

Talia Jalette

From: Jim Lamphere <planner@hopkintonri.org>
Sent: Friday, June 11, 2021 2:40 PM
To: Talia Jalette
Subject: FW: RI Supreme Court Dismisses Unfounded Complaint Against Bibler
Attachments: 2021.06.11 Order Dismissing UPL Complaint.pdf; 2020-1-14 From DePasquale to Martin Sheldon_\$10,000 bonus.pdf; 2021.02.08 In re Bibler - Motion to Dismiss (with Deposition).pdf; 2021.01.19 DePasquale Transcript.pdf

Talia
FYI
Jim

From: Eric Bibler [mailto:ebibler@gmail.com]
Sent: Friday, June 11, 2021 2:06 PM
To: Stephen Moffitt; Sharon Davis; Bob Marvel; Scott Bill Hirst; Geary, Michael J {FLNA}
Cc: Brian Rosso; Elizabeth Cook-Martin; Alfred W. DiOrio; Emily Shumchenia; Ron Prellwitz; Keith Lindelow; Carolyn Light; John Pennypacker; James Lamphere; Stephen Sypole; James Marusak; Margaret Hogan
Subject: RI Supreme Court Dismisses Unfounded Complaint Against Bibler

Mr. Stephen Moffitt
President
Hopkinton Town Council

June 11, 2021

Re: Order of the RI Supreme Court to Dismiss a Baseless Complaint Against Mr. Bibler by the Former Town Solicitor, Kevin McAllister

Dear President Moffitt and Members of the Hopkinton Town Council,

In an extraordinary action, the Supreme Court of Rhode Island today has issued an Order to dismiss an official Complaint by Mr. John Mancini, Attorney for Green Development, and Mr. Kevin J. McAllister, former Town Solicitor for the Town of Hopkinton, against Mr. Eric Bibler, a Hopkinton resident, for the "unauthorized practice of law," with the following declaration:

"This matter is before the Court on a complaint filed by John Mancini, Esq., and Kevin McAllister, Esq., which alleges that Eric Bibler, a non-attorney, has engaged in the unauthorized practice of law. This complaint is utterly unfounded and without merit. As a result, the Court adopts the recommendation of the Unauthorized Practice of Law Committee and dismisses the Complaint.

"This matter shall be closed."

On February 21, 2020, Mr. John Mancini, Attorney for Green Development, and Mr. Kevin McAllister, then Town Solicitor for the Town of Hopkinton, filed a Complaint with the Unauthorized Practice of Law Committee (UPLC), a committee that operates under the supervision of the RI Supreme Court, alleging that Mr. Eric Bibler had engaged in the unauthorized practice of law.

The unauthorized practice of law is a criminal offense.

The Complaint alleged that Mr. Mark DePasquale, the owner of Green Development, had *told* Mancini that Bibler had "approached" him and attempted to negotiate a settlement between Green Development and a group of abutters to the Maxson Hill solar project who had filed a suit against Green Development and the Town of Hopkinton to halt the development.

Mr. McAllister did not claim to have personal knowledge of any wrongdoing by Mr. Bibler and no knowledge of any alleged negotiations between Mr. Bibler and Mr. DePasquale. In fact, the entire Complaint was hearsay. Neither Mr. Mancini nor Mr. McAllister claimed to have any direct knowledge of any unauthorized practice of law, nor did they present any evidence that anything improper had occurred.

Mr. Bibler had taken an active role in assisting the Maxson Hill plaintiffs in pursuing relief from the Superior Court in that case and was at that time a plaintiff against the Town of Hopkinton in an appeal of the town council's decision to rezone property for the Skunk Hill solar project (and later the Atlantic Solar project on Main Street by the same developer). But the allegations of Mr. Mancini and Mr. McAllister were completely fabricated.

Mr. McAllister *did not inform the town council of his Complaint* against Mr. Bibler, a legal adversary of the town in other proceedings, in February 2020, nor did Mr. McAllister obtain the approval of the town council prior to taking this action.

Nonetheless Mr. McAllister *signed the complaint in his official capacity as "Kevin J. McAllister, Esq., Hopkinton Town Solicitor."*

Although Mr. McAllister did not seek or obtain approval from the town council to pursue this action on behalf of his client, it is evident that Mr. McAllister did inform *some* members of the town council of this extraordinary action, including the town council president, and *declined* to disclose this information to *other* members of the council who had no knowledge of the complaint until after Mr. Bibler was served with a copy of the complaint at his personal residence by a Deputy Sheriff on September 28, 2020.

It was only after Mr. Bibler had received a summons from the UPLC notifying him of the complaint that Mr. McAllister informed the entire town council of his action on this matter, during an executive session of the town council on October 19, 2020. This was the first time that some members of the town council learned of Mr. McAllister's highly irregular actions.

It has never been publicly explained how Mr. McAlister could act on behalf of his client, the town council of Hopkinton, without ever informing the Council of his proposed actions or obtaining the Council's approval to proceed.

