

# KING MOENCH & COLLINS

A Limited Liability Partnership†

ATTORNEYS AT LAW

51 GIBRALTAR DRIVE – SUITE 2F  
MORRIS PLAINS, NEW JERSEY 07950-1254

973-998-6860

Facsimile: 973-998-6863

**RED BANK OFFICE**

365 BROAD STREET, SUITE 4R  
RED BANK, NEW JERSEY 07701

732-546-3670

PETER J. KING<sup>‡</sup>  
PKing@kingmoench.com  
MATTHEW C. MOENCH\*  
MMoench@kingmoench.com  
MICHAEL L. COLLINS\*  
MCollins@kingmoench.com

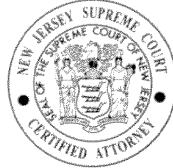
NAKICHA T. JOSEPH  
NJoseph@kingmoench.com

**Of Counsel**

ROMAN B. HIRNIAK  
RHirniak@kingmoench.com

<sup>‡</sup> Certified by the Supreme Court of New Jersey as  
a Municipal Court Attorney

\* Member of the Bar of New York



## **VIA E-COURTS**

July 8, 2022

Hon. Kevin M. Shanahan, J.S.C.  
Somerset County Courthouse  
20 North Bridge Street, 3<sup>rd</sup> Floor  
Somerville, NJ 08876

**RE: Kormandy v. Town of Phillipsburg Town Council**  
**Docket No. WRN-L-248-21**

Dear Judge Shanahan:

This office represents Defendant Town of Phillipsburg Town Council (“Phillipsburg”) in the above-captioned matter.

On June 30, 2022, both counsels to this litigation received the attached letter from Seth R. Tipton, Esq. of the law firm of Florio, Perrucci, Steinhardt, Capelli, Tipton & Taylor LLC (the “Firm”). The letter was written to “respond on behalf of th[e] Firm with respect to the alleged potential conflicts of interest” in this litigation. The letter appends two certifications, and relying upon them, asserts as follows:

Because Mr. Perrucci had no ownership interest in the Firm at the time of the town council vote in May 2021 and performed no legal services during the relevant time periods, a vote by a council member in favor of the project here would not benefit the Firm, and therefore not give rise to any conflict of interest.

Phillipsburg writes the Court to advise about the letter that it and Plaintiff’s counsel received from the Firm – as the enclosed contentions appear directly relevant and perhaps contradictory to the legal claims asserted by Plaintiffs in their trial brief and reply brief.

Hon. Kevin M. Shanahan, J.S.C.

July 8, 2022

Page 2

Based upon the foregoing, Phillipsburg respectfully requests that a pre-trial conference be scheduled to address the foregoing disclosure that was made by the Florio Firm as well as any other pre-trial considerations. Phillipsburg additionally requests the scheduling of a prerogative writ trial date so that this litigation may be adjudicated by this Court to completion.

I thank the Court in advance for its courtesies.

Very truly yours,



MICHAEL L. COLLINS

Attachment



STEINHARDT  
CAPPELLI  
TIPTON &  
TAYLOR LLC

60 West Broad St., Suite 201 | ☎ 610.691.7900  
Bethlehem, PA 18018 | ✉ 610.691.0841

**Seth R. Tipton** | Partner

610.691.7900 x 1039  
[Stipton@floriolaw.com](mailto:Stipton@floriolaw.com)

June 30, 2022

Via Email & Fedex

Peter D. Dickson, Esq.  
Potter & Dickson  
194 Nassaut Street, Suite 31  
Princeton, NJ 08542  
[Rwppddl@cs.com](mailto:Rwppddl@cs.com)  
[Dicksonpd@cs.com](mailto:Dicksonpd@cs.com)  
[potterrex@cs.com](mailto:potterrex@cs.com)

Via Email & Fedex

Michael Collins, Esq.  
King Moench Hirniak Mehta & Collins LLP  
51 Gibraltar Drive, Suite 2F  
Morris Plains, NJ 07950  
[mlc@kmhmlawfirm.com](mailto:mlc@kmhmlawfirm.com)

Re: Kormandy et al. v. Town of Phillipsburg Town Council  
Docket No. WRN-L-248-21

To whom it may concern,

It has come to my Firm's attention that there are several allegations regarding an alleged conflict of interest relating to facts underlying the above-referenced litigation (the "Litigation"). After reviewing the Complaint in Lieu of Prerogative Writs dated June 25, 2021 (the "Complaint") and the following briefs that are available on the Court's docket, it appears that Plaintiffs allege that certain council members of the Defendant Town of Phillipsburg Town Council may have had a conflict of interest in voting on Ordinance 2021-14 (adopted May 4, 2021) because those council members may have been represented by this Firm at some earlier date. The purpose of this correspondence is to respond on behalf of this Firm with respect to the alleged potential conflicts of interest.

