

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

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JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

<http://www.ago.vermont.gov>

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

October 26, 2018

Deborah T. Bucknam, Esq.
The Law Firm of Bucknam Black Davis
1097 Main Street
St. Johnsbury, VT 05819
dbucknam@vtlegalhelp.com

Re: Public Records Request

Dear Deborah Bucknam:

Attached is a follow-up to our September 27, 2018 response to your September 21, 2018 request for documents related to Ruth Anne and Walter Neborski. These records will constitute our completed response. Redactions were made pursuant to 1 V.S.A. § 317(c)(5)(A)(iii) and (c)(42). The only document withheld in its entirety is a Veteran's Affairs Letter. This letter is withheld pursuant to 1 V.S.A. § 317(c)(1) and HIPAA.

As discussed with you on the phone, the 2016 Annual Report for the Town of Victory and Victory School District is publicly available and is not included in our production here.

We have estimated a cost of **\$49.50** in producing this response. This response took 150 minutes of staff time at \$0.33/minute. Please forward us a check in this amount made out to The State of Vermont.

To the extent that this constitutes a denial of your request, appeals may be made in writing and addressed to:

Joshua Diamond, Esq.
Deputy Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001.

Sincerely,

A handwritten signature in black ink, appearing to read "Bram Kranichfeld".

Bram Kranichfeld
Assistant Attorney General

Attachment
Electronically Transmitted

*Added
in
Town Report*

ATTACHMENT

We, the undersigned voters of the Town of Victory, VT, petition the town to adopt a **Conflict of Interest Policy** in regards to the local governance.

- 1) In Selectboard meetings, selectboard members are prohibited from voting on any issue involving a direct or indirect financial interest to that member or to the member's parent, child, sibling, or household member

- 2) In Selectboard meetings, selectboard members are prohibited from participating in appointment of any parent, child, spouse, sibling, household member, or self, to local public office.

- 3) Selectboard members may be able to perform work for the town at accepted town rates not to exceed \$500.00 per month per selectboard member.



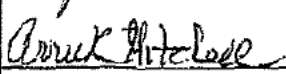

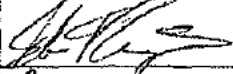
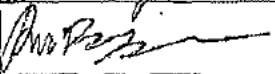


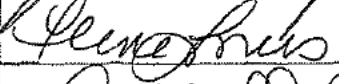
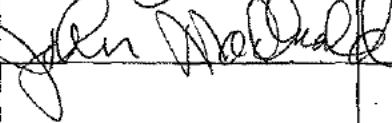
- 4) At least two members other than the selectboard members submitting a bill for services rendered, must vote on whether to pay the selectboard member requesting payment.

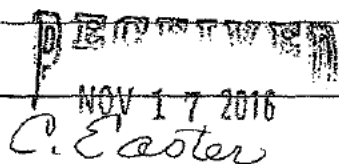
This petition is dated 11/15/2016

RECEIVED
NOV 17 2016
BY *C. Easter*

Petition to [action]

| | |
|--|---|
| Petition summary and background | Refer to attachment |
| Action petitioned for | We, the undersigned, are concerned citizens who urge our leaders to act now to [action item(s) for which you are petitioning] |

| Printed Name | Signature | Address | Comment | Date |
|------------------|---|-------------------------------------|---------|------------|
| Sandra Hudson |  | 323 River Rd. Victory, VT 05858 | | 11/15/2016 |
| Styler Easter |  | 523 River Rd Victory, VT 05858 | | 11/15/2016 |
| Arnold Mitchell |  | 323 River Rd. Victory, VT 05858 | | 11/15/2016 |
| Toni Flanigan |  | 2870 Victory Hill Rd Victory, VT | | 11/15/16 |
| Bob Flanigan |  | 2870 Victory Hill Rd | | 11/15/16 |
| Rob Flanigan |  | 2870 Victory Hill Rd | | 11/15/16 |
| Brendan Flanigan |  | 2870 Victory Hill Rd | | 11/15/16 |
| Tanica Stanley |  | 11 Granby Rd | | 11/16/16 |
| FERNE LOODS |  | 2754 Victory Hill | | 12/13/16 |
| John Macdonald |  | 2754 Victory Hill | | 12/13/16 |
| | | | | |
| | | | | |
| | | | | |





State of Vermont
Office of the Secretary of State
128 State Street
Montpelier, VT 05633-1101

[phone] 802-828-2363
[fax] 802-828-2496
www.sec.state.vt.us

James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary

January 31, 2017

Dear [REDACTED]

In response to your question about petitions yesterday, we offer the following:

Vermont law says that if the voters are given the authority to decide an issue in statute, it must be placed on the warning by the selectboard when they receive a valid petition.

Under 17 V.S.A. § 2651c, a town may vote to eliminate the office of lister. ~~If the selectboard receives a petition to eliminate the position of lister, it must warn that article~~ because the power to decide whether to elect listers or appoint assessors lies with the voters according to the statute.

Under 24 V.S.A. § 1984, a town may vote to adopt a conflict of interest policy. ~~If the selectboard receives a petition to adopt a conflict of interest ordinance, it must warn that article~~ because the power to decide whether to adopt a conflict of interest ordinance lies with the voters according to the statute.

The selectboard may also choose to warn "advisory" or non-binding articles that are petitioned, but it is only required to do so if they relate to town business and are within the authority of the voters to decide.

There is no statutory guidance on the issue of a town becoming a gore. Unlike the lister or conflict of interest statute, there is ~~no enabling language in state for the voters to vote on the issue.~~

We always encourage towns to consult the town attorney on article issues and in determining what to place on the warning.

Sincerely,

Chris Winters

THOMAS J. DONOVAN, JR.
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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

April 12, 2017

VIA ELECTRONIC MAIL

Re: Concerns of Criminal Misconduct in Victory, VT.

Dear [REDACTED] and [REDACTED]:

The Attorney General's Office has reviewed the materials you provided during our February 28, 2017 meeting, as well as Det. Sgt. Petersen's report from his previous investigation into potential criminal misconduct by Victory, VT town officials. The Office takes your concerns of criminal misconduct very seriously and thanks you for bringing them to its attention. Nonetheless, the Office has concluded that the information contained in these materials and this report is insufficient to support criminal charges.

The Office focused its review on the following concerns that you raised:

1. That the forensic audit performed by Batchelder Associates, PC for the calendar years 2009-2012 indicates [REDACTED], [REDACTED], and [REDACTED] criminally mismanaged the Town's finances.
2. That [REDACTED] and [REDACTED] committed election fraud by registering to vote in Victory.
3. That the Elizabeth Brown Humane Society committed fraud by claiming to be exempt from property taxation.
4. That [REDACTED] committed property tax fraud by altering a January 19, 2002 letter from the Department of Veterans Affairs.
5. That [REDACTED] and [REDACTED] violated Vermont's Open Meetings Law by signing the July 31, 2016 letter to you outside of an open, public meeting.

Det. Petersen's report indicates he investigated your first concern in consultation with Vince Illuzzi, the Essex County State's Attorney. The Attorney General's Office cannot conclude, based on either the information contained in this report or the information you have provided, that Det. Petersen's investigation was incomplete or insufficient in some material way. Consequently, the Office is not going to further question Det. Peterson's and Attorney Illuzzi's decision not to file criminal charges as a result of Ms. Batchelder's forensic audit.

The documents you provided during our February 28, 2017 meeting indicate that the Vermont Superior Court, Civil Division, has already determined that [REDACTED] and [REDACTED] are residents of Victory and should be placed on the Town's voter checklist. These documents also indicate that the Civil Division has concluded the Elizabeth Brown Humane Society is exempt from property taxation pursuant to 32 V.S.A. § 3802(15). The information contained in these documents does not evidence any fatal flaw in the Civil Division's conclusions that indicate to the Attorney General's Office that it could prove in a criminal prosecution that Mrs. Neborsky, her sons, and the Humane Society committed fraud. As a result, the Office is not going to pursue criminal charges related to your second and third concerns.

With respect to your last two concerns, the Attorney General's Office lacks sufficient information to conclude one way or the other that a crime has occurred. In certain circumstances, conduct concerning property taxation and Vermont's Open Meetings Law can be criminal. To determine whether any of those circumstances exist in the present matter, additional criminal investigation would be necessary. As I mentioned during our meeting, the Attorney General's Office is unable to conduct that type of investigation. Consequently, if you want to pursue your allegations further, I encourage you to contact the Vermont State Police. You may also be able to obtain additional information about property taxation and open meetings from Victory's attorney, a private attorney you retain on your own, the Vermont Department of Taxes, the Vermont League of Cities and Towns, and the Vermont Secretary of State's Office. The Vermont Bar Association has an attorney referral service you may find useful in locating your own attorney. The Secretary of State also has a Guide to Open Meetings available on its website. This guide includes information about the rights of members of the public to enforce violations of Vermont's Open Meetings Law.

In conclusion, while the Attorney General's Office cannot institute criminal charges at this time, the Office wants to again state that it appreciates that you brought your concerns to its attention. It is clear that all of Victory, VT's residents, yourselves included, care deeply about the Town and want a fully functional and honest municipal government. The Office encourages the entire Town to work together towards that goal and wishes you the best of luck in the future.

Sincerely,



Evan Meenan
Assistant Attorney General

[Redacted]

[Redacted]

2/23/17 EPM Notes Mtg w/ [Redacted] and [Redacted] re Uctery VI

[Redacted]

- Audit turned over to State Police + Illuzzi
7/1/12 to 6/30/13

- Det. Peterson VSP St. Johnsbury did investigation ~~did~~ call him ✓

- Majority of complaint related to financial mismanagement
discussed in forensic audit.

sent it to Vince Illuzzi

[Redacted] are the alleged
wrongdoers. ↳ beat lawsuit by locate an select board

- 3 selections are [Redacted] [Redacted]
[Redacted]

- Outlined a bunch of other wrongdoing that
any court claim is criminal, but sheds light on
infectious/collusive manner in which they operate
that led to alleged criminal activity in court

- Voter fraud - for [Redacted] [Redacted]
[Redacted] - they no longer live
there. (also decided by court)

- Town Report → claims CE altered info. capture p5 A110

- 11/17/16 Attachment - they altered their petition

- 1/31/16 letter from Candace regarding

- 1/19/12 VA letter "70" alleged for property tax

- Handwritten notes related to animal shelter property tax exemption, but that has been decided by court (Bert)

- 15 pages - a case study (by VBA)

- Pet. Resp. complaint about [redacted]
Judge Bert, Deborah Burkham [redacted]
[redacted]

[redacted]

a town giving her town clerk type powers

↓

"The Year in Review for Utkony, VT" letter to taxpayers from CE + "In Response" letter from [redacted]
2/26/17 letter from [redacted]

[redacted] doing stuff. Clerk should, see AOT grant situation.

- Violation of open mtg law b/c signed 7/31/16 letter outside of public meeting

ECM Notes re Victory VT

(I) Potential Crimes to research

A) Financial Mismanagement

- ↳ Embezzlement, Larceny, Bribery, Neglect of Duty, false claims

B) Voter/Election Fraud

C) Property tax fraud for animal shelter

D) Property tax fraud for alteration of VA letter

E) violation of open meeting laws

→ might have been decided by court.

A) Peterisms report covers all the financial info + that does not seem to be any reason for reopening it.

✓ should get interview reports of [redacted]

B) Previous Decision in Docket 1-1-16 EXCV resolved the voter fraud claim.

assigned to this in January of 2016
sent to [redacted] to do work

- Recently filed lawsuit suggests/alleges

↳ Zach says no

[redacted] is the way does

- Filed by [redacted] who lost to [redacted] by 3 votes

- In February 2017, [redacted] stated attempts to turn Victory into an incorporated Corp. (per article in paper)

- Paper article indicates that SOS already told Escher that there is no req for select board to put conflict of interest policy on the ballot

→ look up what laws apply

E) - 1 VSA 314 \$500 misd. (waste of time for us)

D) - call just be false

pretext 13 VSA 2002 or false claims 13 VSA

3016 - I don't think it is one of the laws that fugery stated

C) They indicate Judge Pratt decided already

conf. with by

D/E) [redacted] [redacted]

Bad [redacted] [redacted]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Select Board
Town of Victory
P.O. Box 609
North Concord, VT 05858

July 31, 2016

Dear [REDACTED],

The Select Board went into Executive Session during the Select Board Meeting on July 11, 2016 for the purpose of discussing with you what we can only describe as continued inappropriate actions in your role as Town Clerk. You declined to attend the Executive Session. Therefore, the Select Board has been left with no choice but to notify you in writing of their standing with regard to your actions. These actions shall be outlined below:

#1. The Town Clerk is not authorized to engage contractors for the Town, enter into contracts or hire vendors without Select Board approval. One Select Board member by chance learned you had arranged for Gingue Construction to do stone crush work for the Town. This is not within your scope of duties as Town Clerk.

#2. Public Records. It is the duty of the Town Clerk to provide records within 5 days of request per statute. You have already involved the Town in litigation for your failure to comply with this law. The Town does not desire to incur any further liability in this regard. You must fulfill Public Records requests within the prescribed time frame regardless of reason for the request or your personal opinion of such requests.

#3. Although you are certainly free to publish anything you like, the Victory Veracity website is not authorized by the Town and must be clearly posted on the site. It appears very ambiguous that the information posted there is a representation of the Town and therefore the Select Board, which it is not. You have been continually posting on this website against the advice of Town Counsel.

#4. Legal Counsel. The previous Select Board comprised of [REDACTED], [REDACTED] and [REDACTED] voted that only Select Board members were authorized to contact legal counsel of the Town. This is an effort to control costs and keep the budget under control for legal fees for the Town. You are not authorized to contact the Town Attorney unless you are so authorized specifically by the Select Board as a vote. If you require legal advice in the general course of your duties as Town Clerk, you are free to contact the Vermont League of Cities and Towns or the Secretary of States Office. Costs for legal counsel not authorized by the Board will be paid by the individual overstepping their authority.



05858

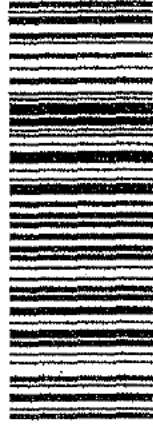
U.S. POSTAGE
PAID
SAINT JOHNSBURY, VT
05819
AUG 08, 18
AMOUNT

\$6.47

R2305H190801-02

**RETURN IN
REQUEST**
**RETURN RECEIPT
REQUESTED**

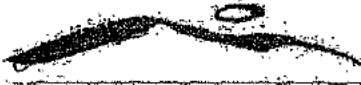
CERTIFIED MAIL



7013 1710 0000 8688 9933

Town of Victory
Carol Easter, Town Clerk
Po Box 609
North Concord, VT 05858





VERMONT

AGENCY OF TRANSPORTATION

FY 2017 Municipal Highway Grant Application

APPLYING FOR: Structures Class 2 Roadway Emergency

MUNICIPALITY: Victory MUNICIPAL CONTACT (name): [REDACTED]

MAILING ADDRESS: [REDACTED]

Phone: [REDACTED] E-Mail: [REDACTED]

ACCOUNTING SYSTEM: Automated Manual Combination

DUNS #: 031130289 Grantee FY End Month (mm format): 12

DISTRICT CONTACT (name): SHAUNA CLIFFORD
Phone: 802-751-0213 E-Mail: shauna.clifford@vermont.gov

SCOPE OF WORK TO BE PERFORMED BY GRANTEE

Location of Work. The work described below involves the following town highway / structure:
TH# 1, (Name) River Rd which is a class 2 town highway,
Bridge # _____ which crosses _____
Culvert # _____ for which the original size was _____ and the replacement size is _____
Causeway: _____
Retaining Wall: _____
Latitude: 44.555239 Longitude: -71.786250 MM (if available): _____

Problem:
Replace 6 culverts, Bad road base
Needs resurfacing 3.5 miles

Reason For Problem:
HAS NOT BEEN RESURFACED FOR SEVERAL YEARS

Proposed Scope of Work:
Resurface 3.5 miles w/ GRAVEL

Detailed Cost Estimate (below or attached):
Culvert Parts \$ 3800.00
Ditching & Culvert Installation \$ 5000.00
Subbase Mat \$ 29,700.00
Resurface mat & Trucking \$ 116,800.00

Estimated Project Amount: \$ 155,300 Estimated Completion Date: Dec. 2016

[REDACTED]
[REDACTED]
PO Box 17
Granby, VT 05840

February 23, 2017

[REDACTED]
Dear [REDACTED]:

Please find enclosed herewith a correspondence from [REDACTED]
concerning the [REDACTED] request for mediation with the Town.

