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Serving New Jersey Municipalities

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March 27, 2018

Freeholder Thomas A. Arnone
Director, Monmouth County Board of Chosen Freeholders
Hall of Records, Freehold NJ 07728

Michael D. Fitzgerald, Esq.
Monmouth County Counsel
Hall of Records – Room 236, Freehold NJ 07728

Ms. Teri O'Connor
Monmouth County Administrator
Hall of Records, Freehold NJ 07728

Re: Legal Claims and Demands Regarding the Alleged Activities of Freeholder John P. Curley ("Curley") and former Monmouth County Counsel Timothy B. Middleton, Esq. ("Middleton", and together with Curley, the "Parties")

Dear Sirs/Madame:

I am writing in my capacity as the in-house counsel of Realty Data Systems LLC ("RDS"), with copies to our outside legal counsel, the Monmouth County Prosecutor (the "MCP") and the Federal Bureau of Investigation (the "FBI").

RDS is a provider of municipal property inspection services located in Lincroft, NJ.

Executive Summary

Alleged Activities of the Parties

John P. Curley initiated a law enforcement investigation at taxpayer expense on or about September 14, 2015, in his official capacity as a member of the Monmouth County Board of Chosen Freeholders (the "Freeholder Board").

This investigation and its media coverage resulted in significant damages to RDS and its individual members, in addition to other local businesses and individuals. It focused on false

allegations of wrong-doing related to the New Jersey Assessment Demonstration Program (the "ADP") provided by Curley to the MCP.

It is our estimate that this investigation expended more than \$1 million in public funds, derived primarily from property taxes paid by Monmouth County residents.

The investigation was concluded on May 1, 2017, with the MCP determining that no charges were warranted against any party.

It is our belief that the following allegations, *inter alia*, must be assessed via further investigation:

- (1) Curley initiated this investigation to financially benefit the private business of former Monmouth County Counsel Timothy B. Middleton, Esq.;
- (2) Curley knowingly provided false information to law enforcement with respect to (a) the content of such materials, (b) the identity of the information's source, (c) the financial interest of that source, and (d) his personal relationship with such source;
- (3) Curley's actions resulted in the misuse of significant public funds and law enforcement resources;
- (4) Curley sought to accomplish his objective by damaging (a) the ADP, given the program's negative effects on Middleton's private business, (b) RDS and its individual members working within the ADP, and (c) other local businesses and individuals, including public officials, with responsibilities related to the program;
- (5) Middleton was the true author of the materials Curley provided to the MCP (and similar documents disseminated during this time period), despite such materials being attributed to an anonymous "concerned citizens" group;
- (6) Middleton created at least two (2) false identities for these purposes;
- (7) Middleton's business declined precipitously due to the implementation of the ADP;
- (8) Middleton is a personal and/or professional acquaintance of Curley, a political contributor to Curley's campaigns, and a Fall 2015 appointee of the Freeholder Board on which Curley serves;
- (9) Middleton attended a fundraiser for Curley weeks prior to Curley's claimed discovery of the "anonymous" materials he provided to the MCP, and Curley notified law enforcement that he was unaware of the material's source;
- (10) Curley continued to publicly disseminate Middleton's materials in his official capacity for an extended time period;
- (11) Curley contacted municipal officials to compel local governments to abandon the ADP, despite having no legal authority pertaining to the program;

- (12) Curley directly, and/or through intermediaries, threatened the employment of Monmouth County (the "County") government personnel who supported the ADP; and
- (13) Curley tortuously interfered with RDS' business relationships by contacting its clients and compelling municipal officials to terminate RDS contracts and services.

Legal Demands and Courses of Action

We are requesting the following on behalf of RDS and Monmouth County's taxpayers:

