

## SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of all Claims (hereinafter "Agreement") is made and entered into by Danielle Clermont ("Clermont") and The Town of Tisbury ("Tisbury") and Max Sherman ("Sherman").

WHEREAS, Clermont filed a lawsuit in the Dukes County Superior Court of the Commonwealth of Massachusetts alleging that she was subjected to intentional, improper interference with advantageous business relations, conspiracy, slander, and failure to supervise (Docket No.: 2274-CV-00002);

AND, Tisbury and Sherman (collectively, the "Defendants") have denied any wrongdoing or unlawful actions and/or liability whatsoever and specifically disclaim any liability on the part of themselves or any past or present officers, managers, agents, employees, or representatives;

AND, Clermont and the Defendants (collectively "the Parties") now wish to consensually resolve this dispute:

NOW, THEREFORE in consideration of the promises set forth below, the Parties agree as follows:

1. **Payment to Clermont.** Tisbury shall cause to be paid to Clermont the sum of Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00). Payment shall be made to the Client Trust Account of the Law Offices of Timothy M. Burke. Payment shall be made within 30 days after receipt by counsel for the Defendants of this Agreement executed by Clermont. Clermont acknowledges that she has not relied upon any representations concerning the tax obligations and consequences resulting from the payment. Any and all tax obligations associated with Clermont's receipt of this sum, whether arising under federal, state or local laws, shall be the sole responsibility of Clermont. Clermont agrees to defend, indemnify, and hold harmless the Defendants from any and all tax liabilities that may be assessed against the Defendants as a result of this payment to Clermont.

2. **Release by Clermont.** Except as to the obligations herein, Clermont, for herself and her heirs, executors, beneficiaries, successors, assignees, immediate family members, and any other person or entity who could now or hereafter assert a claim in her name or on her behalf, hereby releases and forever discharges the Defendants and their subsidiaries, officers, directors, members, partners, owners, shareholders, employees, former employees, agents, servants, attorneys, assigns, affiliates, independent contractors, volunteers, predecessors, successors, parent companies and organizations, insurers, and any and all other persons, firms, and corporations in which they may have an interest (collectively the "Released Parties") from any and all past, present, or future claims, lawsuits, demands, actions, or causes of actions (collectively "Claims"), which Clermont now has, owns, or holds, or claims to have, own, or hold or which Clermont at any time heretofore had owned or held, or claimed to have had, owned, or held, up to the date of execution of this Agreement, including but not limited to any and all Claims relating to Clermont's application for employment with Tisbury and any other Released Parties, and/or the denial of such application for employment, and/or any alleged mistreatment of Clermont of any kind and/or relating to any aspect of any relationship, dealing, interaction, or communication of any kind involving Clermont, the Defendants, or any of the other Released Parties. The scope of what Clermont releases in this Agreement includes, but is not limited to, a full general release by Clermont of any and all Claims or potential Claims that Clermont may have against the Defendants and/or against any of the other Released Parties, for any and all injunctive relief, declaratory relief, physical injury, personal injury, and injury of any and all other kinds, and/or any and all other kinds of alleged damages, or other monetary obligation, or obligation of any other sort, including but not limited to, any and all compensatory damages, emotional distress damages, punitive damages, costs, attorneys' fees, and any and all other kinds of damages that are based in whole or in part on any act or omission occurring before this Agreement becomes effective.

This Agreement does not release any rights or claims that arise after the date of execution of this Agreement, including any claim for breach of this Agreement.

It is expressly stipulated by Clermont that she is not to be considered a prevailing party for any purpose.

3. **Dismissal of Lawsuit.** Clermont agrees that, through her counsel, she will take all necessary steps to have the lawsuit pending in the Dukes County Superior Court of the Commonwealth of Massachusetts (Docket No.: 2274-CV-00002) dismissed with prejudice. Clermont, through counsel, shall file a stipulation of dismissal with prejudice no later than 5 days after receipt of the consideration described in Paragraph 1 of this Agreement. Clermont further acknowledges that her claims filed with the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, and the United States District Court for the District of Massachusetts have all been dismissed with prejudice and agrees not to initiate any new claims.

4. **No Re-employment or Reinstatement.** Clermont forever gives up any right to be hired or employed by Tisbury. Clermont will never apply for employment with Tisbury and agrees that Tisbury will have the right to refuse to employ her, without liability.

5. **Confidentiality.** Strict confidentiality is a material term of this Agreement. Accordingly, the Parties agree as follows:

The Parties shall not affirmatively contact the press or other media or call a press conference to announce the settlement, nor shall they issue a press release or other written statement to the press or other media to announce the settlement.

The Parties shall not disclose or cause to be disclosed to anyone the terms or conditions of this Agreement, including the fact that there was a monetary payment, the amount thereof, or the discussions leading to this Agreement.

If the Parties are asked about their dispute, they will reply only that "the dispute has been resolved to the parties' mutual satisfaction" or substantially equivalent phrasing that does not reveal the terms or conditions of this Agreement, including the fact that there was a monetary payment.

Clermont may disclose the terms and conditions of this Agreement to adult members of her immediate family on further condition that she advises such family members in advance of disclosure, that the terms and conditions of this Agreement and the discussions leading to them are strictly confidential, and obtains the assurance of such family member that strict confidentiality will be observed. Clermont remains liable for any breach of confidentiality by any adult member of her immediate family.