Sincerely,
[REDACTED]
[REDACTED]

Enc.



Tracey Martel <victoryvt2014@gmail.com>

FW: [REDACTED]
2 messages

Thu, Feb 23, 2017 at 2:47 PM

To: [REDACTED]

Hi [REDACTED],

See below. The e-mail from Deb proposes a global resolution to not only the public records case but to a potential civil rights action stemming from the removal of [REDACTED] from the voting rolls that it sounds like they are planning.

At this point, I do not think the Town should commit to any global settlement on an unfiled claim. I will respond to Deb as much.

Finally, I also disagree with using [REDACTED]. It sounds like Deb wants to use him as an expert witness in the future. He is also not particularly experience with municipalities.

I am happy to meet with [REDACTED] [REDACTED] on this proposal.

Best,

[REDACTED]
Tarrant Gillies & Richardson

44 East State Street

P.O. Box 1440

Montpelier, Vt. 05601-1440

(802) 223-1112 ext. 105

[REDACTED]
www.tgrvt.com

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From: Deborah Bucknam [mailto:DBucknam@vtlegalhelp.com]
Sent: Tuesday, February 14, 2017 2:17 PM
To: [REDACTED]
Cc: Charlie Bucknam <CBucknam@vtlegalhelp.com>
Subject: [REDACTED]

[REDACTED] is interested in mediation, and I would like to outline what we contemplate the scope of the mediation would be:

[REDACTED] have several claims against the Town of Victory: the public records claim; the denial of her and her sons' right to vote—She and her two sons were forced to litigate their residency—and we had two hearings—because the Town took her and her two sons off the checklist—; and the defamation claims against Ruth. We propose to mediate all of those issues.

I understand that there are immunity and other issues surrounding some of these claims, so I plan to outline the legal and factual issues for you ahead of time. I would then expect to hear from you concerning your defenses.

In my opinion, mediation is not successful unless the parties know ahead of time what the issues are, and in this case, since we have not yet filed suit, and obviously haven't engaged in discovery, I understand that you and your client may not know all the facts and legal claims.

But if the town is willing to have a global resolution of this case prior to a lawsuit, we are willing to provide you with the basis for our claims against the town prior to mediation.

So, I would propose that we set mediation for the third or fourth week in March.

I propose that we provide you with our claims, the factual and legal issues that support the claims, and a demand by **March 1st**; and that you provide a response by **March 15th**.

I would propose [REDACTED] Langrock Sperry as mediator. He may be an expert for me in a case at some point in the future; otherwise, I have no conflict with him.

Let me know what you think. If this is acceptable, we will arrange the mediation with [REDACTED] at his office in Burlington the third or fourth week of March. Deb



Deborah T. Bucknam, Esq.

Bucknam & Black

1097 Main Street, PO Box 310

St. Johnsbury, VT 05819

(802) 748-5525 ext 101

(802) 748-4888 fax

www.vtlegalhelp.com

*Family * Probate * Business & Commercial * Property & Land Use * Government * Personal Injury * Wills * Estate Planning * Wrongful Death*

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[REDACTED] Thu, Feb 23, 2017 at 3:42 PM

U; [REDACTED]

I will get this to the guys. Thank you.

[REDACTED]

[Quoted text hidden]

town clerk

THE YEAR IN REVIEW FOR VICTORY, VT.

WHAT MAYBE COMING NEXT!

Town Meeting is fast approaching us on March 7th. The informational meeting will be held March 4th, at the Town Hall. The Education/School informational meeting will be at 12 noon. Then the Town portion of the informational meeting will follow at 1 pm.

We want to inform you what's happening in our town.

This year Walter Mitchell and Walter Neborsky, along with Zane Cooke, Tracy Martell formed a "Town Report Committee". The Town Clerk/Treasurer and the other Selectman, Skip Easter were never informed of these meetings.

Two of the select board, Walter Mitchell and Walter Neborsky refused to pay Batchelder Associates' bill of 2 months, then refused to allow Carol Easter the town Clerk/Treasurer to learn the Quick Books (which is recommended for all Vt. Towns) and our current system from Batchelder Associates for \$500.00. With Quick Books, there is no more hand-written checks which was the old way of bookkeeping. Quick Books keeps a tighter rein on the money by computerizing income and expenses. Carol has researched and entered all incoming and outgoing monies working 7 days a week, learning the system with an employee from NCIC a company in St. Johnsbury. This is a free service. Which will be ongoing for Carol.

We had a figure to raise last year of a little over \$13,000.00 for the Town share of the taxes. This year the select board requested to raise \$165,000.00 in taxes. Carol as Treasurer worked hard to keep the spending down and the taxes down. She was not allowed much control as a town clerk from Mitchell and Neborsky. She is a separate entity voted in by the voters, they have no control over her but have tried this entire year to discredit her. They even called her in for a executive meeting to reprimand her of nonexistent issues, especially of what they have no control of.

We are being told that the school tax rate will be \$2.11/100 this is a 24.3 %increase. and the tax rate for the town will not be set till June but will be very high, last year our tax rate was \$.9103 per 100. This year it will TRIPLE especially if all the pilot money not be voted entirely for tax reduction to go towards taxes which is one of the articles on your ballot. Another fear is Neborsky and Mitchell want to pay off the grader of \$140,000.00 which they want to take out of the CD's and town monies (which is not included in the 165,000.00 that they want to raise), making it \$305,000.00 that they want to spend. This will leave the town nearly broke. The payment once a year for the grader is \$25,900.00. So, you add the 165,000.00 and then the 140,000.00 for the grader this is a lot of money going out. The surplus last year was from the bookkeeping of Carol and Batchelder Assoc. that saved the town the surplus, this year Carol has not received some mail that should have gone to the Town Clerk but has been rerouted to the Clerk of the Board. Which has hindered the true operation of the Town Clerk/ Town Treasurer office. This year over 4,000 copies of

records has been copied by the town clerk for all the law suits our town is involved in which was up to 6. The Selectmen Mitchell and Neborsky are a part of the law suits, yet they sit on the board of selectmen (spending our money). The lawsuits will cost the town much money. So how can the grader be paid off and pay out for law suits? The town will be broke, not all Law suits will be paid by the Insurance for most of them are to pay their lawyer D. Bucknam's salary. Also, the forensic audit at this moment is closed, no one was ever charged to begin with, the case is suspended till further notice. No one was found innocent nor guilty. Also, the town needs to do the Town Plan to qualify for 75% of Fema money. Right now, it is being worked on with Bruce Melendy of NVDA. (we may only get 12.5% of a disaster. The Town may need to take out a loan for these issues.)

We need to keep Carol Easter in the Town Clerk Office as Town clerk and Town Treasurer as she is transposing the information with the help of NCIC from all the incoming and outgoing moneys to this system. Tracy Martell was elected last year as Town clerk and stayed for nearly 3 months, then resigned. She is working full time Monday through Friday 9-5. How can she run a town clerk's office and be open for the public during the week, which includes lawyers, real estate people, banks, researchers etc. We do not want another town clerk from a neighboring town running our town as assistant town clerk. Also, word got out about our renovated town hall and we had over 235 visitors all spring/summer and fall from as far as Mississippi, Oregon and the Vermont 251 club. Many pictures were taken and have appeared on face book and other networks across the USA. Carol has

been a wonderful P.R. person for Victory. Just a side note, we have had cookie swaps, the green up, open house for town hall and garage sales, veggie/plant swaps which brought in lots of visitors from around Vermont, not once did the other 2 selectmen or other political officers of our town except the school board members, town moderator, justice of the Peace" and a few town members participate in these events, which was well advertised.

Also, Skip Easter is running again for the selectman's vacancy and has had many years of experience in differing offices in town. Otis McKinstry just moved to town, has not been to many of the meetings, has no experience in the Victory Town Politics and needs to watch, learn and listen to ALL taxpayers views. Just a piece of information, Skip Easter has been overlooked, not consulted with and never told what was going on this past year by the other 2 selectmen. There is an open meeting statue that is not being followed in our town of Victory. When Skip tries to talk at the meetings he is ignored. Everything is on DVR recorded by the town clerk, of all meetings.

Please support Carol Ester for Town Clerk and Town Treasurer and Skip, Lionel Easter for Selectman. Thank you for your time and support. Information that you would like to see and read is available in the Town of Victory Vault.

Lionel, Skip, Easter

Carol Easter



IN RESPONSE

A response to "The Year in Review" letter that our [REDACTED] put out to a select few Victory town residents.

This letter is to inform all of you of the TRUTH of what is actually happening in our town....

This year the Select board decided that it would be in the Victory resident's best interest to form a "Town Report" committee. This board included the Select board, [REDACTED]. This was decided after the last two years of Town Reports that were not understandable, accurate, or incomplete.

[REDACTED] claims that she nor [REDACTED] were never notified of our "Town Report" meetings. This is completely inaccurate! Both [REDACTED] and [REDACTED] were informed of all of our meetings. They chose NOT to attend, their choice. If this statement was in fact TRUE, then why did we have things on the table ready for our meetings? So yes, they were informed. They, not us, made the choice to not be there and then use it to say that they were not told of the meetings.

[REDACTED] claims that the Select board refused to pay Bonnie Batchelder Associates bill for 2 months. Well this is a half-truth, the Select board terminated Bonnie Batchelder Associates on May 1, 2016 and [REDACTED] continued to use Bonnie Batchelder's services knowing that she was terminated therefore incurring additional expenses with fees over \$2,000.00. [REDACTED] also claims that the Select board refused to allow her to learn Quick books which is completely inaccurate. The Select board approved [REDACTED] to get the training necessary with a price tag of up to \$500.00 and also, up to \$500.00 for the Quick books plus (payroll). These approvals are in the minutes. [REDACTED] is stating in her "Year in review for Victory" letter that she is working 7 days a week learning the system with NCIC. The Quick books program is a relatively easy program to learn and [REDACTED] really should have it down by now. She has been at this for approximately 8 months "learning" or what she calls "learning" the system. [REDACTED] has numerous admitted at the Select board meetings that she doesn't know what she's doing and that when she is given a request for financial information that the Select board needs to run the town with, she can't produce it because she doesn't know what she's doing. Maybe, this isn't the job for [REDACTED].

Let's address [REDACTED] figures for this year's request to raise \$165,000.00. The figures that the Select board used to come up with this year's figures were straight from the board orders for 2016. The Select board could not use [REDACTED] figures because those figures did NOT match what was on the board orders and also, the Town has not been audited for the last 3 years. This is a State mandated requirement and your previous Select board and Town Clerk/Treasurer did not have this done and Town residents were told that [REDACTED] did do the audits. But if you look at page 18 of your 2016 Town Report you will see a letter that was written by Bonnie Batchelder Associates addressing the Select board and [REDACTED] that she did not do any audits. Also needing to be noted, the Select board did not receive this letter from [REDACTED] that Bonnie Batchelder wrote and needed to be obtained through court for [REDACTED] not releasing public records. As far as the figure of \$13,000.00 last year to raise was a complete false shield of over spending. [REDACTED] claims that her bookkeeping and Bonnie Batchelder Associates bookkeeping gave us a surplus, but if you go to the 2015 town report the addition and figures are not accurate. If you add it all up they were over budget \$131,344.00. [REDACTED]

██████████ office budget was overspent \$1,000.00 and things were omitted from her reporting that you can see in the financial report on pages 31-33 of your 2016 Town Report. How is this keeping costs down? ██████████ was called in for an executive meeting on what was considered very serious issues. There have been various complaints from agencies not wanting to deal with our Town Clerk for her rudeness and unprofessionalism. ██████████ also refused to give the Select board necessary documents to run the town, and false reporting in the newspaper. ██████████ refused to stay to try and work it out with the Select board. Her choice!

As far as the school tax rate is concerned, the Select board has no control over that. Those figures come from the Essex Caledonia Supervisory Union. However, ██████████ is stating that the increase will be 24.3% when actually it will be 16.9% increase over last year. Last year's figures were \$1.76 /100 and she is claiming that it is going up to \$2.11/100. We can ALL agree that this is way too high. ██████████ is claiming that the tax rate for the municipal taxes will triple, this is inaccurate because the budget is extremely close to last year's budget, with the exception of the school tax, which once again the Select board has NO control over.

██████████ is informing the Victory Town residents that the Select board wants to pay off the grader using the CD's and town monies. That is false information, the Select board wanted to use the savings not the CD's. The previous Select board purchased this grader without Town resident's approval. This should have been a special vote but they passed it off as a lease to get around that. In actuality they lied, and it was a lease to purchase which should have been voted on by the Town people. The reason the Select board wants to pay off the lease to purchase grader is it will save the Town approximately \$12,000.00 just in interest payments and you have money that is in a savings account drawing less than 1% interest and it would be in the Town's best interest to pay it off. Also, if the grader is paid off it will reduce the Highway budget by \$25,494.57 per year for the next 6 years.

██████████ stated in her letter to the residents of Victory that 2 of the Select men are involved in law suits and are spending "our money", once again, not accurate information. Neither ██████████ nor ██████████ are involved personally in any lawsuit. However, your ██████████, and your ██████████ are being sued in their professional and personal capacity in several law suits. Their poor judgement and personal vendettas have cost our tax payers thousands of dollars: ██████████ was recently in court for Election issues with ██████████. She incorrectly posted 3 different election results for the Justice of the Peace election. Which is why the Court ordered a recount in favor of ██████████. While in court, ██████████, pleaded the 5th to Judge Zonay for the question on putting illegal voters on the checklist. Once again, ██████████ judgement has cost our town unnecessary financial burdens. According to ██████████, the forensic audit is closed at this moment till further notice. There were no charges filed on ██████████. They couldn't find any cause for any charges. Case is over. However, your ██████████ are still involved in law suits that will be ongoing for a time. Bonnie Batchelder NEVER produced a final report on the "forensic audit" that the Town residents need to realize, the ██████████ and ██████████ approved the spending of the "forensic audit". They spent over \$60,000.00 of our tax payer's dollars on nothing but a witch hunt against the voter's wishes.

██████████ claims that we NEED to keep her in the office of Town Clerk/Town Treasurer. What a joke! She can't add, she is not computer literate, she alters documents, she is rude, and she is not a person you can work with or trust. She believes all the lies that come out of her mouth. In all cases, all of this

can be backed up with truth. [REDACTED] is the best candidate for the job. She has exceptional customer service skills. She is computer literate, excellent math aptitude. [REDACTED] does work full time but her employers are extremely supportive as are the Town of Victory Select board on her being able to be flexible and offer some office hours as well as being able to set by appointment hours. The Town Clerk can set her own hours and with such a small town it's not hard to work around her full time job. [REDACTED] is committed to the Town and will not resign this time around. She is a hard worker and will get the job done any way she can with a smile and great attitude. [REDACTED] someone you can count on 150%.

Yes, [REDACTED] is running for [REDACTED] again. [REDACTED] in her letter claims that [REDACTED] [REDACTED] has been overlooked, not consulted with or never told what has been going on this year. Well [REDACTED] needs to remember what him and [REDACTED] did to [REDACTED] and [REDACTED] while they were [REDACTED]. Neither [REDACTED] nor [REDACTED] [REDACTED] consulted [REDACTED] or [REDACTED] in any decisions, meetings, etc. [REDACTED] has been notified of any upcoming meetings, he is given ample speaking time at all Select board meetings. All you have to do is listen to the DVD's of the meetings. All Audio discs are available at the Town Clerks office.

There is another candidate for [REDACTED]. He is a strong candidate with great ideas. He is eager to learn the role that would be required of him and has been working with the Select board and on committees, and has an amazing attitude. [REDACTED] has a fresh outlook on things that Victory needs. [REDACTED] has been a [REDACTED] owner in Victory for [REDACTED] years, and he and his family have been here permanently for [REDACTED] moving from [REDACTED]. [REDACTED] is a neutral party that will be an exceptional addition to the Victory [REDACTED]. Please consider [REDACTED] [REDACTED] for the position of [REDACTED]. You won't be disappointed!

Let's change Victory. It's time.....

