draft would be sent to both the Mayor and the Harbormaster. There is also reference in that email to an April 9, 2020 Zoom call during which Mr. Ciarametaro discussed the issue, presumably with Mayor Theken. The Mayor's state of mind was not retribution; she did not agree with Mr. Ciarametaro's opinion that the boat ramps should stay open and felt that he was stirring up trouble by "leaking" undisclosed information to the public. (Exhibit 16) Whether or not Mr. Ciarametaro was doing so is not significant; the claims in question only concern Mayor Theken's state of mind and intent. Based upon the aforementioned, I find that her conduct was driven by a policy disagreement—*i.e.*, whether to close the boat ramps—and the frantic pace inherent in managing the pandemic, not any personal vendetta.

Similarly, I do not find that the issue concerning the alleged promise to bring Mr. Ciarametaro's request for a wage to the City Council violates City policy. Firstly, Mayor Theken does not recall making any assurances upon his request. She agrees that she acknowledged that his role had changed, but she also told Mr. Ciarametaro that his request

Confidential

needed to await the budget process. [REDACTED] advised Mayor Theken that although [REDACTED] supported Mr. Ciarametaro's request for a salary increase, she did not, especially considering the City's recent decision to hire a new administrative assistant in his department. [REDACTED] told the Mayor that he too did not think a salary increase for Mr. Ciarametaro was warranted. There is no evidence corroborating Mr. Ciarametaro's claim that the Mayor's conduct was retaliatory.

Mr. Ciarametaro's assertion that Mayor Theken's concern with his hiring of [REDACTED] was violative of City policy also fails. Further, I do not credit Mr. Ciarametaro's assertion that Mayor Theken spoke ill of [REDACTED]. It is undisputed that the Mayor was concerned about Mr. Ciarametaro hiring [REDACTED] because she was dating a [REDACTED] who had been embroiled in controversy that "tarnished the City." She also had concerns that Mr. Ciarametaro, who was friendly with the [REDACTED] and perhaps the candidate herself, did not disclose this relationship during the hiring process and that she was not consulted before the job offer had been extended. I credit [REDACTED], who was present for the conversation, who reports hearing Mayor Theken explain to Mr. Ciarametaro her concerns about [REDACTED] relationship to the [REDACTED], Mr. Ciarametaro apologizing for not disclosing that he knew the candidate but nothing inappropriate or personal about [REDACTED] [REDACTED]

The threat incident is not sufficiently supported by the evidence. Mr. Ciarametaro alleges that on November 3, 2020 [REDACTED], who meets with Mayor Theken regularly, reported to him that Mayor Theken made threatening comments about Mr. Ciarametaro in her presence. Mr. Ciarametaro reports that the Mayor told [REDACTED] that she had Sicilian friends and family who break kneecaps and that Mr. Ciarametaro does not know "who he is [REDACTED]"

Confidential

██████ Mr. Ciarametaro reported the incident to Attorney O’Connell, who reported the incident to ██████. ██████ instructed ██████ to investigate the allegations. Significantly, ██████, a reluctant witness, reported that the conversation she had with Mayor Theken “had nothing to do with TJ” and concluded that Mr. Ciarametaro either misinterpreted the context of her conversation or “blew it out of proportion.” (Exhibits 8 and 12) ██████ specifically denied that her conversation with Mayor Theken involved references to breaking kneecaps, threats, or fearing the Mayor. ██████ concluded that the alleged threats did not meet the probable cause standard, but kept the investigation open, pending any new information. Accordingly, although it is possible that ██████ recanted her story in the interests of self-preservation, I do not find that the evidence of the threat incident meets the preponderance of evidence standard.

There is not sufficient evidence of any policy violations against Mr. Payson. Mr. Ciarametaro has not identified any specific acts of wrongdoing by Mr. Payson nor has identified any actions that he was compelled to act and failed. Mr. Ciarametaro alleges that Mr. Payson was aware of his designation as expert witness in the federal litigation and that Mr. Ciarametaro’s involvement had been cleared through the Massachusetts Ethics Board. Even if true, however, Mr. Payson was certainly within his rights to change his opinion after complaints were received from the local fishing community. Again, there is no evidence that Mr. Payson was acting in his own self-interests when he requested that Mr. Ciarametaro recuse himself.

In sum, I find by a preponderance of the evidence that Mayor Theken’s frequent use of profanities, including profanities launched against the complainant, violate the Communication Policy. I also find that her language and demeanor constitute harassment, as
Confidential

defined in the Anti-Harassment Policy. I find her “verbal taunting,” viewed subjectively from the viewpoint of City employees has impaired their ability to perform their jobs. The affected employees include Mr. Ciarametaro. I also find that Mayor Theken violated the confidentiality and retaliation provisions of that policy when she discussed the subject matter of Mr. Ciarametaro’s complaint with other employees present after Mr. Ciarametaro stated that he had retained counsel to represent him. Mayor Theken’s assertion that she did not know of Mr. Ciarametaro’s complaint at that time is not credible. However, the remainder of Mr. Ciarametaro’s allegations fail. The Mayor had the right to advance the legitimate concerns of the City when addressing the boat ramp issue and Mr. Ciarametaro’s requested raise. Included in this right is the right to change her mind, so long as her intentions do not violate City policy. The threat incident is a closer call, but ultimately must fall short of the preponderance standard. [REDACTED] denial, even considering her reluctance to discuss the matter with the investigating officer and her own self-interest, is a direct rebuke of Mr. Ciarametaro’s contention.

VI. RECOMMENDATIONS

As Mayor Theken is an elected official it is unclear what if any disciplinary action can be taken against her by the City. Based on the number of policy violations committed by Mayor Theken and the clear impact her actions have on staff, it is recommended if disciplinary action is lawfully permitted, punitive action be taken against Mayor Theken.

In addition, to any disciplinary action taken against Mayor Theken, I recommend following:

- The City provide training to all employees on Preventing and Addressing Discrimination and Harassment in the Workplace. All elected and appointed officials should also attend the training, including Mayor Theken and her administration.
- A Code of Conduct and an Anti-harassment and Anti-discrimination Policy be implemented for all elected and appointed officials to accept and sign at the start of each appointment and election and renew when reappointed or re-elected. The City Clerk should be tasked with ensuring that each elected and appointed official is provided a copy of the policy and sign-off sheet when elected and appointed and when reappointed or re-elected.
- Training on the Code of Conduct policy should be provided to all elected and appointed officials with a focus on how to effectively communicate with staff, colleagues and the public.
- All staff should be guided on how and to whom they should report unlawful and unprofessional treatment by elected and appointed officials.
- Lastly, as many employees voiced concerns about retaliation for participating in the investigatory process it is recommended that the City's Anti-Harassment and Discrimination Prevention policy be redistributed to all employees reminding them that retaliation will not be tolerated by the City.

If I may provide you with any additional information, please feel free to contact me.

Very truly yours,

Regina M. Ryan

Regina M. Ryan

Confidential