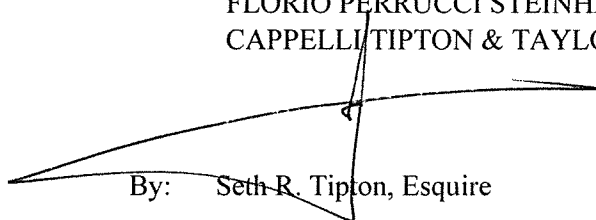
I have enclosed an affidavit from the Firm's administrator, Charles Braxmeier, and from Mr. Petrecca, the Firm's accountant. As set forth in these affidavits, Mr. Perrucci (i) retired as an active partner in the firm effective December 31, 2019; (ii) sold his ownership interest in the Firm back to the Firm effective January 1, 2020; (iii) had no profit interest, zero loss interest and zero capital interest in the Firm during 2020 and 2021; and (iv) has not performed any legal services for which a client was billed since June 11, 2018. Mr. Perrucci had no ownership interest in the Firm nearly six months later in May 2021, when this matter came before the Town Council for a vote.

Because Mr. Perrucci had no ownership interest in the Firm at the time of the town council vote in May 2021 and performed no legal services during the relevant time periods, a vote by a council member in favor of the project here would not benefit the Firm, and therefore not give rise to any conflict of interest.

Please don't hesitate to contact me with any questions.

Very truly yours,

FLORIO PERRUCCI STEINHARDT  
CAPPELLI TIPTON & TAYLOR, LLC

A handwritten signature in black ink, appearing to read "Seth R. Tipton", is written over the printed name. The signature is a fluid, cursive-style script.

By: Seth R. Tipton, Esquire

Enclosures

Florio Perrucci Steinhardt Cappelli Tipton & Taylor LLC  
235 Broubalow Way  
Phillipsburg, NJ 08865  
(908) 878-0124  
stipton@floriolaw.com

STATE OF NEW JERSEY )  
) ss.:  
COUNTY OF WARREN )

I, CHARLES BRAXMEIER, being duly sworn, deposes and says:

1. I am the firm administrator for the law firm Florio Perrucci Steinhardt Cappelli Tipton & Taylor LLC (the "Firm").
2. Michael Perrucci was a partner with the Firm until December 31, 2019.
3. Michael Perrucci has not performed any legal services for any client of the firm since June 11, 2018.

Charles Braxmeier  
Charles Braxmeier  
Affiant

Dated: June 30, 2022

State of New Jersey

County of Warren

I, Carola A. Munro, witnessed, by, CHARLES BRAXMEIER, the attached affidavit on June 30, 2022.

Signed and sworn to (or affirmed) before me on June 30, 2022 by

Carola A. Munro  
[NOTARY PUBLIC]  
My commission expires: 11/01/23

CAROL A. MUNRO  
A Notary Public of New Jersey  
My Commission Expires 11/01/2023

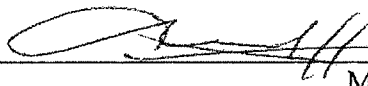


Florio Perrucci Steinhardt Cappelli Tipton & Taylor LLC  
235 Broubalow Way  
Phillipsburg, NJ 08865  
(908) 878-0124  
stipton@floriolaw.com

STATE OF NEW JERSEY )  
 )  
COUNTY OF Hunterdon ) ss.:  
 )

I, Michael Petrecca, being duly sworn, deposes and says:

1. I am a partner with WISS & Company, LLP (“WISS”).
2. WISS prepares the tax returns for the law firm Florio Perrucci Steinhardt Cappelli Tipton & Taylor LLC (the “Firm”) and for Michael Perrucci, individually.
3. The 2020 and 2021 tax returns of the Firm have been prepared reflecting a zero profits interest, zero loss interest and zero capital interest for Michael Perrucci.

  
\_\_\_\_\_  
Michael Petrecca  
Affiant

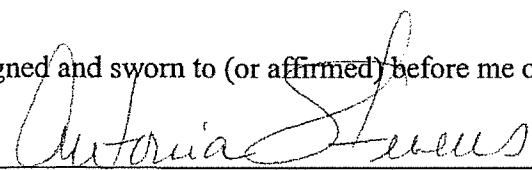
Dated: June 13, 2022

State of New Jersey

County of Somerset

I, Antonia Stevens witnessed, by, Michael Petrecca, the attached affidavit on June 13, 2022.

Signed and sworn to (or affirmed) before me on June 13, 2022 by

  
\_\_\_\_\_

[NOTARY PUBLIC]

My commission expires: \_\_\_\_\_  
**ANTONIA STEVENS**  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Oct. 5, 2023