IF YOU WANT POSITIVE CHANGE THEN PLEASE VOTE:

[REDACTED] **AND;**
[REDACTED]



Batchelder Associates, PC

April 8, 2016

Town of Victory, Vermont
Town of Victory, Select Board and Treasurer
PO Box 609
North Concord, VT 05858-0609

RE: Town Voted Policies and Duties as it relates to Conflict of Interest and Board Orders

On March 12, 2002, the Select Board of the Town of Victory voted to accept the Conflict of Interest Policy. The policy states:

" 1) In select board meetings, Select board members are prohibited from voting on any issue involving a direct or indirect financial interest to that member or to that member's parent, child, spouse, sibling, or household member; 2) In Select board meetings, Select board members are prohibited from participating in the appointment of any parent, child, spouse, sibling, household member, or self to a local public office; 3) Select board members may be able to perform work for the town at accepted town rates not to exceed \$500.00 per month per Select board member; 4) At least two members other than the Select board member submitting a bill for services rendered must vote on whether to pay the Select board member requesting payment."

We are not aware of any excepted changes to the above policy. With the most recent change in Town positions and presentations of Board Orders and signatures, it has come to our attention that the above policy is in violation. The Select Board should address this deviation from voted policy and rectify the presentation of Board Orders and Select Board member payments.

In addition, an area to aid in controlling the understanding and costs of the Town, we recommend that a purchase order system be put in place for the Town. "Purchase orders assures that purchases have been reviewed and approved by appropriate authorities before a financial obligation is made." Prior to items being purchased or services solicited, a purchase order would be obtained from the Town Treasurer and completed in detail. This purchase order would be approved by the Board or Treasurer, depending on dollar limits assigned to such purchases. This will allow the Town Treasurer to approve the purchases first and keep a better handle on the Town's finances, use of funds and purchasing vendors.

Please feel free to let me know of any questions.

Sincerely,

Bonnie K. Batchelder, CPA
Batchelder Associates, PC



Batchelder Associates, PC

Town of Victory
PO Box 609
N. Concord, VT 05858

Invoice

| Date | Invoice # |
|----------|-----------|
| 6/1/2016 | 1167 |

| Description | Amount |
|--|-------------------|
| Monthly accounting department services | 1,030.00 |
| FED EX | 26.75 |
| <p>THANK YOU FOR YOUR CONTINUED BUSINESS</p> | |
| Total | \$1,056.75 |

Bonnie K. Batchelder • Certified Public Accountant

Town of Victory
PO Box 609
North Concord, VT 05858-0609

Passumpsic Savings Bank

00050432

58-7477/2116

7/11/2016

PAY TO THE
ORDER OF Batchelder Associates, PC

\$ **1,030.00

One Thousand Thirty and 00/100***** DOLLARS

Batchelder Associates, PC
1 Conti Circle #1
Barre VT 05641

Carol F. Easter

MEMO

⑈00050432⑈ ⑆211674775⑆5016010043⑈

Town of Victory
Batchelder Associates, PC
Date 7/1/2016 Type Bill Reference 1207

Original Amt.
1,030.00

Balance Due
1,030.00

7/11/2016
Discount

Check Amount

00050432
Payment
1,030.00
1,030.00

Checking-Passumpsic

1,030.00

Security features. Details on back.



Batchelder Associates, PC

Town of Victory
PO Box 609
N. Concord, VT 05858

Invoice





| Date | Invoice # |
|----------|-----------|
| 7/1/2016 | 1207 |

| Description | Amount |
|--|----------|
| Monthly accounting department services | 1,030.00 |
| Postage and delivery | 0.00 |
| Total | |
| \$1,030.00 | |

Don't pay

THANK YOU FOR YOUR CONTINUED BUSINESS

Bonnie K. Batchelder  Certified Public Accountant

1 Conti Circle #1  Barre, Vermont 05641  (802) 476-9490  1-800-339-7883  Fax: (802) 476-7018

www.batcheldercpa.com

Town of Victory
PO Box 609
North Concord, VT 05858-0609

Passumpsic Savings Bank

00050406

6/13/2016

58-7477/2115

PAY TO THE ORDER OF Batchelder Associates, PC

\$ **1,056.75

One Thousand Fifty-Six and 75/100 ***** DOLLARS

Batchelder Associates, PC
1 Conti Circle #1
Barre VT 05641

Sec 1045 (a) (1) (A) Debits on back

MEMO

⑈00050406⑈ ⑆211674775⑆5016010043⑈

Town of Victory
Batchelder Associates, PC

00050406

| Date | Type | Reference | Original Amt. | Balance Due | 6/13/2016 Discount | Payment |
|----------|------|-----------|---------------|-------------|-----------------------|----------|
| 6/1/2016 | Bill | 1167 | 1,056.75 | 1,056.75 | | 1,056.75 |
| | | | | | Check Amount | 1,056.75 |

The Town of Victory—a Case Study in Municipal Liability and its Limits

The Town of Victory (Pop. according to the 2010 census: 62—more about that later) is a town located in the Northeast Kingdom of Vermont. According to Virtual Vermont, its history is as follows:

“Victory was chartered in 1780, and is one of the few Vermont place-names that derives from an idea rather than a person or place, and has thus been the object of much conjecture. Two principal suggestions exist for the choice of the name:

1. It was granted to Captain Ebenezer Fisk and others, the same day as Navy (now Charleston, VT) was granted to Abraham Whipple and others. Both towns were named to honor the victory of John Paul Jones in the *Bonhomme Richard* over the British *Serapis* six weeks earlier.
2. It was so named because a general feel of victory over the British was in the air in the Fall of 1780. The Continental Army was in turmoil for lack of pay, but the previous year had seen some successes. John Adams had been appointed to negotiate a treaty with the British, and the French had joined the American cause.

In 1970 there were only 42 residents, but eighty years earlier the place had been rather busy. Heavily timbered, it had been a magnet for the lumbermen; later, large quantities of potatoes were grown for starch and alcohol. In its heyday, there were seven villages, three post offices, five schools, six lumber mills, a starch factory, a granite quarry, four railroad stations and a hotel, plus various boarding houses for the factory and mill workers. Today, there are only a few more people than thirty years ago, and the only paved road roads are portions on hills, to prevent washouts.”

More recently, there have been a series of disputes between Town officials (“Ins”) and members of the opposing faction (“Outs”) in Town. I have been representing several members of the Outs over the last several years, and will outline, at least from the Outs perspective, the legal liability of the Town and the limits to that liability:

The disputes between the Ins and the Outs have been reported on in *Seven Days*, *Vermont Public Radio*, and *The Caledonian Record*. The links to the *Seven Days* and *VPR* articles are attached.

<http://digital.vpr.net/post/civil-local-politics-not-town-victory#stream/0>; <http://www.sevendaysvt.com/vermont/ongoing-feud-illustrates-the-dark-side-of-small-town-life/Content?oid=2539615> As is typical of the print and broadcast media, the articles do not tell the whole story.

Written by
Deborah
Buckman presenting
to VBA @ VRA
2017

The following is an outline of the facts which are part of these disputes. All of the information is public knowledge, and much of it has been printed in the newspapers.

The Players:

I. Outs

██████████ was ██████████ of Victory from approximately ██████████. During that time ██████████, was ██████████. ██████████ is an ██████████ with a grueling work schedule. She also owned a ██████████, that she worked at for a number of years. Her work schedule has resulted in long hours away from home. Members of the Ins began to criticized ██████████ when she was still ██████████ because they claimed she did not really live in town, even though she was married to ██████████ who the Ins never claimed was a non-resident. Ruth resigned as ██████████ because of the Ins' criticism of her.

██████████ is a resident of Victory and owns a ██████████ where he ██████████. He is one of ██████████ owners in Town.

██████████ Elizabeth Brown Humane Society, a 501 (c) (3) organization that has been in existence since the mid 1980's. The Humane Society owns five acres of property in Victory, which includes a barn and a residential home. Her husband is ██████████, who has been a member of the ██████████ for the past ██████████ years, but is a member of the Outs because he was in the ██████████, until this last Town Meeting (more about that later). ██████████ and ██████████ live ██████████, and ██████████ spends approximately six hours a day, seven days a week caring for the Humane Society animals. She receives no pay.

II. Ins:

██████████: She was ██████████ for the past ██████ years until she was defeated in the March 2016 election (more about that later)

██████████: She became ██████████ when ██████████ resigned, and was ██████████ before ██████ was elected in ██████. Her ██████████ has been and still is a member of the ██████████

██████████: The ██████████ live and work in ██████████ but have a vacation home in Victory. Their Victory tax bill states their property is taxed as “non-residential”. They are on the voter checklist in Victory. They are next door neighbors of ██████████, and have stated under oath that they want to shut his ██████████ down.

The Plots:

I. The Offensive against ██████ and ██████████

A. Taking ██████████ and ██████████ off the Voter Checklist

Even before she left her post as ██████████, various Town officials were trying to prove she was not a resident. They, without ██████████ knowledge, convinced the Supervisory Union to bill the Town of Kirby for her son’s (from a previous marriage) tuition to ██████████. (both Victory and Kirby are choice towns), and then used that fact to attempt to prove she was not a resident of Victory. She was asked to verify her residence by the Town on two separate occasions. On the first occasion, she sent in the verification form. On the second occasion, she did not, because she knew the Town could not take her name off the voter checklist if she voted in one of two of the next national elections. The relevant portion of the statute states:

“In the case of voters who failed to respond to the notice sent pursuant to subdivision (3) of this subsection, the board of civil authority shall remove the voter’s name from the checklist on the

day after the second general election following the date of such notice, if the voter has not voted or appeared to vote in an election since the notice was sent or has not otherwise demonstrated his or her eligibility to remain on the checklist.” Vt. Stat. Ann. tit. 17, § 2150

_____ often went to Selectboard meetings, and had never missed a Town Meeting, so she believed section 2150 would apply, and the Board of Civil Authority (“BCA”) could not take her name off until she failed to vote in two elections.

In September, 2015, the Victory Board of Civil Authority voted to take her name off the checklist even though she had always voted, and _____ was present at that meeting, and told the Board that _____ was a resident. The Board also took her _____, who was active duty military, off the checklist, even though he had sent in a verification of his residence a year earlier. A second _____, who is a full time student in a college in the western United States, was never placed on the checklist, even though he testified under oath that he had filled out his application twice and personally filed one of the two at the Town Clerk’s office.

B. Defamation of _____ and _____

After the Ins were elected to the Town offices, the _____, on several occasions, including to the local newspaper, claimed that _____ and _____ had “stolen” money from the town, and that the “FBI” and the “state police” were investigating. She told town residents that the _____ would “go out in handcuffs”. The Selectboard decided to engage an audit of the Town records. The so-called “audit” by CPA Bonnie Batchelder, claimed that there was money spent that did not correspond with any Board Orders, and _____ told the newspaper that meant \$300,000 was “missing”. All of these claims are false.

II. The Offensive against _____

A. Taking away the property tax exempt status of the Humane Society

██████████ spoke in favor of ██████████ at the initial Act 250 hearing in the fall of 2013, and ██████████ was granted a permit. After the hearing, ██████████ came up to her and said, "We will see how well you like your little Humane Society when I get through with you." In 2014, after the Ins were elected to office, the Board of Civil Authority took away the property tax exempt status of the Humane Society. The Humane Society has an annual Budget of approximately \$12,000. The tax bill amounted to \$2,275.00. Vermont Statutes state in regard to property tax:

"The following shall be exempt from taxation....(15) Real and personal property owned by a charitable, nonprofit organization devoted to the welfare, protection, and humane treatment of animals, including any premises of a custodian or caretaker which is attached to or is located on the grounds of such an animal shelter." Vt. Stat. Ann. tit. 32, § 3802 (West)

B. Defamation of ██████████

The ██████████ stated in writing to several people that ██████████ had "embezzled" \$300,000 from the Humane Society. That charge is false.

III. The Offensive against ██████████

Although ██████████ is only one of two ██████████ in town, he was targeted by the Town and his next door neighbors, ██████████. He alone was required to file an ACT 250 permit, because the ██████████ reported him, while the other ██████████ never has been required to do so. He obtained the permit despite the ██████████ and some town officials' opposition, and the ██████████ appealed all the way to the Supreme Court, with the ██████████ losing each time. At the Environmental Court hearing, ██████████, then a member of the Selectboard, admitted that he wanted to shut the ██████████ down. After the Ins were elected, they appointed an animal control officer who opposed ██████████. The animal control officer wrote out two municipal tickets against ██████████ regarding the operation of his ██████████. Both were eventually withdrawn, one after ██████████ protested, and the other after his attorney filed a

motion to dismiss because of selective prosecution. Several officials have admitted that the town animal control officer held the position in order to “go after” [REDACTED], and that the actions against [REDACTED] were prompted by the [REDACTED] repeated complaints. [REDACTED] was also the only [REDACTED] owner required by the town to have a pet dealer’s permit. [REDACTED], required [REDACTED] to provide her with documentation in order to receive a pet dealer’s permit—documentation that was not required under the statute. She later revoked the pet dealer permit, apparently on the insistence of the [REDACTED], but reinstated it several hours later. In 2016, she made more demands of [REDACTED] before she would issue the license, but she relented when [REDACTED] told her that he was going to talk to his lawyer. The [REDACTED] complained numerous times not only to the Town, but to multiple agencies, all of whom responded by investigating [REDACTED] operation, and finding it in compliance. [REDACTED] was visited several times by the county sheriff, the investigator from Fish and Wildlife, the state police, the investigator from the Natural Resources Board, four different veterinarians; an investigator claiming to be from Lt. Governor’s office, and the USDA, all based on false claims by the [REDACTED]

IV. The Litigation

A. Appeal by the [REDACTED] from the Board of Civil Authority and subsequent conduct by the Town.

[REDACTED] and [REDACTED] filed an appeal to Superior Court asking to be placed on the checklist. The statute under which they appealed states as follows:

“(a) Any person whose application to vote has been rejected or whose name has been removed from the checklist may appeal to any superior or district judge in the county or district in which the applicant claims residence. If there is no judge available in the county or district, the appeal may be taken to any superior or district judge. When an appeal is initiated after the Thursday immediately preceding the day of an election, it shall be conducted at once by the judge. In all instances, the appeal shall be conducted with sufficient speed, in order to resolve, when possible, all issues on appeal in sufficient time to permit a successful appellant to vote at the pending

election. Neither formal pleadings nor filing fee shall be required and an appellant may represent himself or herself.(b) An appeal is commenced by presenting an informal but written notice of appeal to the judge to whom the appeal is taken. The notice need only be sufficient to identify the appellant and the town in which he or she has been denied eligibility to vote. The judge shall forthwith schedule a hearing and notify the appellant and the town clerk, personally or by certified mail. The appellant and any other person may present evidence at the hearing, which shall be conducted informally so as to do substantial justice to all parties.(c) Upon conclusion of the hearing the judge shall issue a written order, either affirming the decision of the board of civil authority, or ordering that the appellant's name be added to the checklist. The applicant shall not be permitted to vote unless and until the town clerk receives a written order from the court ordering that the applicant be permitted to vote.” Vt. Stat. Ann. tit. 17, § 2148

A hearing was held in Caledonia Superior Court—no judge being available in Essex Superior Court—in January 2016. It was held on short notice because [REDACTED], through her attorney stated that there was to be a special Selectboard meeting on the “audit” alleging wrongdoing against [REDACTED] and [REDACTED] on January 23, 2016, and she was concerned the Town would not allow her to speak if she was not placed back on the checklist. [REDACTED] were not able to attend the first hearing either in person or by phone because of the short notice. So the hearing focused primarily on [REDACTED] residency. Several town officials testified that they only saw [REDACTED] car at her home a few times in the last couple of years. [REDACTED] testified she put her car in the garage, that she had never registered or voted elsewhere, and she had no other residence. On that basis the Court placed her back on the checklist, indicated it would continue the hearing to another date to determine [REDACTED] residency, and stated at the end of its decision: “The court will reschedule hearing with respect to the remaining plaintiffs, although the court suspects that, having established [REDACTED] residency, the parties may be able to reach agreement.”

After the hearing, the Town’s attorney requested proof that [REDACTED] was active duty military, and asked for [REDACTED]’s driver’s license. Those were provided. In addition, [REDACTED] hand delivered to the town a scanned copy of [REDACTED]’s application to be placed on the checklist. That was rejected, and neither son was placed on the checklist before the next hearing. However, the

Town Clerk did put on the checklist several other names, including the adult sons of the [REDACTED], who, she admitted under oath at the second hearing, had sent their online, and another person who she admitted had been taken off the checklist in September 2015 because she had moved, and who had not "yet" moved back to town.