- (1) A thorough investigation of the Parties by the County regarding the alleged activities contained herein, including any financial relationship which may exist between Curley and Middleton, to be conducted by an outside, independent firm;
- (2) The production of previously withheld County records under the New Jersey Open Public Records Act ("OPRA") outlined herein to RDS, the MCP and the FBI, including reimbursement of RDS' legal fees expended in pursuit of such records (to the extent the County is the custodian of such records);
- (3) The County's cooperation, subject to the provisions of the OPRA, in providing public records in response to future and lawful OPRA requests;
- (4) Full cooperation between the County, the MCP, the FBI and/or other law enforcement agencies regarding any investigations of Curley and Middleton – including those already commenced by law enforcement;
- (5) An executed agreement with RDS which preserves the company's rights to pursue all legal actions and remedies to which it may be entitled against the County or other parties under the County's control, and tolling any applicable statutes of limitations which may time bar such claims;
- (6) The preservation of all evidence now or hereafter in possession of the County, its personnel or representatives, regarding the alleged activities contained herein; and
- (7) A public hearing during the County's investigation, and upon the conclusion of such investigation regarding the alleged activities contained herein, provided that the timing and content of such hearings does not interfere with existing law enforcement investigations of Curley and Middleton.

If the above items are acceptable, RDS is willing to provide further information and to refrain from prospective legal action for an agreed upon period, to enable the County to pursue its investigation in an unimpeded manner.

This investigation is critical in determining the accuracy of the allegations contained herein. If such allegations are substantiated, the actions of Curley and Middleton resulted in the misuse of potentially millions of dollars in taxpayer funds.

The attached pages provide additional information.

Freeholder Curley's Alleged Dissemination of False Information to Law Enforcement, Misuse of Public Funds and Official Misconduct

Curley publicly disseminated a lengthy document (the "Letter") to the media, the Monmouth County Board of Taxation (the "Tax Board") and the MCP on or about September 14, 2015.

He took those actions in his official capacity as a member of the Freeholder Board, signing his cover letters as "Freeholder John P. Curley" and using his government letterhead.

Curley's correspondence called upon the MCP to undertake a "full prosecutorial inquiry" into the information contained in the Letter, which he also shared with the *Asbury Park Press* (the "APP").

These actions were particularly troubling, given Curley's role in setting the budget of the MCP. In fact, a recent report from the NJ Attorney General noted that county prosecutor budgets and salaries are often influenced by "a county prosecutor's personal relationship with ... members of the board of chosen freeholders".

Curley's correspondence to the Tax Board called for the suspension of the ADP - a state law enacted in January 2013, and a program over which neither the Freeholder Board nor Curley has any legal authority.

Curley stated that he was unaware of the Letter's origin (labelled as the work of an anonymous "concerned citizens group"), and that he had found it in his personal residence the previous evening.

Despite these facts, Curley took the extraordinary step of immediately and publicly disseminating the Letter, which contained a series of patently false, defamatory and misleading statements.

These statements alleged wrong-doing relating to the ADP by government officials, RDS (one of several ADP vendors) and its members, and other local businesses and individuals.

While the allegations contained in the Letter were voluminous, a central theme was the fictitious claim that RDS had secured its municipal contracts via rigged bid processes, personal relationships and other illegal and/or unethical methods.

However, it is well-documented that all RDS contracts since the firm's inception have been obtained via public, competitive bid processes. RDS has never received a contract in which it was not the lowest bidder, and to our knowledge we are the only company in our field which does not accept "no bid" contracts or make political contributions.

The Letter further stated that the ADP was created in "secrecy", when in fact it was the result of a nearly decade long, widely-publicized process that required the approval of more than 200 public officials at the local, county and state levels of government.

Note that RDS' legal counsel, Ansell Grimm & Aaron PC, served Curley's county office with detailed notice regarding his activities, our causes of action, damages and other relevant information on September 22, 2015, and included a cease and desist demand.

Law Enforcement Investigation and Media Attention Instigated by Curley

Many of the Letter's false allegations were published by the APP and other media outlets as a direct result of Curley's actions.

The MCP initiated an investigation at Curley's request, which persisted for an eighteen (18) month period and included more than 100 subpoenas and 40 witness interviews by the MCP and the FBI.

While we do not possess the relevant financial records, it is our estimate that this investigation expended more than \$1 million at the county and municipal levels, funded primarily by County residents via the property tax.

Throughout this period, media outlets published a large volume of articles noting that RDS and other parties were under criminal investigation and repeating the false allegations.

Curley continued to publicly disseminate the Letter in his official capacity through at least August 10, 2016. He also advertised his instigation of the investigation in widespread campaign mailings.

The investigation was concluded on May 1, 2017, with the MCP determining that no charges were warranted against any party.