As a result of this baseless Complaint, Mr. Bibler was forced to retain an attorney to defend himself to the UPLC against this baseless complaint in order to deny the criminal charges against him, at a personal cost of thousands of dollars.

On January 9, 2021, after several delays, Mr. DePasquale was finally deposed about the allegations by Mr. DePasquale's own attorney, Mr. Mancini, and by Mr. McAllister, the former Hopkinton Town Solicitor, that Mr. Bibler had attempted to negotiate a settlement with Mr. DePasquale to the litigation against the solar developer and the Town of Hopkinton by the Maxson Hill plaintiffs.

Notwithstanding the representations of his own attorney, Mr. Mancini, and the former town solicitor, Mr. McAllister, about Bibler's alleged actions, *Mr. DePasquale declared, under oath, that the allegations were completely false* (see the transcript of Mr. DePasquale's deposition attached).

Mr. DePasquale testified that he had never spoken on the phone to Mr. Bibler, never received or sent a text from Mr. Bibler, never received any email from Mr. Bibler, and never communicated with Mr. Bibler in any manner.

Mr. DePasquale stated:

"I never had a conversation with Mr. Bibler on the phone, and I never had contact and dialogue with him at all on this matter."

When Mr. DePasquale was read the statement in the Complaint alleging that Bibler had engaged in the unauthorized practice of law by attempting to negotiate a settlement, Mr. DePasquale stated that this allegation was false.

Attorney for Bibler: Okay. So, if I said to you that a representation was made that you were approached by Mr. Bibler who engaged in settlement negotiations regarding Maxon Hill directly with you, would that statement be true?

DePaquale: I would say that statement would not be true. I was approached by Mr. Martin [plaintiff Martin Sheldon], and I forget his last name, with what a counteroffer was after they had a meeting at some Chinese restaurant down the street.

Other documents provided to the UPLC by Mr. Mancini and Mr. McAllister included an email from Mr. DePasquale to Mr. Martin Sheldon promising Mr. Sheldon a \$10,000 bonus if Mr. Sheldon succeeded in persuading all of the Maxson Hill plaintiffs to accept a settlement in the lawsuit against the solar developer whose interests were purchased by Green Development and against the Town of Hopkinton (see copy of the email attached).

Following this deposition in which Mr. DePasquale - the star witness - stated that the allegations in the Complaint by Mancini and McAllister were false, Mr. Bibler filed a motion asking the Unauthorized Practice of Law Committee to dismiss the Complaint (see attached).

The UPLC responded by saying that the UPLC does not have the authority to dismiss complaints without a full hearing and informed Mr. Bibler that he should expect to appear before the Committee at a future date.

But unbeknownst to Mr. Bibler and his attorney, the UPLC deliberated on this matter privately and sent a petition to the Supreme Court asking the Supreme Court to grant the UPLC permission to dismiss the Complaint against Mr. Bibler without further delay since the Complaint was patently false.

The Supreme Court responded to this extraordinary petition from the UPLC by acting *on its own authority* to enter an Order to dismiss the complaint against Mr. Bibler, *naming* the offending attorneys who had filed this baseless, and arguably malicious, Complaint - Mr. Mancini and Mr. McAllister - and declaring in no uncertain terms:

"This Complaint is utterly unfounded and without merit."

This forceful rejection of the Complaint by the Rhode Island Supreme Court effectively offers a stern rebuke to Attorneys Mancini and McAllister for their unconscionable actions.

The Order of the Supreme Court should also finally put an end to this sordid attempt by Mr. Mancini, Mr. McAllister, Mr. DePasquale and certain former members of the Hopkinton Town Council, including the former the town council president, to intimidate, harass and silence a Hopkinton resident who has dared to criticize and oppose their illegal attempts to spot zone residential parcels all over Hopkinton for industrial solar development.

I urge the Hopkinton Town Council to consider whether any action should be taken by the Council *against* Mr. McAllister, the former town solicitor, for filing this false Complaint targeting a Hopkinton resident, on February 21, 2020, without the knowledge or approval of the Town Council, which Mr. McAllister filed *in his official capacity* as Hopkinton Town Solicitor.

I respectfully submit that if the Town Council does nothing to protest this unauthorized and appalling action by the former town solicitor, the Council will be sending a message to all of its constituents that there is no reason for them to expect that they might be the next target for such abuse.

I don't know how the Council can possibly condone, or remain silent about, the former town solicitor's decision to present himself to the Unauthorized Practice of Law Committee as if he were acting *on behalf of the Town of Hopkinton* - without first obtaining the approval of his client, the town council.

At the very least, I hope that the Hopkinton town council will issue a formal apology to me for the role that the Town of Hopkinton played, through Mr. McAllister and the former town council president, in pursuing baseless criminal charges against me that the Supreme Court has now declared to be "utterly unfounded and without merit."

I look forward to your response.

Sincerely,

Eric Bibler
Hopkinton

Cc: Town Manager
Cc: Town Clerk
Cc: Planning Board
Cc: Town Planner
Cc: Town Solicitor
Cc: Planning Solicitor