The [REDACTED] filed a petition for writ of mandamus asking the court to take those three names off the checklist. The Court declined, stating it had no jurisdiction under the appeal statute.

After a hearing on February 17, 2016, the Court ordered [REDACTED] and [REDACTED] to be placed on the checklist.

There is no provision for attorney's fees in the appeal statute, but the [REDACTED] tried to convince the court to award fees because the court had agreed that attorney's fees could be awarded if there was an "abuse of power", as the court termed it. The Court declined.

At the time of the first hearing in January, there were 63 registered voters in the Town of Victory. By Town Meeting, there were 78 registered voters, with 75 actually voting. [REDACTED] [REDACTED], who was running for [REDACTED], won by one vote. [REDACTED] received 29 write-in votes for [REDACTED], and the incumbent [REDACTED] only one on the ballot, received 38 votes.

Now the Victory Selectboard consists of two members of the Outs, and one member of the Ins, so the Ins are out and the Outs are in. [REDACTED] was appointed animal control officer by the new Selectboard, a post she had held before for decades.

B. The Humane Society Appeal

The parties in the Humane Society case filed cross motions for summary judgment. The Town, which had earlier modified its decision to tax the entire property by exempting the barn and acreage from taxation after an earlier remand by the court, contended that the residence on the property should not be exempt from taxation. On March 17, 2016, the Essex Superior Court found in favor of the Humane Society, granting its motion for summary judgment, and denying the Town's motion. All of the Humane Society property is now tax exempt.

C. Public Records Complaint against the Town

When [REDACTED] filed her voter checklist appeal, she requested a quick hearing because of the anticipated "audit" report that was going to be presented by [REDACTED] on January 23, 2016. [REDACTED] outlined in her appeal that it was important for her to be able to defend herself because the charges were false. As a result, [REDACTED] announced that [REDACTED] would not be coming to Victory to give a report, because, [REDACTED] told the *Caledonian Record* [REDACTED] was afraid of "getting shot". Thus the full "audit" has never been provided. The [REDACTED] then made several requests for the public records which were supposedly the basis for the "audit". Those requests were declined, and the [REDACTED] filed a public records request with Superior Court. At a status conference, the Town agreed to provide the documents, which it said were all being held by [REDACTED]. Those records were provided by [REDACTED]—almost 9000 pages, all in disarray. [REDACTED] has already spent many hours attempting to organize them to see what is missing.

Municipal liability is a tangled web of immunities, exclusions, and privileges. Here are some, but certainly not all, of the issues:

Federal Civil Rights Claims against municipalities

A. Municipal liability for policy maker's actions under Section 1983

42 USC § 1983 provides as follows:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

In 1978, the US Supreme Court held in *Monell v Department of Social Services* (1978) 436 US 658, that local government units are “persons” suable under 42 U.S.C.A. § 1983. The *Monell* court, however, held that municipalities were liable for civil rights deprivations only when the deprivation was part of an “official policy or custom”, either explicit or “de facto”. In determining whether the deprivation is an official policy or custom, the Court looks to which government employee or official is allegedly depriving the plaintiff of his or her civil rights. The crucial test is deciding if the municipal employee or official’s “edicts or acts may fairly represent official government policy”. *Monell, supra*.

The US Supreme court clarified *Monell* in 1986, when, in a suit by a physician whose clinic had been raided on the explicit direction of the County sheriff and County prosecutor, held as follows:

The “official policy” requirement of *Monell* was intended to distinguish acts of the municipality from acts of the municipality's employees, and thereby make clear that municipal liability is limited to actions for which the municipality is actually responsible. *Monell* held that recovery from a municipality is limited to acts that are, properly speaking, “of the municipality,” i.e., acts that the municipality has officially sanctioned or ordered. With this understanding, it is plain that municipal liability may be imposed for a single decision by municipal policymakers under appropriate circumstances. If the decision to adopt a particular course of action is directed by those who establish governmental policy, the municipality is equally responsible whether that action is to be taken only once or to be taken repeatedly. *Pembaur v. City of Cincinnati*, 475 U.S. 469, 470, 106 S. Ct. 1292, 1292, 89 L. Ed. 2d 452 (1986)

The Court found that “both the County Sheriff and the County Prosecutor could establish county policy under appropriate circumstances”, and thus the County was liable for the county

prosecutor's decision to allow the local police and sheriff's deputies to raid the physician's office. It is interesting to note that while a county prosecutor himself generally enjoys absolute immunity from liability, *O'Connor v. Donovan*, 2012 VT 27 and the county sheriff generally has qualified immunity, their actions result in liability for the entity for whom they work, because they are policy makers.

Other Courts have held that a government official who "establish[es] governmental policy" is one whose actions are not reviewable. *Thorpe v. Breathitt County Bd. of Educ.*, 8 F. Supp. 3d 932 (E.D. Ky. 2014) ("...[O] fficial is a "policymaker" for § 1983 purposes if the official's actions are (1) final, (2) not reviewable, and (3) unconstrained by the existing policies and practices of his supervisors, or where the official has been delegated unfettered discretion.") [Holding that Superintendent is not a policy maker because Board of Education makes policies and Superintendent's actions are reviewable by Board]; *Estate of Brown v. Thomas*, 7 F. Supp. 3d 906 (E.D. Wis. 2014) ("Even if a constitutional violation is shown, a county cannot be liable under § 1983 unless the constitutional violation was caused by: (1) an express municipal policy; (2) a widespread, though unwritten, custom *or* practice; or (3) a decision by a municipal agent with final policymaking authority.") Thus, it appears that action by Selectboard members and members of the Board of Civil Authority would bind a municipality under *Monell*.

B. Are there deprivations of civil rights in the Town of Victory cases?

There are alleged numerous bad acts by policy makers in the Town of Victory. Do they constitute deprivations of civil rights under Section 1983?

Defamation: The [REDACTED] has allegedly issued several defamatory statements against the [REDACTED] and [REDACTED], concerning allegations of criminal conduct. The first

question would be are these statements made “in furtherance of official policy”. In regard to the [REDACTED] it would appear that the defamatory statements relate to the operation of Town business, and therefore could be considered in furtherance of official policy. In regard to the allegation against [REDACTED] by the [REDACTED] that she “embezzled” funds from the Humane Society, that would be questionable as to whether that statement furthered town policy. While the Town sought to take away the Humane Society’s tax exemption, the allegation against the President of the Society would not seem to have a relation to the Town’s actions.

There is a further legal hurdle in regard to the defamation claims under Section 1983. While the Courts have found that defamation by government officials is a violation of an individual’s liberty or property interest, in order to succeed on a claim under Section 1983, the plaintiff must meet the following tests, called “defamation plus” or “stigma plus” :

“To establish a “stigma plus” claim, a plaintiff must show (1) “the utterance of a statement sufficiently derogatory to injure his or her reputation, that is capable of being proved false, and that he or she claims is false,” and (2) “a material state-imposed burden or state-imposed alteration of the plaintiff’s status or rights.” *Sadallah v. City of Utica*, 383 F.3d 34, 38 (2d Cir.2004) (internal citations and quotation marks omitted) (Sotomayor, J.) This state-imposed alteration of status or burden must be “in addition to the stigmatizing statement.” *Id.* (emphasis omitted). “Thus, even where a plaintiff’s allegations would be sufficient to demonstrate a government-imposed stigma, such defamation is not, absent more, a deprivation of a liberty or property interest protected by due process.” *Id. Vega v. Lantz*, 596 F.3d 77, 81 (2d Cir. 2010)

The defamatory statements concerning the [REDACTED] resulted in their having to file a public records complaint to obtain the underlying documents that form the basis for the defamation. A public records complaint provides for attorney’s fees for the complainant. The question, therefore, does this constitute “stigma plus”? It should be noted that while the *Vega* case does not articulate that there must be a nexus between the stigma and the deprivation, other courts have required that nexus in order for a defamation claim to be actionable.

supporting a discretionary judgment by a governmental decisionmaker, *Baker*, 170 Vt. at 214, 744 A.2d at 879, a plaintiff must demonstrate not only that the decision was wholly irrational and arbitrary, but also that it was actuated by personal motives unrelated to the duties of the defendant's official position, such as ill will, vindictiveness, or financial gain."

Thus, it would appear that the Outs may have claims against the Town for violation of the Common Benefits Clause, if it can be demonstrated that the various actions taken by the Town directly benefitted the [REDACTED], were the based on bad faith, and the treatment was disparate and arbitrary.

In conclusion, one must carefully research the various legal theories on liability, immunities and privileges before taking any action against a municipality.

[Redacted]

[Redacted]

~~Accepted~~
recused
himself

(17)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Pat Mitchell voted
for own exemption
property tax

Humane Society
is not only a
sanctuary

Meeting called to order Oct 6, 2010 6pm

Book 33 p 494

Title 32 Chapter 13.5: Exemption property tax

32 VSA section 3802

discussion

Motion:

[Redacted] motion to waive taxes on totally
R/T exempt status.

2nd by [Redacted]

all in favor — so voted

EB Humane Society since 1987

helped 100's of animals —

work camp workers 2 months

3 ton of bark out

1500 feet installed

picture of animals

description of humane society

Meeting adjourned 6:17

THE LAW FIRM OF
Bucknam & Black

Deborah T. Bucknam, Esq.
dbucknam@vtlegalhelp.com
ADMITTED IN VT AND NH

Jennifer B. Black, Esq.
jblack@vtlegalhelp.com
ADMITTED IN VT AND MA

July 28, 2014

Via U.S. First Class Mail

Margaret Villeneuve, COM
Vermont Superior Court
Essex Unit, Civil Division
PO Box 75
Guildhall, VT 05905

Re: Elizabeth H. Brown Humane Society. v. Town of Victory
Docket No. _____

Dear Ms. Carrier:

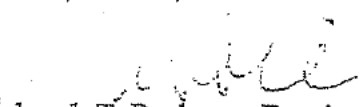
Enclosed for filing with the court please find the following:

- Plaintiff's Complaint;
- Motion for Preliminary Injunction and to Waive Security;
- A check in the amount of \$265.00 to cover the filing fees.

Per VRCP 4(d)(4), we have requested the Essex Sheriff serve the Town of Victory with a copy of the aforementioned documents, and will forward the Return of Service to the court upon receipt.

If you have any questions, please contact the office. Thank you.

Very Truly Yours,

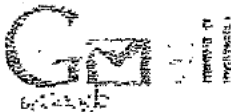

Deborah T. Bucknam, Esquire

Enclosures as noted above

Copies to: Elizabeth H. Brown Humane Society
File

*Rec. Your Record 7/31/14 Carol F. Easter
Law Clerk*

12. Patricia Mitchell did not oppose Greg Hovey's application for an Act 250 permit, and in response to various complaints by Victory part time and fulltime residents, determined that the animals in Mr. Hovey's kennel were healthy and well cared for.
13. Ms. Mitchell's opinion was vehemently opposed by several people in town, including several Victory town officials, and she received anonymous threatening letters.
14. Greg Hovey has been targeted by Victory town officials, who have filed various complaints about his kennel, all of which have proven to be without merit.
15. The town officials have targeted Mr. Hovey and his supporters, such as Patricia Mitchell, to benefit Mr. Hovey's neighbors, Robert and Toni Flanigan, who have complained to multiple town and state officials about Mr. Hovey, all without merit.
16. At the March 2014 Town Meeting, Jan Stanley was elected Lister. She was heard to say that now that she was elected Lister, she could go after Pat Mitchell and the Humane Society.
17. On April 8, 2014, a member of the Victory Board of Listers wrote to John Westinghouse, of the Vermont Department of Taxes requesting an opinion regarding the tax exempt status of the Humane Society.
18. Mr. Westinghouse wrote back to the Victory Lister stating that the Humane Society was tax exempt. [Exhibit 3]
19. Despite Mr. Westinghouse's opinion, on or about June 2, 2014, the Listers of Defendant Town changed the Humane Society's exempt status and assessed the Humane Society's property. [Exhibit 4—Undated Notice to Humane Society]
20. The Listers notified the Humane Society of its right to grieve the decision to the Listers [Exhibit 4]



EBHS Tax Exemption

8 messages



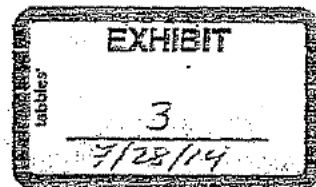
Sat, Feb 22, 2014 at 1:51 AM

To: John Westinghouse <john.westinghouse@state.vt.us>

Hi John,

Have you had a chance to look of the Elizabeth Brown Humane Society Deed?

We are curious as to what your opinion is about that.



Tue, Apr 8, 2014 at 8:50 PM

To: John Westinghouse <john.westinghouse@state.vt.us>, Michele Wilson <michelle.wilson@state.vt.us>

Hi John & Michele,

We, the [redacted] received a tax exempt application from the Elizabeth H. Brown Humane Society on January 17th, 2014. We would greatly appreciate you opinions concerning this matter.

Please find attached at the bottom of this email the application & supporting documents submitted, a folder entitled "Our Research" and a letter with questions we have.

Thank You

☞ EHBHS Tax Exempt Application & Our Research.zip

📎 EHBHS_QuestionsRegardingTaxExemptApp_4.8.2014.docx
26K



Westinghouse, John <John.Westinghouse@state.vt.us>

Tue, Apr 8, 2014 at 11:29 PM

To: [redacted] "Wilson, Michelle" <Michelle.Wilson@state.vt.us>



I have run this past several people in our department and we of the opinion that this property should be tax exempt. Humane Societies are Statutorily exempt. This particular property may have some variances from the norm, however they are an active organization that is frequently called upon to manage severe animal cruelty problems in the area. i.e. the Bona case in Lyndonville and Rabbit run in Danville, both of



FORENSIC Audit



"Vince Giluzzi - Essex County
state attorney - stated
too many grey areas!"

Batchelder Associates, PC

The [redacted] are
now suing town
He is on Select Board

August 15, 2014

To the Select Board
Town of Victory
Victory, Vermont

Members of the Town of Victory Select Board,

Batchelder Associates, PC was engaged to perform the audit for the period July 1, 2012 through June 30, 2013, of which was then extended through December 31, 2013. This has been a very long task and extremely difficult process. We have found many issues related to the Town's finances and are listed below:

1. Lack of accounting system which accumulated all activity of Town in one reporting system.
2. Missing information for the majority of the period under audit including bank statements, deposit details, checks written and invoices.
3. No historical records of fund balances or uses there of.
4. Incorrect payroll reporting
5. Incorrect subcontractor reporting
6. Lack of contracts with subcontractors
7. Lack of required IRS reporting for subcontractors
8. Missing invoices for subcontractors with payments rendered
9. Lack of required IRS reporting for related parties
10. Inaccurate reporting of delinquent taxes (understated in records and in town reports over multiple years)
11. Advances to School District with no authority or understanding of what funds were for.
12. Receipt of funds by Town with deposits of funds being several weeks or months after Town receipt.
13. Large overpayments by Property tax owners with no refunds issued.
14. Items on board orders for authorization with no invoices available
15. Lack of reconciliation or records to substantiate payments to Town Clerk and Delinquent tax collector for fees
16. Inaccurate reporting to tax authorities resulting in interest and penalties on payments (fiduciary considerations)
17. Checks written which were not on the board orders and did not have invoices available

The presence of the above issues indicates that there are not controls in place to avoid negligent or fraudulent use of Town funds. The fact that systems are not in place to accurately report property tax delinquencies, overpayments, unauthorized checks and disbursements leaves the Town open and subject to inaccurate reporting. I would strongly suggest a forensic look back period of data and financial records as there is concern that there are some inaccuracies in the financial data.

During our work, we reviewed reports and work completed by A.M. Peisch & Company, LLP. dated August 12, 2013. While we agree with most of the findings disclosed in this report, we feel they were many additional items which should be brought to the Board's attention.