Curley's Alleged Tortious Interference with Private Business Relationships

We believe that Curley contacted municipal officials in his official capacity, for purposes of pressuring local governments to withdraw from the state ADP and/or to compel their breach of contracts with ADP vendors.

Multiple clients immediately terminated their contracts with RDS, refused to provide payment for services already rendered, and/or withdrew from the ADP. We believe those actions resulted directly from Curley's pressure, his instigation of the investigation and/or his efforts to draw media attention to same.

RDS had never lost a single client in the firm's history prior to Curley's actions.

As a member of the Freeholder Board, Curley had influence over grants and other financial decisions affecting those municipalities during this period.

While our legal counsel has advised us to withhold further detail regarding Curley's alleged tortious interference at this juncture, we are confident that current and/or former public officials will provide evidence regarding these allegations.

Former Monmouth County Counsel Timothy Middleton's Alleged Use of False Identities and Misuse of Public Funds for Financial Benefit

It is our belief that Middleton was the actual source of both the Letter and similar materials (together, the "Documents") publicly distributed during the same time period, in an effort to derail the ADP and to damage the reputations and businesses of parties working in the program.

Our research suggests the Documents were created by the same party, using at least two (2) false identities.

An investigation should seek to determine, *inter alia*, whether Middleton created the Documents; assumed false identities for those purposes; knowingly disseminated false information to the MCP, the media and current/prospective clients of RDS; acted to financially benefit his private business while causing injury to others; and conspired with Curley and/or other public officials for these purposes.

It is our further belief that Curley possessed knowledge of these alleged activities, while using his public office to facilitate an investigation at taxpayer expense under false pretenses.

In 2012, Middleton was the top assessment appeal attorney by case volume in Monmouth County.

In 2013, Middleton was filing nearly 350% more appeal cases than the second leading attorney in Monmouth County.

Based on our review of appeal filings, tax reductions, legal counsels of record, and standardized fee rates, we estimate that Middleton earned \$1,035,500 in appeal fees from Monmouth County residents alone during the period of 2011-2015.

The ADP had a chilling effect on the assessment appeal business, given that municipalities were empowered to correct assessments on an annual basis – reducing the need for property owners to file appeals or hire legal counsel for that purpose.

Public records suggest that Middleton's appeal fees in Monmouth declined by an estimated 54% during 2014 (the first year of the ADP's implementation), and an additional 50% during 2015 (when additional municipalities entered the program).

By 2015, Middleton's estimated annual appeal fees in Monmouth had declined by 77% from 2013 – the year prior to the ADP's implementation.

While our legal counsel has instructed us to withhold certain information at this juncture, there are current and/or former public officials who we believe will provide definitive evidence identifying Middleton as the source of certain of the Documents.

Curley and Middleton Connections and Alleged Conspiracy

Curley claimed to discover the Letter on or about September 13, 2015 in his personal residence (located in a gated community with limited public access) and was unaware of the Letter's anonymous source.

In his public dissemination of the Letter the following day, Curley stated that his motive was to promote "full transparency" and "ethical standards" in government, in requesting both a taxpayer-funded law enforcement investigation and the suspension of the ADP.

It is our belief that Curley has multiple personal and/or professional connections to Middleton, and the latter will be confirmed as the source of the Letter and the Documents.

We are confident that judicial findings in that regard would provide a preponderance of evidence that Curley did not simply "discover" the Letter in his home; that he was aware of both the Letter's true source and the vested financial interest of Middleton in the subject matter; and that he knowingly provided false information to law enforcement and other government entities, while seeking to harm competing businesses.

If substantiated, such a finding would establish that Curley sought to use law enforcement and taxpayer funds to support the business of a personal acquaintance, while damaging local businesses which provided a competing product.

Middleton is a political contributor to Curley and the county party which supported Curley's campaigns, attended a fundraiser for Curley just weeks prior to Curley's "discovery" of the Letter, and was appointed as a Monmouth County Counsel by the Freeholder Board on which Curley serves in Fall 2015.

Middleton was one of only two (2) appointees who had not previously served in that position, and the only appointee without the legal experience required in the County's RFQ.

We have reviewed the submissions of all County Counsel appointees for calendar year 2016 and believe that an investigation should further seek all available information regarding Middleton's appointment and Curley's role in same.

