STATE OF NEW YORK
SUPREME COURT: BROOME COUNTY

TOWN OF UNION,

Petitioner,

vs.

STAINLESS BROADCASTING COMPANY d/b/a FOX 40 NEWS – WICZ TV, GANNETT COMPANY, INC. d/b/a PRESS & SUN-BULLETIN, CHARTER COMMUNICATIONS HOLDING COMPANY, LLC d/b/a TIMEWARNER CABLE NEWS, MICHAEL TANZINI, KENNETH DELBIANCO, BRIDGET KANE, and ALBERT MILLUS, ESQ.,

Respondents.

AFFIDAVIT

Index No.: ECFA2017000524
R.J.I. No.: 2017-0343-M

Hon. Ferris D. Lebous
Justice, Supreme Court

STATE OF NEW YORK)
) ss:
COUNTY OF BROOME)

Rose A. Sotak, being duly sworn, deposes and says:

1. I am the Town Supervisor of the Town of Union. I make this affirmation (1) in opposition to the petition of petitioner Town of Union, (2) in support of my motion to intervene in this proceeding, and (3) in support of the cross-petition for an order directing petitioner to provide me with an unredacted copy of the "Full Report" at issue in this proceeding irrespective of the Court's decision whether the "Full Report" should be redacted prior to its release to the public pursuant to respondents' Freedom of Information Law ("FOIL") requests.

2. I have been a member of the Town of Union Town Board since 1999. I won my first election in November 1998. A former Town Supervisor, John Bernardo, left office, and I as

appointed to take his place. I was subsequently elected to serve as Town Supervisor, and I am in my fifth year in that office.

3. While I have been active in Town affairs as council person and Supervisor for nearly twenty years, my main livelihood has been as an agent in the real estate business. In that regard, I have been a member of the Greater Binghamton Associations of Realtors since 1979. I have served as a director and treasurer for that organization, and have received the most prestigious awards for being the "Salesperson of the Year." I currently serve on the organization's Professional Standards and Grievance Committee, as I have for the past sixteen years.

4. In addition to foregoing, I have been a member of the Southern Tier Regional Economic Development Council for almost six years.

5. In recent times, at times, it became apparent to me that various Department Heads and employees in the Town's employ had become complacent in the discharge of their duties. This was disturbing to me, as I concluded that the attitudes of these individuals were compromising the welfare of the Town. As a result, I confronted a number of Department Heads, employees, and appointed officials, including Alan Pope, the Town Attorney.

6. In addressing these individuals, I acknowledge that I was at some times harsh, but I never overstepped the bounds of propriety. I simply wanted the employees and representatives, including Mr. Pope, to understand their roles and to do their jobs. At all times, I was motivated by my mission to serve the good of the Town and of the residents who had elected me to office.

7. On or about January 30, 2017, I received a letter from Attorney Paul J. Sweeney, advising that his Firm, Coughlin & Gerhart, LLP, had been retained by the "Town Council" to

investigate allegations that I "may have violated Town of Union ('Town') policies." According to Mr. Sweeney:

> Specifically, it is alleged that you may have violated Town policies in the manner that you dealt with Town employees in the performance of your duties.
>
> As part of this investigation, I have reviewed relevant Town policies and interviewed the Town Council, the Department Heads and other Town employees. For hopefully obvious reasons, these employee interviews are deemed confidential and I am not permitted to disclose to you what a particular employee revealed.

8. Mr. Sweeney went on to invite me to be interviewed by him as part of his "investigation," of which I was previously unaware. Apparently, one or more members of the Town Board, other than myself, had commissioned the "investigation." At that point, I sought legal counsel, and on advice of counsel I declined Mr. Sweeney's offer to "interview" me in connection with his "investigation," which I considered to be illegitimate and unauthorized.

9. Mr. Sweeney subsequently issued his so-called "Executive Summary," in which he alleges in extremely general terms that I was abusive to Town employees and representatives. His "Executive Summary" was provided to my attorney and, apparently by a leak by someone in the Town government, to the Press. In his "Executive Summary," Mr. Sweeney concludes that I was abusive to employees, yelling and cursing at them, and threatening them with the loss of their jobs.

10. I was and am prepared to defend myself against any specific allegations regarding my alleged misconduct. As a result, my attorney requested, first informally and then via a Freedom of Information Act request, a copy of Mr. Sweeney's "Full Report," in which he apparently has outlined the details of the complaints against me. Rather than providing the Town has stonewalled, an now seeks an order to permit it to redact the identities of the individuals who have uttered statements against me. I consider this to be outrageous. I am a Town official, in

fact the chief executive officer of the Town. Mr. Sweeney's so-called "investigation" was commissioned by other representatives of the Town, and paid for by Town funds. I am the target of his "investigation." The idea that the Town can prevent me from obtaining an unredacted version of the "Full Report" is unconscionable.

11. The other members of the Town Board have apparently fallen in line behind this tactic. Rather than standing behind me in my efforts to motivate Town employees and representatives to do their jobs, they have chosen to coddle the employees and representatives, who very obviously resent me for my efforts to do the Peoples' work.

12. The Town contends that employees are concerned that I will retaliate against them if the Town were to disclose the identities of the employees who have given testimony against me. This contention, which is only one component of the efforts of the Town Board members and Town Attorney to smear my reputation, is false. In fact, on February 15, 2017, while this saga was unfolding, I issued a press release, in which I stated, among other things, that "I must keep my focus on my vision for the Town of Union residents." A copy of my statement is annexed hereto as Exhibit D. A day or two later, the Town garbage collectors left me a note advising that they had refused to collect my refuse because of "mixed items." A copy of the notice is annexed hereto as Exhibit E. The top of the notice contained the following handwritten annotation: "We must keep our focus on our 'vision' for keeping the planet healthy." Apparently, at least one Town employee is not concerned by his or her fear of retaliation for mocking me in connection with my performance of my duties.

13. The other members of the Town Board have adopted a resolution to hire Mr. Sweeney to explore the possibility of removing me from office. In addition, the Broome County District Attorney has convened a Grand Jury to "investigate" my treatment of Town employees

and officials. The District Attorney issued a subpoena to the Town to obtain Mr. Sweeney's report. It is my understanding that the Town turned over the report to the District Attorney. I have heard nothing further regarding the Grand Jury investigation. But it is amazing to me that the Town would seek not only my removal from office but also criminal charges against me, because I sought to discharge my duties by calling out Town employees and officials who, in my estimation, were not doing their jobs.

14. Given that the Town seems intent on removing me from office and putting me in jail, I respectfully submit that the Court should deny the Town's petition, so that I can fully evaluate the allegations against me, both in my defense and so I can consider action against my slanderous and libelous detractors.

Rose A. Sotak

Sworn to and subscribed before
me this 31st day of March, 2017.

Notary Public: Broome County

ALBERT J. MILLUS, JR.
Notary Public, State of New York
No. 4801999
Residing In Broome County
My Commission Expires Dec. 31, 2017