1. As an integral part of the budget preparation process, there is the continuous use of "Unused Funds" from prior year fund balances used to offset or "buy down" the current year's tax rate. There is no concrete report, calculation or analysis which states what this carry forward figure should in fact be.
2. The Board does not have accurate information in determining Fund Balances from which to plan current or future projects or for which to allocate funds to for future events.
3. There is not a quality system to quickly identify delinquent tax revenue (automated system)
4. There is not accurate reporting to the IRS for wages or subcontractor charges. This has and continues to cost the town in penalties and interest.
5. There is not quality information and communication between the Town and the Treasurer with regards to finances, reporting and up to date information.
6. With Federal funds (FEMA) coming into the Town, the Town needs strong internal controls. This currently does not exist at the Town.
7. The tasks are overwhelming for the Town and therefore, financial matters which need to be kept current for immediate decisions is not being maintained.
8. Bank accounts are not reconciled in a timely manner.

We strongly feel that the Town needs to tighten internal controls, change procedures and prepare monthly, timely and accurate financial statements for the Board to review as compared to budget. The financial status of the Town must be transparent between the Treasurer's office and Board.

Please feel free to let me know of any questions or concerns that you may have.

Sincerely,





Batchelder Associates, PC

TOWN OF VICTORY, VERMONT

FORENSIC AUDIT OF FINANCIAL AND TRANSACTION ACTIVITY

2009 – 2012

EXECUTIVE SUMMARY

Batchelder Associates, P.C. was hired by the Selectboard of the Town of Victory, Vermont to perform a forensic audit for the calendar years 2009-2012. In preparation, we requested board orders, bank statements, cancelled checks, deposits, grand lists, Homestead reports from the State, vendor invoices, payroll records, Internal Revenue Service reporting, grants, transfer records, the grand list and board minutes.

Several interviews, including Town citizens, Board members, Town employees and vendors have taken place over the period under review. The purpose of these interviews was to clarify information found, questions raised and clarification of assumptions used in review and calculations rendered in summary within this report. Review of original documents, bank statements and deposits were analyzed for accuracy, authorization, validity and relationship to Town business.

During this period, the selectboard members were [REDACTED]. Employees of the Town were [REDACTED].

Prior to the forensic engagement, there was a preliminary review of financial records in the eighteen months between July, 2012 and December 31, 2013. As a result of this preliminary review, the following items were discovered:

- Lack of accounting system which should be used to accumulate all activity of the Town in one reporting system.
- Missing information for the majority of the period under audit including bank statements, deposit details, checks written and invoices.
- No historical records of fund balances, board designations or uses thereof.
- Incorrect payroll reporting
- Incorrect subcontractor reporting
- Lack of contracts with subcontractors
- Lack of required IRS reporting for subcontractors
- Missing Invoices for subcontractors with payments rendered
- Lack of required IRS reporting for related parties
- Inaccurate reporting of delinquent taxes (understated in records and in town reports over multiple years)
- Advances to School District with no authority or understanding of what funds were for.
- Receipt of funds by the Town with deposits of funds being several weeks or months after Town receipt.
- Large overpayments by Property tax owners with no refunds issued.
- Items on board orders for authorization with no invoices available
- Lack of reconciliation or records to substantiate payments to Town Clerk and Delinquent tax collector for fees
- Inaccurate reporting to tax authorities resulting in interest and penalties on payments (fiduciary considerations)

Bonnie K. Batchelder • Certified Public Accountant

SUMMARY OF FINDINGS

1. Significant discrepancies between Highway hours worked, equipment rental hours/dollars and diesel fuel used compared on a month to month basis, as well as year to year comparison.
2. Payment of property taxes, dated for November 1st and deposited at the end of December with no penalties and interest applied from Town officials.
3. Significant discrepancies on delinquent taxes reported in annual report.
4. Payments received from the State held prior to deposit for periods ranging from thirty (30) to forty-five (45) days.
5. Discrepancies in purchases made from the Town account for vehicle parts and/or use of Town account for discounts.
6. Significant number of transactions written which were missing from signed Board Orders. (Exhibit I)
7. Significant number of checks written with no invoices or backup. (Exhibit I)
8. Checks written two months prior to being placed on Board Orders. (Exhibit I)
9. Missing W-2 and 1099 documents for two of the four years. Transcripts received from IRS with no evidence of 1099's being filed with the agency for those years.
10. Credits owed to taxpayer's not returned.
11. Confidential information of Town citizens found on Treasurer's computer which is not applicable to Town business (specifically names and social security numbers).
12. Incorrect reporting of subcontractor payments to IRS
13. Questions regarding calculations of delinquent tax fees and Town Treasurer fees
14. Incompatible offices held – Appointed treasurer also School Director
15. Town computer data erased
16. Property taxes assessed to taxpayers without regard to other sources of income received by the Town through the budgeting process which created higher than necessary property taxes.

EXHIBIT I

DETAILED ANALYSIS – TABLES AND CHARTS

1. Statistics gathered relating to variances from Board Order, approval policies
 - This represents the number of transactions and dollar value which did not conform with Board Order or Town policy by year.

| | 2009 | 2010 | 2011 | 2012 |
|-------------------------------------|------------|------------|------------|------------|
| Total Number of Checks Written | 204 | 185 | 183 | 176 |
| Total Number of Discrepancies | 45 | 22 | 27 | 34 |
| Total Expenses | \$ 493,770 | \$ 402,761 | \$ 481,370 | \$ 448,275 |
| Total Dollar Value of Discrepancies | \$ 177,677 | \$ 74,138 | \$ 41,459 | \$ 7,260 |
| Percentage of Discrepancies: | | | | |
| Number of transactions | 22.06% | 11.89% | 14.75% | 19.32% |
| Dollar value of transactions | 35.98% | 18.41% | 8.61% | 1.62% |

The [redacted], resigned her position on [redacted]. She appointed and swore (affirmed) into office, [redacted] as [redacted]. This oath was in contradiction to Vermont statutes, as the [redacted] had no authority to appoint such a position and this position was in direct conflict of [redacted] position as [redacted] at Victory, as outlined in the State statute.

In [redacted] position as [redacted], she paid invoices and payroll to the [redacted] which was inappropriate. Payroll continued to be paid to the [redacted] December, 2013, payments to the [redacted], all without proper controls through approved Board Orders. Specifically, payments were made which were not authorized or included on the Board orders and approved by the Board.

2. Calculations of Property Taxes Collected and Outstanding as compared to published Town reports

| | 2009 | 2010 | 2011 | 2012 |
|--|-----------------|-----------------|-----------------|-----------------|
| Grand List Property Receivables Billed | | | | |
| Homestead | \$ 53,462.30 | \$ 53,775.94 | \$ 54,250.99 | \$ 53,995.42 |
| Education | \$ 203,575.31 | \$ 213,570.14 | \$ 195,848.99 | \$ 209,717.95 |
| | \$ 257,038.61 | \$ 257,346.08 | \$ 250,099.98 | \$ 263,713.37 |
| Homestead State Payment Report | \$ (14,466.05) | \$ (16,197.00) | \$ (16,168.75) | \$ (13,591.25) |
| Prior year Delinquent Taxes | \$ 16,868.72 | \$ 16,191.59 | \$ 25,337.98 | \$ 23,951.09 |
| Delinquent Property Tax Receipts | \$ (12,295.80) | \$ (7,408.65) | \$ (13,513.25) | \$ (3,810.94) |
| Current Property Tax Receipts | \$ (230,972.89) | \$ (234,594.04) | \$ (221,704.26) | \$ (236,595.62) |
| Calculated Receivables at 12/31 | \$ 16,191.59 | \$ 25,337.98 | \$ 23,951.09 | \$ 33,666.65 |
| BA Receivables at 12/31 | \$ 17,201.38 | \$ 25,139.01 | \$ 24,292.86 | \$ 33,432.60 |
| Reported on Town Report | \$ 7,935.41 | \$ 13,445.75 | \$ 11,398.09 | \$ 14,448.39 |
| Variance | \$ 8,255.97 | \$ 11,792.23 | \$ 12,552.77 | \$ 19,228.26 |

The variances above represent the difference between the property tax receivable tracked by Batchelder Associates, PC in the tracking of grand list property taxes and payments and what the Town Treasurer reported in the Town report as Delinquent Property Taxes. Currently, as property owners are not responding to the confirmations, these taxes are still showing as outstanding and owed. There are three possibilities for these variances:

- Funds were received from property owner and not deposited into Town accounts
- Property taxes were never paid by property owners and lack of payment was dismissed by Town Treasurer or
- Funds were received from property owner and diverted to other purposes, such as petty cash, of which there is no standard of tracking use of cash coming into the Town.

Audit confirmations were sent to forty-one (41) property owners who were tested to have delinquent taxes between 2009 and 2012. Of these (41), fifteen (15) have not responded or the confirmations are undeliverable. Second and third confirmations were sent to all property owners who did not respond to the first round of confirmations mailed.

During the testing and confirmation process, the following situations were found:

- Tax payments were paid in cash, which were deposited to petty cash versus deposited into the Town checking account.
 - This is an issue as Petty Cash was never reported in the Town report and had no Board control or knowledge of its existence or use.
- Tax payments were paid in cash, receipted by the Town Treasurer and could not be traced into any account within the Town.
- Tax bills were paid at the Homestead rates when the grand list is listing and continues to list property tax owner as Non-residential.
- Property transfer made March 31, 2010. Recorded April 26, 2010. Prior owner remained on bill with tax still unpaid to date in the amount of \$2,809.68. Property disappeared from Grand List until 2014. Parcel ID #10-06.
- Several instances of receiving tax payments and not deposited until several months after receipt.

3. Veteran's Exemptions

During the March 1, 2011 Annual Town meeting, it was voted to increase the state's Veteran's \$10,000 exemption by \$30,000, for a total of \$40,000, to veteran's who were 50% or more disabled. A local agreement tax was to be added to the tax roll to recoup the cost of this exemption to all property tax owners to recoup this exemption. This local tax was not assessed in any of the years under audit. Total veteran's exemptions were \$120,000 of the grand list during the audit period, of which the tax rate applicable to that year would have been applied. The paperwork required is not complete, is hand written and in one case has different dates on subsequent pages. The Veteran's Administration only validated the accuracy of the current year exemption and will not validate prior years for which this issue was raised.

4. Analysis of Equipment Rental, Payroll and Diesel Use by Highway Employee

For each of the years under audit, we analyzed the Equipment rental, inclusive of rates paid and hours worked; Payroll hours paid, broken down by task and equipment used, as compared to diesel fuel used, and inclusive of dollar value and gallons used. Based on the Town's equipment, history and Town Highway employee, the truck uses five (5) gallons of diesel per hour and the grader used forty to fifty (40-50) gallons per eight (8) hours.

In reviewing Exhibit II attached on the following page, for the number of hours submitted as compared to the fuel purchased, the hours appear to be considerably overstated as represented by the gallons used per hour of equipment used. It is also noted that in the month of June, 2009, the paid employee submitted for 160 hours of payroll, four full weeks of pay and also charged the Town for an additional 96 hours of equipment rentals. This represents 256 hours charged to the Town in one month or a total of 6.4 weeks at 40 hours per week. This pattern can be demonstrated throughout this particular testing. There was no contract in place for the equipment rental charges or controls in place for the management of these services per Board members and Town Treasurer.

A similar exhibit has been presented for 2010, Exhibit II, showing similar information. A similar presentation for 2011 and 2012 exists, however was not presented due to redundancy of 2009 and 2010 information. Based on the number of gallons purchased, and based on the number of hours paid through payroll, there calculates to be roughly a 50% overstatement of hours worked as compared to the amount of diesel consumed. The highway employee was paid \$11,115 in 2009 and was issued a 1099 for subcontractor work in the amount of \$14,315. Similar payments were made from 2010 through 2012. As mentioned earlier, the IRS has no transcript of 1099's being issued and reported for subcontractor payments in any of the years audited.

5. Use of Town Charge Accounts

In reviewing the Town charge accounts, it was found there were purchases of items that were not related to Town vehicles. During random interviews, this was confirmed by Select Board members and also Town businesses from whom the parts and accessories were purchased. There has also been considerable concern that tires, repairs, etc. were charged to the Town which did not actually make it to the Town vehicles. The Town has no written policy outlining the use or procedures for using charge accounts and/or credit cards.

6. Leased Lands (Vermont Statutes, Title 24, Chapter 65 and Title 32, Chapter 123)

The Town of Victory, under Title 32, Section 3610(b) has fifteen (15) parcels of leased land under the referenced Vermont Statute. The lots are listed in the table below and listed by the "Occupant/Lessee" as recorded in 1990. Since that time, the leased lands have fallen off the reporting of property and not included as any part of the grand list. There are no records showing transfers, other than in 1995 to the Mitchell Family for 100 acres.

Rents for the majority of the properties are not being billed and/or collected.

| | Occupant / Lessee | Location / Description | Acres | Value | Rent | Purpose |
|----------|---|------------------------|----------|---------------|----------|-------------|
| | Champion International Corporation | Lot 9, Range 14 | 11.7 | \$ 5,553 | \$ 6 | Ministerial |
| | | Lot 9, Range 15 | 90.1 | | \$ 6 | Ministerial |
| | Diamond International Corporation | Lot 8, Range 9 | 100 | \$ 30,000 | \$ 18 | Ministerial |
| | | Lot 12, Range 22 | 100 | | \$ 6 | Ministerial |
| (A), (B) | Drown, George and Marjorie | Lot 11, Range, 3 | 100 | \$ 30,000 | \$ 8 | College |
| | Jane River Corporation | Lot 10, Range 14 | 78 | \$ 24,500 | \$ 10 | School |
| | | Lot 6, Range 17 | 139 | \$ 27,600 | \$ 1 | School |
| (B) | Stanley, George & John | Lot 3 | 100 | \$ 21,000 | \$ 6 | Ministerial |
| | State of Vermont Fish & Game | Lot 10, Range 14 | 109.6 | \$ 21,920 | \$ 6 | School |
| | | Lot 8, Range 4 | 155 | \$ 31,000 | \$ 4 | Ministerial |
| | | Lot 12, Range 12 | 17 | \$ 3,400 | \$ 4 | School |
| | State of Vermont Forest & Parks | Lot 9, Range 14 | 100 | \$ 400 | \$ 4 | Parsonage |
| | | Lot 6, Range 5 | 100 | \$ 400 | \$ 4 | School |
| | Washburn Lumber Co. | Lot 4, Range 6 | 100 | \$ 400 | \$ 0 | School |
| | | | 100 | \$ 30,000 | \$ 6 | Ministerial |
| | | | 1,400.40 | \$ 226,373.00 | \$ 90.03 | |
| (A) | Quit Claim Deed to Mitchell, Walter and Patricia, dated 12/14/1995 | | | | | |
| (B) | These were properties under the charge of the University of Vermont. There were three properties, of which there is no current record for Lot 13, Range 14. | | | | | |

7. Grand List Irregularities

Included in the chart below, we have disclosed the acreage listed on the grand list beginning in 2009 and the fluctuations in total acreage between the years. There is no evidence as to why the total acreage would be increasing and decreasing between years with the exception of items disclosed in earlier sections of this report.

| Year | # of Parcels | Total Acres | Variances |
|------|--------------|-------------|-----------|
| 2008 | 152 | 7846.03 | |
| 2009 | 146 | 7503.03 | 343.00 |
| 2010 | 146 | 7583.33 | 80.30 |
| 2011 | 143 | 7546.6 | (36.73) |
| 2012 | 145 | 7543.7 | (2.90) |
| 2013 | 143 | 7543.7 | 0.00 |
| 2014 | 148 | 7548.9 | 5.20 |
| 2015 | 148 | 7548.9 | 0.00 |

CONCLUSION

The Town of Victory has suffered with several irregularities in the management of the Town's finances, historical documents and lands, and now as a result of the audit, the negative impact it has had on the Town. The procedures and documentation which were unavailable and absent from the Town vault and historical records is alarming. In addition to the highly irregular transactions that have taken place within the years audited, the chance that it goes beyond these years, is a high possibility and has had a severe financial impact on the Town. In addition, the fact that the Town has no history available regarding the status of the leased lands and the 1,400 acres within this definition is especially alarming.

Further investigation as to the irregularities into the fluctuation of acreage as reporting on the grand list, combined with the historic restoration of the leased properties is imperative to start the process of bringing the Town to a positive position and representations to the Town's citizens.

Batchelder Associates, P.C.