Middleton submitted his application to be appointed County Counsel five (5) weeks after Curley's dissemination of the Letter.

We do not have access to the banking records of Curley and Middleton to ascertain if they also have a financial arrangement or non-disclosed business relationship.

OPRA Denials

The County and/or Tax Board has denied multiple requests under the OPRA for records which we believe are critical to establishing if Middleton was the source of the Documents, including the Letter disseminated by Curley.

Certain of the information contained in the Documents can only be obtained from a database maintained by the County and/or the Tax Board, and RDS sought user search/download logs from that database.

One request sought the IP Addresses and search logs of this database's users, which was denied on grounds that the provision of IP Addresses could compromise the security of those internet users (via hacking, eg), or reveal personally-identifying information.

We believe this contention to be wholly incorrect, since IP addresses only reveal the Internet Service Provider of those users (Verizon, eg), unless users proactively register to have their IP addresses published in their names.

Plaintiffs offered a settlement which provided that no IP Addresses would be provided, and instead provided the County with the specific, publicly-available IP Address of Middleton, and agreed to accept only his search logs. This request was also served upon the County in a separate OPRA request.

The County also denied that OPRA request and failed to respond to our written settlement offer, which had addressed each of its stated concerns. Our firm's litigation regarding these records has been ongoing in Superior Court, at significant expense, since April 2016.

While we are confident that such records would be obtainable via a civil discovery process, at this juncture the County and/or Tax Board is in the best position to review those records, in addition to any paper or electronically stored communications, telephone logs, files, copies or backups relevant to these matters, and/or to conduct interviews with County personnel.

Damages

The County's taxpayers, RDS and other parties have suffered significant damages as the result of Curley's alleged actions and the law enforcement investigation he instigated.

We are prepared to provide a detailed accounting of damages in any proceeding.

Non-Disclosed Law Enforcement Investigation of Curley and Middleton

Our firm has assembled a list of witnesses and records which we believe will provide evidence to assess the validity of the alleged activities of the Parties.

Both the MCP and the FBI have undertaken an investigation of Curley and Middleton regarding the subject matter contained herein – a fact that has not been disclosed to the public.

We are aware of at least five (5) witnesses who were interviewed by these law enforcement agencies during 2017 concerning the activities of the Parties.

It is our belief that the MCP has confirmed Middleton is the source of the Documents and that he assumed false identities to promote his business interests. We are unaware if the MCP has proven Curley's knowledge of these alleged activities, if Curley has cooperated, or if he has claimed it is mere coincidence that among the 630,000 residents of Monmouth County, the

alleged author is one of his appointees, contributors, and attended his campaign event shortly before Curley's dissemination of the Letter.

While we do not have insight into the status of this investigation, a finding that Curley and Middleton committed the alleged acts could subject one or both to a variety of charges under the New Jersey Code of Criminal Justice.

Those provisions include but are not limited to the crimes of: Impersonation; Retaliation for Past Official Action; Crime of Corruption of Public Resources; Unsworn Falsification to Authorities; False Reports to Law Enforcement Authorities; Official Misconduct; and Pattern of Official Misconduct.

We are calling upon the MCP to release their findings and/or the status of their investigation to the public, and to support the County's investigation.

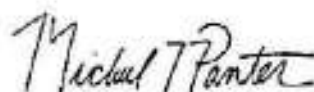
I must also note that should the allegations contained herein be substantiated, it is not a negative reflection on the MCP or the FBI – each of which would have initially been unaware that information provided to them by Curley was false with respect to content and its source.

We look forward to discussing these matters and agree that “full transparency” in government is critical – as stated by Freeholder Curley in September 2015 pursuant to his own demand for an investigation.

When our firm stood falsely accused, we consistently provided every requested document, volunteered all company personnel for questioning without limitation, and fully cooperated until we were cleared.

As an elected official who caused the expenditure of significant taxpayer funds, it is Freeholder Curley's legal and ethical obligation to be equally forthcoming.

Respectfully,



Michael J. Panter, Esq.
Realty Data Systems LLC

Cc: Monmouth County Prosecutor
Federal Bureau of Investigation
RDS Members / Litigation and OPRA Counsels