Tisbury may disclose the terms and conditions of this Agreement to the members of its Select Board, the Select Board staff members, and employees of the Tisbury Police Department as is necessary on condition that Tisbury advises such persons in advance of disclosure that the terms and conditions of this Agreement and the discussions leading to them are strictly confidential and obtains the assurance of such persons that strict confidentiality will be observed.

Sherman may disclose the terms and conditions of this Agreement to adult members of his immediate family on further condition that he advises such family members in advance of disclosure, that the terms and conditions of this Agreement and the discussions leading to them are strictly confidential, and obtains the assurance of such family member that strict confidentiality will be observed. Sherman

remains liable for any breach of confidentiality by any adult member of his immediate family.

The Parties may disclose the terms of this Agreement to their attorneys, tax advisors, governmental taxing bodies, or defense counsel for claims of malpractice or professional discipline.

The Parties may disclose the terms of this Agreement pursuant to lawful process or as otherwise may be required by law provided that, in the event that any party is served with any process seeking disclosure of the terms and conditions of this Agreement, the party served with process will advise the other party in advance of such disclosure to allow the other party to seek appropriate relief.

6. **No Admission of Liability.** The Parties acknowledge that this Agreement is a compromise of all disputed claims and that nothing in this Agreement constitutes or will be treated by any party as an admission of liability or wrongdoing. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties and their heirs, beneficiaries, administrators, representatives, executors, successors, and assignees.

7. **Governing Law.** This Agreement shall be governed and will be construed in accordance with the laws of the Commonwealth of Massachusetts. The terms of this Agreement are contractual and not a mere recital.

8. **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Parties on the subject matter hereof, and supersedes all prior discussions and negotiations between them. This Agreement may be amended, modified, or supplemented only by a written instrument executed by the Parties. Should any of the provisions of this Agreement be declared or be determined to be illegal, void, invalid, or unenforceable by a court of competent jurisdiction, the validity of the remaining parts, terms, or provisions shall not be affected, and the illegal or invalid part, term, or provision shall not be deemed a part of this Agreement. It is the intention of the Parties that if any term or provision of this Agreement is capable of two constructions, one of which would render the term or provision valid, then the term or provision shall have the meaning that renders it valid.

9. **Consultation with Counsel.** Clermont acknowledges that she has had the advice of independent counsel and executed this Agreement as her free act and deed. Clermont acknowledges that she has been represented by an attorney throughout the negotiations leading to this Agreement, that she has read and reviewed with, and consulted fully with her attorney regarding the meaning and effect of this Agreement, and that she understands and agrees to them. It is agreed that for purposes of interpreting the meaning of this Agreement that this Agreement should be deemed to have been jointly and mutually prepared in its entirety by all Parties.

10. **Non-Disparagement.** Clermont agrees that she will not knowingly or intentionally make, or cause to be made, any statement (oral or written) that disparages the reputation or business of Tisbury, Sherman, or any other employee(s) of the Tisbury Police Department.

11. **MMSEA Disclosures.** This settlement is based upon a good faith determination of the Parties to resolve a disputed claim. The Parties have not shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. § 1395y(b). The Parties resolved this matter in compliance with both state and federal law. The Parties made every effort to adequately protect Medicare's interest and incorporate such into the settlement terms.

Clermont warrants that she is not a Medicare beneficiary as of the date of this Agreement. Because Clermont is not a Medicare recipient as of the date of this Agreement, no conditional payments have been made by Medicare.

12. **No Prior Assignment; Indemnity.** Each of the Parties represents and warrants that they have the exclusive right to the claims, disputes, and matters encompassed in this Agreement. Each of the Parties further represents and warrants that they have not assigned or transferred, or purported to assign or transfer, to any person or entity any claim or other matter released herein. In the event that a party assigned or transferred, or purported to assign or transfer, any claim, dispute, or other matter herein released, such party shall indemnify the other party or parties and hold harmless such other party or parties from and against any loss, cost, claim, or expense, including but not limited to, all costs related to the defense of any action and any reasonable attorneys' fees based upon, arising out of, or incurred as a result of any such claim, assignment, or transfer.

13. **Reliance On Own Judgment.** The Parties rely wholly on their own investigation and respective judgment as to the extent of any damages any of them may have sustained or may sustain in the future. No party to this Agreement has been influenced by any statement by any other party to this Agreement, and no party has made any representation upon which another has relied upon in entering into this Agreement, other than those expressly set forth in this Agreement.

14. **Titles and Captions.** The paragraph and section titles and captions used in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision thereof.

15. **Counterparts.** This Agreement may be executed in separate counterparts, and by facsimile or e-mail, and each such counterpart shall be deemed an original with the same effect as if all Parties had signed the same document.

IN WITNESS THEREOF, the Parties have executed this Agreement by their signatures below.

By:   
Danielle Clermont (Jul 11, 2023 22:06 EDT)  
Danielle Clermont

Dated: Jul 11, 2023

Town of Tisbury  
By: 

Dated: 7-21-2023





# Settlement Agreement

Final Audit Report

2023-07-12

Created:	2023-07-11
By:	timothy burke (ATTYTMB@AOL.COM)
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-  Signer drclermontmv90@gmail.com entered name at signing as Danielle Clermont  
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