Batchelder Associates, PC
License #945
Barre, Vermont 05641
December 9, 2015

TOWN OF VICTORY, VERMONT
ANALYSIS OF EQUIPMENT RENTAL, PAYROLL AND DIESEL USE
DECEMBER 31, 2009

EXHIBIT II

| EQUIPMENT RENTAL DATA | | | | PAYROLL DATA | | | DIESEL USAGE | | | |
|-----------------------|---------------------|------------|------------------|------------------|-------------------|--|--------------|-------------------|-----------------|----------------|
| Equipment Used | Rental Dollars | Hours | Service Dates | Payroll Dates | W. Neborsky Hours | Time Card Descriptions | Date | Diesel | Gallons | Gallons Per Hr |
| | | | | | | | 12/17/08 | 639.08 | 247.8 | |
| | | | | | | | 12/30/08 | 471.09 | 199.7 | |
| Loader | \$ 260.00 | 6.5 | 1/1/09-1/31/09 | 1/1/09-1/31/09 | 40.5 | 22 hours plowing, 18.5 hours plow and sand | 1/22/09 | 302.88 | 121.2 | 2,993 |
| Loader | \$ 560.00 | 14 | 2/1/09-2/28/09 | 2/1/09-2/28/09 | 62 | 33 hours sanding, 9 hours plowing, 20 hours plow and sand | 2/23/09 | 579.78 | 254.4 | 4,103 |
| Loader | \$ 120.00 | 3 | 3/1/09-3/31/09 | 3/1/09-3/31/09 | 33.5 | 6.5 hrs sand, 6.5 hrs p/s, 15.5 hrs grade, 5.0 hrs grade maint. | | | | |
| Loader | \$ 160.00 | 4 | 4/1/09-4/30/09 | 4/1/09-4/30/09 | 73.5 | 37.5 grade, 18 grade maint., 7 clean up, 11 sweep | | | | |
| | | 7 | | | 107 | | 4/20/09 | 499.11 | 217.1 | 2,585 |
| Loader | \$ 160.00 | 4 | 5/1/09-5/31/09 | 5/1/09-5/31/09 | 67 | 26 grade, 14.5 unload chionce/grade, 3 tree down, 5 mow cem., 18.5 kirby | | | | |
| Excavator | \$ 862.50 | 11.5 | 5/1/09-5/31/09 | 5/1/09-5/31/09 | 67 | | | | | |
| Excavator | \$ 4,500.00 | 60 | 06/1/09-06/30/09 | 06/1/09-06/30/09 | 160 | 160 hrs Kirby mt road | | | | |
| Loader | \$ 160.00 | 4 | 06/1/09-06/30/09 | 06/1/09-06/30/09 | | | | | | |
| Dozer | \$ 1,600.00 | 32 | 06/1/09-06/30/09 | 06/1/09-06/30/09 | | | | | | |
| | | 96 | | | 160 | | 6/22/09 | 541.66 | 212.9 | 6,536 |
| Roadside Mowing | \$ 2,090.00 | 38 | 07/1/09-7/31/09 | 07/1/09-7/31/09 | 34 | 15.5 kirby mt rd, 14.5 grade, 4 mow cem. | | | | |
| | | | | | 29.5 | 7 grade maint., 12 grade, 10.5 grade/mow cem. | 8/31/09 | 665.34 | 256 | 4,031 |
| Loader | \$ 600.00 | 15 | 10/1/09-10/31/09 | 10/1/09-10/31/09 | 88.5 | 47 grade, 23.5 sand pile, 18 hrs maint., | | | | |
| Sand Blast Truck | \$ 1,100.00 | | 10/31/2009 | | | | | | | |
| | | 15 | | | 88.5 | | 10/26/09 | 527.77 | 190.6 | 2,704 |
| | | | | | 37 | 20 grade, 13 tree down, 4 tire change(grader) | | | | |
| Loader | \$ 800.00 | 20 | 11/1/09-12/31/09 | 12/1/09-12/31/09 | 81 | 25.5 sand, 42 p/s, 3.5 plow, 10 maint. | 12/8/09 | 460.66 | 168.8 | 8,440 |
| | | | | | | | 12/9/09 | 643.98 | 230.9 | 3,252 |
| | <u>\$ 12,972.50</u> | <u>212</u> | | | <u>640</u> | | | <u>\$5,331.35</u> | <u>2,099.00</u> | |

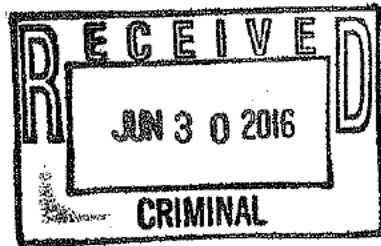


TOWN OF VICTORY, VERMONT
 ANALYSIS OF EQUIPMENT RENTAL, PAYROLL AND DIESEL USE
 DECEMBER 31, 2010

EXHIBIT II (continued)

| EQUIPMENT RENTAL DATA | | | | PAYROLL DATA | | | DIESEL USAGE | | | |
|-----------------------|----------------|-------|------------------|------------------|---------------------|--|--------------|------------|---------|------------------|
| Equipment | Rental Dollars | Hours | Service Dates | Payroll Dates | W. Neborsky's Hours | Time Card Description | Date | Diesel | Gallons | Gallons Per Hour |
| Loader | \$ 460.00 | 11.5 | 1/1/10-1/31/10 | 1/1/10-1/31/10 | 49.5 | 7 hrs plow, 26.5 hrs P/S, 16 hrs sand | | | | |
| Loader | \$ 360.00 | 9 | 2/1/10-2/28/10 | 2/1/10-2/28/10 | 37.5 | 30 hrs P/S, 3.5 hrs plow, 4 hrs sand | 2/2/10 | 689.04 | 281.3 | 2.686 |
| Loader | \$ 240.00 | 6 | 3/1/10-3/31/10 | 3/1/10-3/31/10 | 79 | 31 hrs grade, 5 hrs P/S, 18 hrs gravel, 14 hrs tree work, 11 hrs grader maint. | 3/1/10 | 378.3 | 129.6 | 1.641 |
| Loader | \$ 120.00 | 3 | 4/1/10-4/30/10 | 4/1/10-4/30/10 | 100.5 | 68 hrs grade, 17 hrs grader maint., 15.5 hrs tree clean up | 4/5/10 | 652.02 | 221.1 | 2.200 |
| Loader | \$ 520.00 | 13 | 5/1/10-5/31/10 | 5/1/10-5/31/10 | 178 | 145 hrs Brooke rd, 18 hrs grade, 5 mow cem, 7 grader repair, 3 tree down | 5/3/10 | 604 | 201.4 | |
| Excavator | \$ 5,850.00 | 78 | 5/1/10-5/31/10 | 5/1/10-5/31/10 | | | 5/19/10 | 757.73 | 258.7 | |
| Move Equipment | \$ 200.00 | | 5/1/10-5/31/10 | 5/1/10-5/31/10 | | | 5/24/10 | 569.03 | 205.5 | |
| | | 91 | | | | | | 1930.8 | 655.5 | 3.733 |
| Loader | \$ 160.00 | 4 | 5/1/10-6/30/1 | 6/1/10-6/30/10 | 44 | 27.5 grade, 3 tree down, 3 mow cem, 10.5 chloride | | | | |
| Roadside Mowing | \$ 2,227.50 | 40.5 | 7/31/2010 | 7/1/10-7/31/10 | 5 | 5 hrs mow cem. | | | | |
| | | | | 8/1/10-8/31/10 | 27.5 | 27.5 hrs grading | 8/16/10 | 646.52 | 224.6 | 2.986 |
| | | | | 9/1/10-9/30/10 | 23.5 | 7.5 hrs mow cem/bridges, 9 hrs grade, 7 hrs grade maint. | | | | |
| Loader | \$ 460.00 | 11.5 | 10/1/10-10/31/10 | 10/1/10-10/31/10 | 85.5 | 59.5 hrs grading, 16 hrs sand pile, 10 town maint. | 10/18/10 | 708.90 | 236.4 | 2.169 |
| Loader | \$ 240.00 | 6 | 11/1/10-11/30/10 | 11/1/10-11/30/10 | 44 | 8 hrs grading, 24 hrs sanding, 7.5 hrs truck maint., 4.5 trees | 11/22/10 | 593.46 | 191.5 | 4.352 |
| Loader | \$ 480.00 | 12 | 12/1/10-12/31/10 | 12/1/10-12/31/10 | 53 | 6 hrs tree down, 28.5 P/S, 11.5 sand, 7 hrs plow | 12/20/10 | 653.85 | 198.8 | 3.751 |
| | \$11,317.50 | 182.3 | | | 727 | | | \$8,183.77 | 2096.9 | |





Town of Victory, VT.
Town Clerk/ Treasurer
PO BOX 609
North Concord, Vt.
05858

Vt. Attorney General Mr. Sorrell
109 State St.
Montpelier, Vt. 05609-1001

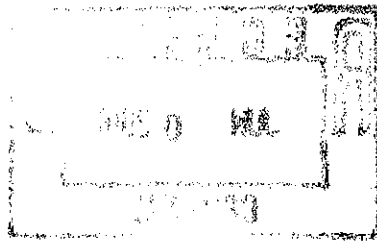
Enclosed is the 3rd Forensic Audit results being sent to your office. We have called on several occasions for help with this EMBEZZLEMENT of over \$300,000.00, to no avail. We need help and need it now, please!

Det. David Petersen, out of St. Johnsbury State Police barracks, is nearing his conclusion of the investigation and needs help from your office.

The people that are mentioned in the audit are now back in office by one vote and are back doing the same dishonest feats as in the past.

How can you allow this to go on? No one wants to help us! We paid \$60,000.00 for this audit. The people in this audit went and destroyed very important papers from the vault so they would not be caught. We were able to call business and get copies of some records to piece this together. We, the town, was not allowed to see or know anything about the audit until the results released. We went to business to get the information before we turned over the records for 2009 up through 2013, to Batchelder Associates of Barre Vt.

The group guilty of this embezzlement is trying to harass and intimidate the Town Clerk /Treasure to quit her position. They refuse to pay Batchelder Associates as The Bookkeeper/auditor for her monthly work of keeping the books and doing



the board orders. Who is also Assistant Town Treasurer. This budget was passed at the town meeting to accept the budget. Two of the Selectmen who are involved in the Forensic audit are refusing to pay her.

The Town of Victory needs to have help from you in conjunction with Detective Petersen's investigation, or these criminals will get away with a second embezzlement. You are helping other towns, why not us?

Mr. Sorrell we all voted for you, we believe in you, why not help us?

Thank you for your consideration,

[REDACTED]

[REDACTED] from [REDACTED] now [REDACTED]

(I am the one who contacted your office several times and the State Auditor who promised to help with no results)

Please, contact me at

[REDACTED] if any

questions - Tuesday and

Thursday at [REDACTED]

noon - 3pm - [REDACTED]



Office of the Attorney General
WILLIAM H. SORRELL

Criminal Justice

[Home](#) » Criminal Justice

*Embezzlement of
Town Funds*

The Criminal Division consists of the Trial and Investigative Unit, the Appellate Unit and the Medicaid Fraud and Residential Abuse Unit.

The Trial and Investigative Unit handles a wide variety of cases with focus on matters that are (1) statewide or multi-jurisdictional in nature, (2) require significant resources beyond those normally available at the county level, or (3) involve a conflict of interest for a State's Attorney's Office.

The Unit also serves as the primary prosecution agency for the Vermont Drug Task Force, which concentrates on large-scale drug investigations at the local, state, and federal levels. In addition, the Unit priorities include homicides, child sexual assaults, computer-related crimes, serious felonies involving the use of firearms, domestic violence, elder abuse, and matters involving public misconduct or corruption. This Unit also reviews all incidents involving the use of deadly force by law enforcement officers. In addition, the Unit also provides support to other law enforcement and prosecutorial agencies through training and general consultation.

The Appellate Unit handles appeals from criminal cases on behalf of the State. The unit handles appeals from cases prosecuted by the Attorney General's Office and many from the county prosecutor offices. The Unit specializes in appeals from homicides and other serious felonies and also cases involving significant statewide issues.

Medicaid Fraud and Residential Abuse Unit

Published: Jul 25, 2014



Batchelder Associates, PC

August 15, 2014

To the Select Board
Town of Victory
Victory, Vermont

Members of the Town of Victory Select Board,

Batchelder Associates, PC was engaged to perform the audit for the period July 1, 2012 through June 30, 2013, of which was then extended through December 31, 2013. This has been a very long task and extremely difficult process. We have found many issues related to the Town's finances and are listed below:

1. Lack of accounting system which accumulated all activity of Town in one reporting system.
2. Missing information for the majority of the period under audit including bank statements, deposit details, checks written and invoices.
3. No historical records of fund balances or uses there of.
4. Incorrect payroll reporting
5. Incorrect subcontractor reporting
6. Lack of contracts with subcontractors
7. Lack of required IRS reporting for subcontractors
8. Missing invoices for subcontractors with payments rendered
9. Lack of required IRS reporting for related parties
10. Inaccurate reporting of delinquent taxes (understated in records and in town reports over multiple years)
11. Advances to School District with no authority or understanding of what funds were for.
12. Receipt of funds by Town with deposits of funds being several weeks or months after Town receipt.
13. Large overpayments by Property tax owners with no refunds issued.
14. Items on board orders for authorization with no invoices available
15. Lack of reconciliation or records to substantiate payments to Town Clerk and Delinquent tax collector for fees
16. Inaccurate reporting to tax authorities resulting in interest and penalties on payments (fiduciary considerations)
17. Checks written which were not on the board orders and did not have invoices available

The presence of the above issues indicates that there are not controls in place to avoid negligent or fraudulent use of Town funds. The fact that systems are not in place to accurately report property tax delinquencies, overpayments, unauthorized checks and disbursements leaves the Town open and subject to inaccurate reporting. I would strongly suggest a forensic look back period of data and financial records as there is concern that there are some inaccuracies in the financial data.

During our work, we reviewed reports and work completed by A.M. Peisch & Company, LLP. dated August 12, 2013. While we agree with most of the findings disclosed in this report, we feel they were many additional items which should be brought to the Boards attention.

1. As an integral part of the budget preparation process, there is the continuous use of "Unused Funds" from prior year fund balances used to offset or "buy down" the current year's tax rate. There is no concrete report, calculation or analysis which states what this carry forward figure should in fact be.
2. The Board does not have accurate information in determining Fund Balances from which to plan current or future projects or for which to allocate funds to for future events.
3. There is not a quality system to quickly identify delinquent tax revenue (automated system)
4. There is not accurate reporting to the IRS for wages or subcontractor charges. This has and continues to cost the town in penalties and interest.
5. There is not quality information and communication between the Town and the Treasurer with regards to finances, reporting and up to date information.
6. With Federal funds (FEMA) coming into the Town, the Town needs strong internal controls. This currently does not exist at the Town.
7. The tasks are overwhelming for the Town and therefore, financial matters which need to be kept current for immediate decisions is not being maintained.
8. Bank accounts are not reconciled in a timely manner.

We strongly feel that the Town needs to tighten internal controls, change procedures and prepare monthly, timely and accurate financial statements for the Board to review as compared to budget. The financial status of the Town must be transparent between the Treasurer's office and Board.

Please feel free to let me know of any questions or concerns that you may have.

Sincerely,





Batchelder Associates, PC

TOWN OF VICTORY, VERMONT

FORENSIC AUDIT OF FINANCIAL AND TRANSACTION ACTIVITY

2009 – 2012

EXECUTIVE SUMMARY

Batchelder Associates, P.C. was hired by the Selectboard of the Town of Victory, Vermont to perform a forensic audit for the calendar years 2009-2012. In preparation, we requested board orders, bank statements, cancelled checks, deposits, grand lists, Homestead reports from the State, vendor invoices, payroll records, Internal Revenue Service reporting, grants, transfer records, the grand list and board minutes.

Several interviews, including Town citizens, Board members, Town employees and vendors have taken place over the period under review. The purpose of these interviews was to clarify information found, questions raised and clarification of assumptions used in review and calculations rendered in summary within this report. Review of original documents, bank statements and deposits were analyzed for accuracy, authorization, validity and relationship to Town business.

During this period, the selectboard members were [REDACTED]. Employees of the Town were [REDACTED].

Prior to the forensic engagement, there was a preliminary review of financial records in the eighteen months between July, 2012 and December 31, 2013. As a result of this preliminary review, the following items were discovered:

- Lack of accounting system which should be used to accumulate all activity of the Town in one reporting system.
- Missing information for the majority of the period under audit including bank statements, deposit details, checks written and invoices.
- No historical records of fund balances, board designations or uses thereof.
- Incorrect payroll reporting
- Incorrect subcontractor reporting
- Lack of contracts with subcontractors
- Lack of required IRS reporting for subcontractors
- Missing invoices for subcontractors with payments rendered
- Lack of required IRS reporting for related parties
- Inaccurate reporting of delinquent taxes (understated in records and in town reports over multiple years)
- Advances to School District with no authority or understanding of what funds were for.
- Receipt of funds by the Town with deposits of funds being several weeks or months after Town receipt.
- Large overpayments by Property tax owners with no refunds issued.
- Items on board orders for authorization with no invoices available
- Lack of reconciliation of records to substantiate payments to Town Clerk and Delinquent tax collector for fees.
- Inaccurate reporting to tax authorities resulting in interest and penalties on payments (fiduciary considerations)

Bonnie K. Batchelder • Certified Public Accountant

SUMMARY OF FINDINGS

1. Significant discrepancies between Highway hours worked, equipment rental hours/dollars and diesel fuel used compared on a month to month basis, as well as year to year comparison.
2. Payment of property taxes, dated for November 1st and deposited at the end of December with no penalties and interest applied from Town officials.
3. Significant discrepancies on delinquent taxes reported in annual report.
4. Payments received from the State held prior to deposit for periods ranging from thirty (30) to forty-five (45) days.
5. Discrepancies in purchases made from the Town account for vehicle parts and/or use of Town account for discounts.
6. Significant number of transactions written which were missing from signed Board Orders. (Exhibit I)
7. Significant number of checks written with no invoices or backup. (Exhibit I)
8. Checks written two months prior to being placed on Board Orders. (Exhibit I)
9. Missing W-2 and 1099 documents for two of the four years. Transcripts received from IRS with no evidence of 1099's being filed with the agency for those years.
10. Credits owed to taxpayer's not returned.
11. Confidential information of Town citizens found on Treasurer's computer which is not applicable to Town business (specifically names and social security numbers).
12. Incorrect reporting of subcontractor payments to IRS
13. Questions regarding calculations of delinquent tax fees and Town Treasurer fees
14. Incompatible offices held – Appointed treasurer also School Director
15. Town computer data erased
16. Property taxes assessed to taxpayers without regard to other sources of income received by the Town through the budgeting process which created higher than necessary property taxes.

EXHIBIT I

DETAILED ANALYSIS – TABLES AND CHARTS

1. Statistics gathered relating to variances from Board Order, approval policies
 - This represents the number of transactions and dollar value which did not conform with Board Order or Town policy by year.

| | 2009 | 2010 | 2011 | 2012 |
|-------------------------------------|------------|------------|------------|------------|
| Total Number of Checks Written | 204 | 185 | 183 | 176 |
| Total Number of Discrepancies | 45 | 22 | 27 | 34 |
| Total Expenses | \$ 493,770 | \$ 402,761 | \$ 481,370 | \$ 448,275 |
| Total Dollar Value of Discrepancies | \$ 177,677 | \$ 74,138 | \$ 41,459 | \$ 7,260 |
| Percentage of Discrepancies: | | | | |
| Number of transactions | 22.06% | 11.89% | 14.75% | 19.32% |
| Dollar value of transactions | 35.98% | 18.41% | 8.61% | 1.62% |

The Town Treasurer, Ruth Neborsky, resigned her position on November 27, 2013. She appointed and swore (affirmed) into office, Marlene Somerville as Assistant Town Treasurer. This oath was in contradiction to Vermont statutes, as the former Town Treasurer had no authority to appoint such a position and this position was in direct conflict of Ms. Somerville's position as School Director at Victory, as outlined in the State statute.

In Ms. Somerville's position as Assistant Treasurer, she paid invoices and payroll to the Neborsky's which was inappropriate. Payroll continued to be paid to the former Treasurer into December, 2013, payments to the former treasurer's husband, all without proper controls through approved Board Orders. Specifically, payments were made which were not authorized or included on the Board orders and approved by the Board.

2. Calculations of Property Taxes Collected and Outstanding as compared to published Town reports

| | 2009 | 2010 | 2011 | 2012 |
|--|-----------------|-----------------|-----------------|-----------------|
| Grand List Property Receivables Billed | | | | |
| Homestead | \$ 63,462.30 | \$ 53,775.94 | \$ 54,250.39 | \$ 53,995.42 |
| Education | \$ 203,576.31 | \$ 213,570.14 | \$ 195,848.99 | \$ 203,717.95 |
| | \$ 257,038.61 | \$ 257,346.08 | \$ 250,099.38 | \$ 253,713.37 |
| Homestead State Payment Report | \$ (14,466.05) | \$ (16,197.00) | \$ (16,168.75) | \$ (13,591.25) |
| Prior year Delinquent Taxes | \$ 16,888.72 | \$ 16,191.59 | \$ 25,337.98 | \$ 23,951.09 |
| Delinquent Property Tax Receipts | \$ (12,296.80) | \$ (7,408.65) | \$ (13,613.26) | \$ (3,810.94) |
| Current Property Tax Receipts | \$ (230,972.89) | \$ (234,594.04) | \$ (221,704.26) | \$ (236,595.62) |
| Calculated Receivables at 12/31 | \$ 16,191.59 | \$ 25,337.98 | \$ 23,951.09 | \$ 33,666.65 |
| BA Receivables at 12/31 | \$ 17,201.38 | \$ 25,139.01 | \$ 24,292.86 | \$ 33,432.60 |
| Reported on Town Report | \$ 7,935.41 | \$ 13,445.76 | \$ 11,399.09 | \$ 14,448.39 |
| Variance | \$ 8,255.97 | \$ 11,892.22 | \$ 12,551.77 | \$ 19,228.27 |

The variances above represent the difference between the property tax receivable tracked by Batchelder Associates, PC in the tracking of grand list property taxes and payments and what the Town Treasurer reported in the Town report as Delinquent Property Taxes. Currently, as property owners are not responding to the confirmations, these taxes are still showing as outstanding and owed. There are three possibilities for these variances:

- Funds were received from property owner and not deposited into Town accounts
- Property taxes were never paid by property owners and lack of payment was dismissed by Town Treasurer or
- Funds were received from property owner and diverted to other purposes, such as petty cash, of which there is no standard of tracking use of cash coming into the Town.

Audit confirmations were sent to forty-one (41) property owners who were tested to have delinquent taxes between 2009 and 2012. Of these (41), fifteen (15) have not responded or the confirmations are undeliverable. Second and third confirmations were sent to all property owners who did not respond to the first round of confirmations mailed.

During the testing and confirmation process, the following situations were found:

- Tax payments were paid in cash, which were deposited to petty cash versus deposited into the Town checking account.
 - This is an issue as Petty Cash was never reported in the Town report and had no Board control or knowledge of its existence or use.
- Tax payments were paid in cash, received by the Town Treasurer and could not be traced into any account within the Town.
- Tax bills were paid at the Homestead rates when the grand list is listing and continues to list property tax owner as Non-residential.
- Property transfer made March 31, 2010. Recorded April 26, 2010. Prior owner remained on bill with tax still unpaid to date in the amount of \$2,809.68. Property disappeared from Grand List until 2014. Parcel ID #10-06.
- Several instances of receiving tax payments and not deposited until several months after receipt.

3. Veteran's Exemptions

During the March 1, 2011 Annual Town meeting, it was voted to increase the state's Veteran's \$10,000 exemption by \$30,000, for a total of \$40,000, to veteran's who were 50% or more disabled. A local agreement tax was to be added to the tax roll to recoup the cost of this exemption to all property tax owners to recoup this exemption. This local tax was not assessed in any of the years under audit. Total veteran's exemptions were \$120,000 of the grand list during the audit period, of which the tax rate applicable to that year would have been applied. The paperwork required is not complete, is hand written and in one case has different dates on subsequent pages. The Veteran's Administration only validated the accuracy of the current year exemption and will not validate prior years for which this issue was raised.

4. Analysis of Equipment Rental, Payroll and Diesel Use by Highway Employee

For each of the years under audit, we analyzed the Equipment rental, inclusive of rates paid and hours worked; Payroll hours paid, broken down by task and equipment used, as compared to diesel fuel used, and inclusive of dollar value and gallons used. Based on the Town's equipment, history and Town Highway employee, the truck uses five (5) gallons of diesel per hour and the grader used forty to fifty (40-50) gallons per eight (8) hours.

In reviewing Exhibit II attached on the following page, for the number of hours submitted as compared to the fuel purchased, the hours appear to be considerably overstated as represented by the gallons used per hour of equipment used. It is also noted that in the month of June, 2009, the paid employee submitted for 160 hours of payroll, four full weeks of pay and also charged the Town for an additional 96 hours of equipment rentals. This represents 256 hours charged to the Town in one month or a total of 6.4 weeks at 40 hours per week. This pattern can be demonstrated throughout this particular testing. There was no contract in place for the equipment rental charges or controls in place for the management of these services per Board members and Town Treasurer.

A similar exhibit has been presented for 2010, Exhibit II, showing similar information. A similar presentation for 2011 and 2012 exists, however was not presented due to redundancy of 2009 and 2010 information. Based on the number of gallons purchased, and based on the number of hours paid through payroll, there calculates to be roughly a 50% overstatement of hours worked as compared to the amount of diesel consumed. The highway employee was paid \$11,115 in 2009 and was issued a 1099 for subcontractor work in the amount of \$14,315. Similar payments were made from 2010 through 2012. As mentioned earlier, the IRS has no transcript of 1099's being issued and reported for subcontractor payments in any of the years audited.

5. Use of Town Charge Accounts

In reviewing the Town charge accounts, it was found there were purchases of items that were not related to Town vehicles. During random interviews, this was confirmed by Select Board members and also Town businesses from whom the parts and accessories were purchased. There has also been considerable concern that tires, repairs, etc. were charged to the Town which did not actually make it to the Town vehicles. The Town has no written policy outlining the use or procedures for using charge accounts and/or credit cards.

6. Leased Lands (Vermont Statutes, Title 24, Chapter 65 and Title 32, Chapter 123)

The Town of Victory, under Title 32, Section 3610(b) has fifteen (15) parcels of leased land under the referenced Vermont Statute. The lots are listed in the table below and listed by the "Occupant/Lessee" as recorded in 1990. Since that time, the leased lands have fallen off the reporting of property and not included as any part of the grand list. There are no records showing transfers, other than in 1995 to the Mitchell Family for 100 acres.

Rents for the majority of the properties are not being billed and/or collected.

| | Occupant / Lessee | Location / Description | Acres | Value | Rent | Purpose |
|----------|---|------------------------|----------|---------------|----------|-------------|
| | Champion International Corporation | Lot 9, Range 14 | 11.7 | \$ 5,553 | \$ 6 | Ministerial |
| | | Lot 9, Range 15 | 90.1 | | \$ 6 | Ministerial |
| | Diamond International Corporation | Lot 8, Range 9 | 100 | \$ 30,000 | \$ 18 | Ministerial |
| | | Lot 12, Range 22 | 100 | | \$ 6 | Ministerial |
| (A), (B) | Drown, George and Marjorie | Lot 11, Range, 3 | 100 | \$ 30,000 | \$ 8 | College |
| | Jame River Corporation | Lot 10, Range 14 | 78 | \$ 24,500 | \$ 10 | School |
| | | Lot 6, Range 17 | 139 | \$ 27,800 | \$ 1 | School |
| (B) | Stanley, George & John | Lot 3 | 100 | \$ 21,000 | \$ 6 | Ministerial |
| | State of Vermont Fish & Game | Lot 10, Range 14 | 109.6 | \$ 21,920 | \$ 6 | School |
| | | Lot 8, Range 4 | 155 | \$ 31,000 | \$ 4 | Ministerial |
| | | Lot 12, Range 12 | 17 | \$ 3,400 | \$ 4 | School |
| | State of Vermont Forest & Parks | Lot 9, Range 14 | 100 | \$ 400 | \$ 4 | Parsonage |
| | | Lot 6, Range 5 | 100 | \$ 400 | \$ 4 | School |
| | Washburn Lumber Co. | Lot 4, Range 6 | 100 | \$ 400 | \$ 0 | School |
| | | | 100 | \$ 30,000 | \$ 8 | Ministerial |
| | | | 1,400.40 | \$ 226,373.00 | \$ 90.03 | |
| (A) | Quit Claim Deed to Mitchell, Walter and Patricia, dated 12/14/1995 | | | | | |
| (B) | These were properties under the charge of the University of Vermont. There were three properties, of which there is no current record for Lot 13, Range 14. | | | | | |

7. Grand List Irregularities

Included in the chart below, we have disclosed the acreage listed on the grand list beginning in 2009 and the fluctuations in total acreage between the years. There is no evidence as to why the total acreage would be increasing and decreasing between years with the exception of items disclosed in earlier sections of this report.

| Year | # of Parcels | Total Acres | Variances |
|------|--------------|-------------|-----------|
| 2008 | 152 | 7846.03 | |
| 2009 | 146 | 7503.03 | 343.00 |
| 2010 | 146 | 7583.33 | 80.30 |
| 2011 | 143 | 7546.6 | (36.73) |
| 2012 | 145 | 7543.7 | (2.90) |
| 2013 | 143 | 7543.7 | 0.00 |
| 2014 | 148 | 7548.9 | 5.20 |
| 2015 | 148 | 7548.9 | 0.00 |

CONCLUSION

The Town of Victory has suffered with several irregularities in the management of the Town's finances, historical documents and lands, and now as a result of the audit, the negative impact it has had on the Town. The procedures and documentation which were unavailable and absent from the Town vault and historical records is alarming. In addition to the highly irregular transactions that have taken place within the years audited, the chance that it goes beyond these years, is a high possibility and has had a severe financial impact on the Town. In addition, the fact that the Town has no history available regarding the status of the leased lands and the 1,400 acres within this definition is especially alarming.

Further investigation as to the irregularities into the fluctuation of acreage as reporting on the grand list, combined with the historic restoration of the leased properties is imperative to start the process of bringing the Town to a positive position and representations to the Town's citizens.

Batchelder Associates, P.C.

Batchelder Associates, PC
License #945
Barre, Vermont 05641
December 9, 2015

TOWN OF VICTORY, VERMONT
ANALYSIS OF EQUIPMENT RENTAL, PAYROLL AND DIESEL USE
DECEMBER 31, 2009

EXHIBIT II

| EQUIPMENT RENTAL DATA | | | | PAYROLL DATA | | | DIESEL USAGE | | | |
|-----------------------|----------------|-------|------------------|------------------|-------------------|---|------------------|------------|----------|----------------|
| Equipment Used | Rental Dollars | Hours | Service Dates | Payroll Dates | W. Neborsky Hours | Time Card Descriptions | Date | Diesel | Gallons | Gallons Per Hr |
| | | | | | | | 12/17/08 | 699.08 | 247.8 | |
| | | | | | | | 12/30/08 | 471.09 | 199.7 | |
| Loader | \$ 260.00 | 6.5 | 1/1/09-1/31/09 | 1/1/09-1/31/09 | 40.5 | 22 hours plowing, 18.5 hours plow and sand | 1/22/09 | 302.88 | 121.2 | 2.993 |
| Loader | \$ 560.00 | 14 | 2/1/09-2/28/09 | 2/1/09-2/28/09 | 62 | 33 hours sanding, 9 hours plowing, 20 hours plow and sand | 2/23/09 | 579.78 | 254.4 | 4.103 |
| Loader | \$ 120.00 | 3 | 3/1/09-3/31/09 | 3/1/09-3/31/09 | 33.5 | 6.5 hrs sand, 6.5 hrs p/s, 15.5 hrs grade, 5.0 hrs grade maint. | | | | |
| Loader | \$ 160.00 | 4 | 4/1/09-4/30/09 | 4/1/09-4/30/09 | 73.5 | 37.5 grade, 18 grade maint., 7 clean up, 11 sweep | | | | |
| | | 7 | | | 107 | | 4/20/09 | 499.11 | 217.1 | 2.585 |
| Loader | \$ 160.00 | 4 | 5/1/09-5/31/09 | 5/1/09-5/31/09 | 67 | 46 grade, 14.5 unload chloride/grade, 3 tree down, 5 mow cem., 18.5 Kirby | | | | |
| Excavator | \$ 862.50 | 11.5 | 5/1/09-5/31/09 | 5/1/09-5/31/09 | | | | | | |
| Excavator | \$ 4,500.00 | 60 | 06/1/09-06/30/09 | 06/1/09-06/30/09 | 160 | 160 hrs Kirby mt road | | | | |
| Loader | \$ 160.00 | 4 | 06/1/09-06/30/09 | 06/1/09-06/30/09 | | | | | | |
| Dozer | \$ 1,600.00 | 32 | 06/1/09-06/30/09 | 06/1/09-06/30/09 | | | | | | |
| | | 96 | | | 66 | | 6/22/09 | 541.66 | 212.5 | 2.205 |
| Roadside Mowing | \$ 2,090.00 | 38 | 07/1/09-7/31/09 | 07/1/09-7/31/09 | 34 | 15.5 kirby mt rd, 14.5 grade, 4 mow cem. | | | | |
| | | | | | | | 8/1/09-8/30/09 | 665.34 | 295 | 4.091 |
| Loader | \$ 600.00 | 15 | 10/1/09-10/31/09 | 10/1/09-10/31/09 | 88.5 | 47 grade, 23.5 sand pile, 18 hrs maint. | | | | |
| Sand Blast Truck | \$ 1,100.00 | | 10/31/2009 | | | | | | | |
| | | 15 | | | 88.5 | | 10/26/09 | 527.77 | 190.6 | 2.704 |
| | | | | | | | 11/1/09-11/30/09 | | | |
| | | | | | 37 | 20 grade, 13 tree down, 4 tire change(grader) | | | | |
| Loader | \$ 800.00 | 20 | 11/1/09-12/31/09 | 12/1/09-12/31/09 | 81 | 25.5 sand, 42 p/s, 3.5 plow, 10 maint. | 12/8/09 | 460.66 | 168.8 | 8.440 |
| | | | | | | | 12/9/09 | 643.98 | 290.9 | 3.252 |
| | \$ 12,972.50 | 212 | | | 640 | | | \$5,331.95 | 2,099.00 | |



TOWN OF VICTORY, VERMONT
 ANALYSIS OF EQUIPMENT RENTAL, PAYROLL AND DIESEL USE
 DECEMBER 31, 2010

EXHIBIT II (continued)

| EQUIPMENT RENTAL DATA | | | | PAYROLL DATA | | | DIESEL USAGE | | | |
|-----------------------|----------------|-------|------------------|------------------|---------------------|---|--------------|----------------|---------|----------|
| Equipment | Rental Dollars | Hours | Service Dates | Payroll Dates | W. Neborsky's Hours | Time Card Description | Date | Diesel Gallons | Gallons | Per Hour |
| Loader | \$ 460.00 | 11.5 | 1/1/10-1/31/10 | 1/1/10-1/31/10 | 49.5 | 7 hrs plow, 26.5 hrs P/S, 16 hrs sand | | | | |
| Loader | \$ 360.00 | 9 | 2/1/10-2/28/10 | 2/1/10-2/28/10 | 37.5 | 30 hrs P/S, 3.5 hrs plow, 4 hrs sand | 2/3/10 | 689.04 | 281.3 | 2.656 |
| Loader | \$ 240.00 | 6 | 3/1/10-3/31/10 | 3/1/10-3/31/10 | 79 | 31 hrs grade, 5 hrs P/S, 1.9 hrs gravel, 14 hrs tree work, 11 hrs grader maint. | 3/1/10 | 978.3 | 129.6 | 1.641 |
| Loader | \$ 120.00 | 3 | 4/1/10-4/30/10 | 4/1/10-4/30/10 | 100.5 | 68 hrs grade, 17 hrs grader maint., 15.5 hrs tree clean up | 4/5/10 | 652.02 | 211.1 | 2.200 |
| Loader | \$ 520.00 | 13 | 5/1/10-5/31/10 | 5/1/10-5/31/10 | 178 | 145 hrs Brooke rd, 18 hrs grade, 5 mow cem, 7 grader repair, 3 tree down | 5/3/10 | 604 | 201.4 | |
| Excavator | \$ 5,850.00 | 78 | 5/1/10-5/31/10 | 5/1/10-5/31/10 | | | 5/13/10 | 757.73 | 258.7 | |
| Mova Equipment | \$ 200.00 | | 5/1/10-5/31/10 | 5/1/10-5/31/10 | | | 5/24/10 | 569.03 | 205.5 | |
| | | 91 | | | | | | 1930.78 | 665.6 | 3.795 |
| Loader | \$ 160.00 | 4 | 6/1/10-6/30/10 | 6/1/10-6/30/10 | 44 | 27.5 hrs grade, 3 tree down, 3 mow cem, 10.5 chloride | | | | |
| Roadside Mowing | \$ 2,227.50 | 40.5 | 7/31/2010 | 7/1/10-7/31/10 | 5 | 5 hrs mow cem. | | | | |
| | | | | 8/1/10-8/31/10 | 27.5 | 27.5 hrs grading | 8/16/10 | 646.62 | 224.6 | 2.936 |
| | | | | 9/1/10-9/30/10 | 23.5 | 7.5 hrs mow cem/bridges, 9 hrs grade, 7 hrs grade maint. | | | | |
| Loader | \$ 460.00 | 11.5 | 10/1/10-10/31/10 | 10/1/10-10/31/10 | 65.5 | 59.5 hrs grading, 16 hrs sand pile, 10 town maint. | 10/18/10 | 708.96 | 236.4 | 2.169 |
| Loader | \$ 240.00 | 6 | 11/1/10-11/30/10 | 11/1/10-11/30/10 | 44 | 8 hrs grading, 24 hrs sanding, 7.5 hrs truck maint., 4.5 trees | 11/22/10 | 593.46 | 191.5 | 4.352 |
| Loader | \$ 480.00 | 12 | 12/1/10-12/31/10 | 12/1/10-12/31/10 | 53 | 6 hrs tree down, 28.5 P/S, 11.5 sand, 7 hrs plow | 12/20/10 | 683.85 | 198.8 | 3.751 |
| | \$11,317.50 | 182.5 | | | 727 | | | \$8,183.77 | 2098.9 | |



Criminal Division Case Opening/Closing Forms
 (Any Category With * **Must** Be Filled In when opening and/or closing)
 Revised 05/28/15

Matter #: 2016 *60322*

*Matter Name: In re Victory

*Date Received in Office: 1/11/16

*Date Opened: 1/11/16

*Date Closed:

Vibrs #15AG:

* AAG1: SK

AAG2: JT

AG Investigator Initials:

* Town: Victory

*Court:

Court Docket No.:

* County:

*Opposing Counsel:

*Charge / Allegation: unk

*ASK
Investigating Agency*

*Matter Type:

- Committee
- Extradition
- Habeas Corpus
- Health Care Fraud
- Homicide
- Investigation
- Other **
- PCR
- Prosecution
- Prosecution Review
- Special Projects
- Torts
- VOP

*Grant Cases: *LEO Cases

- None No
- Arrest Lethal Use of Force
- Meth Non-Lethal Use of Force
- Byrne Other
- STOP

*Case Origin

- Conflict
- In-House
- Referral

*Public Official

- No
- City
- County
- Federal
- Municipal
- State

**Other Description: a look at their recent audit for possible criminal activity.

*Investigating Agency:

Referral Information:

***Litigation Hold Review**

Matter reviewed to assess whether there is reasonable and foreseeable grounds for civil litigation against a state agency or employee.

- no action taken
- referred to Criminal Division Chief _____ (date)

***Advocate Information**

- No Victim
- Victim Name:
- Victim Contact Information:
- Advocate Assigned:

*Describe Outcome of Case - Include the Specific Terms of Plea Agreement or Sentence:

THE LAW FIRM OF
BucknamBlackDavis

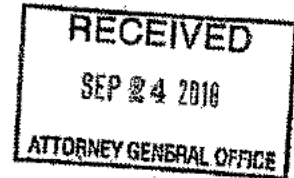
Deborah T. Bucknam, ESQ
dbucknam@vtlegalhelp.com
ADMITTED IN VT AND NH

Jennifer B. Black, ESQ
jblack@vtlegalhelp.com
ADMITTED IN VT AND MA

Amy E. Davis, ESQ
adavis@vtlegalhelp.com
ADMITTED IN VT

September 21, 2018

**Office of the Vermont Attorney General
Public Records Act Request
109 State Street
Montpelier, VT 05609**



To Whom it May Concern:

Under the **Vermont Public Records Law, §315 et seq.**, I am requesting an opportunity to inspect or obtain copies of public records that relate to any reports, correspondence, complaints, investigations, or any other documentation, including all electronic documents, concerning the following persons:

Ruth Anne Neborsky, DOB 3/21/1959

Walter Neborsky, DOB 11/29/1957

And including the following dates: 2010 to the present.

I am attaching a letter from the former Chair of the Town of Victory Selectboard indicating that she, or others, filed complaints with "varying [sic.] state agencies" in 2014.

There is other documentation that indicates complaints, correspondence, and/or reports may have been filed with state and county agencies concerning Ms. Neborsky and/or Mr. Neborsky as early as 2010.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$25.00. This information is not being sought for commercial purposes.

The law requires a response to this request within 3 business days, absent unusual circumstances. If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Debbie".

Deborah T. Bucknam, Esq.

[REDACTED]

To All Concerned;

This letter is to register a complaint with varying State Agencies that work with and represent the Town of Victory, Vt.

We received resignation letters from [REDACTED] Town Clerk/ Treasure and [REDACTED] School Board Member and designated Assistant Town Treasurer.

[REDACTED] resigned on November 27th, 2013. [REDACTED] was appointed assistant treasurer on this day. Her office was null and void on this day also when the town clerk/treasurer resigned. [REDACTED] on this date was also a school board member until she resigned early 2014. Which are non-compatible holding offices.

Please note check stubs sent from us, that were written by the former town clerk/treasurer written after she resigned. She not only paid her self, her estranged husband and other bills but she did this without board orders, that the one remaining selectman did not sign nor authorize.

Also, please note, that the former town clerk voided a check #2298 for \$92.00 in April, which the voided check appeared at the bank in December. [REDACTED] also paid herself 80 hours in December yet she resigned November 27th, 2013.

[REDACTED] on December 10th locked the town hall and her former office so no one could enter. She and [REDACTED] [REDACTED] sprawled out on the floor when two taxpayers wanted to get into the building to pay on their taxes. This was witnessed through the window. [REDACTED] held her office hours when ever she wanted and was never at the town hall for any Lawyers nor business men who needed access to the vault and needed answers, for their clients. [REDACTED] was witnessed nearly 5 years ago moving out of [REDACTED] and into the [REDACTED] in [REDACTED] and on [REDACTED]. Her neighbors, witnessed the move, yet she would use reverse psychology to lie to the voters that she lives in Victory. She had special friends on the BCA Board who would believe her and not purge her name off the Voters Check list. Along with her Sons who proclaims that he went into the service leaving his home in victory, which he lived with his brother after graduating from high school. She signs his letter of residency for the BCA Board. He moved out of Victory as a freshman in high school for he could not get along with his Step Father [REDACTED]. She has signed his letter for the BCA Board as the writing is the same. She now has signed the correct form for herself and returned it that she indeed is living at the [REDACTED], BUT she

for herself and returned it that she indeed is living at the [REDACTED] BUT she has not returned with any of her belongings, while continuing to leave her car at the husbands home daily now so she can prove she is living there so she can vote at town meeting..

As we prepare for town meeting and the Town Report, we are finding that she has eliminated many pieces of information from the computer so the town report can not be finished with accuracy.

We are calling for an audit and are in the process of hiring an auditor. The former select board and the town clerk/ treasurer hired a firm A.M. Peisch out of St. Johnsbury to do an internal procedure Audit, which proved not complete. The select Board did not act on any of the findings nor did they correct the findings.

The Town of Victory ledgers/ bankbook seems to have many inaccuracies. We are formally issuing a complaint against [REDACTED] and the former Select Board member [REDACTED] for allowing this type of behavior and dishonesty to take place for nearly 10 years.

We request an investigation into this matter. We need guidance of how to proceed.

Thank you for your attention in this matter.

Regards, [REDACTED]

ACLU - 1-802-223-6304

From: Condos, Jim <jim.condos@sec.state.vt.us>
Sent: Tuesday, August 02, 2016 10:22 AM
To: [REDACTED]
Subject: RE: Abolishing Election of the Listers

Good Morning [REDACTED]

Yes if possible, the statute is 17 V.S.A. 2651c.

A town can vote by ballot at annual meeting to eliminate the office of lister. If a town does so, the selectboard must then contract with or employ a professionally qualified assessor (who need not be a town resident) to take over the listers' duties. The terms of office of existing listers end when the selectboard appoints an assessor or on the 45th day after the vote, whichever comes first.

Note that the above works unless a town has a charter that provides for electing or appointing listers, in which case a charter amendment would be required.

If the town doesn't have enough listers now (less than a majority), and the selectboard can't find anyone to appoint to fill the vacancies, the board is permitted to appoint an assessor to perform the duties of lister until the next annual meeting. 17 V.S.A. 2651c.

Hope this helps...

Jim Condos
Secretary of State
State of Vermont

Boyce, Bonnie

From: Matthews, Deborah
Sent: Friday, February 3, 2017 3:58 PM
To: Meenan, Evan
Subject: VICTORY

Importance: High

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov (please note my new email address)

From: [REDACTED]
Sent: Friday, April 03, 2015 12:46 PM
To: AGO - Info <AGO.Info@vermont.gov>
Subject: Town of Victory Vermont
Importance: High

Attorney General Office;

My Name is [REDACTED] am presently [REDACTED]
[REDACTED] of the Town of Victory, VT. We are in the process of having a Forensic Auit beginning 2009 thru to date. We had an audit for 2013-2014 hen started the Fornsic. We are finding many issues and monies spent not applicable to the running of the town. We also have found That monies carried over from year to year was not correct. Our delemnia is what to do and where to go as no one wants to be involved with victory.

Our stats is this, we have 157 taxpayrs., 66 locals that reside in the town, 88% is on either disability or social security. Many pay taxes each month to be able to live in victory. Because the ltown treasure did not do the bookkeeping correctly, our taxes were higher. Our Town Clerk/ treasurer would enter her own town assessments on the neneric program for property evaluation, the listers did nothing.

Bonnie Batchelder Associates out of Barre is our Auditor/ bookkeeper.

The Town Clerk/ Treasurer resigned Nov.27 2013 appointed a assistant TC/T which was illegal for when she resigned then so does the assistant. Checks were written illegally. Bills were not all paid and alot of illegals done.

Now comes [REDACTED] who was involved in all of this got re-elected to selectboard, this march and is trying to undermine all the good that has happened in one year of the audit [REDACTED] is acting as though he is in charge and not attempting to contact the other selectmen and hires out, goesto the auditor for information that will not be released to him due to his involvement. He is acting alone against the laws in the select board hand book and taking charge. He has even interferred with the Fema and our recouping of the monies owed us. He has illegally promised a new town building of over 500,000.00 to be built and the tow voted it down.

There is alot wrong here, alot illegal stealings etc. We need your help PLEASE! There are many agencies who willnot help us dueto the dishonesty and the sides they will take. We can not go to our states attorney for we have on video from town meeting how he cuddled up to the perpretators, We can not go to lthe lstate police for there is issues there and they have two legal snitches up her in victory and they always take ther side

So Please meet with us and talk with us andhelp us. Well [REDACTED] of the [REDACTED] and the [REDACTED].

Thank you,

[REDACTED]

Boyce, Bonnie

From: Matthews, Deborah
Sent: Friday, February 3, 2017 3:57 PM
To: Meenan, Evan
Subject: VICTORY

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov (please note my new email address)

From: Matthews, Deborah
Sent: Wednesday, January 11, 2017 1:12 PM
To: Cornell-Brown, Rowan <rowan.cornell-brown@vermont.gov>
Subject: [REDACTED] message:

[REDACTED] embezzled \$100,000. He stole money out of the highway project.

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov (please note my new email address)

Boyce, Bonnie

From: Matthews, Deborah
Sent: Friday, February 3, 2017 3:57 PM
To: Meenan, Evan
Subject: VICTORY

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov (please note my new email address)

From: Treadwell, John
Sent: Wednesday, January 11, 2017 3:27 PM
To: Cornell-Brown, Rowan <rowan.cornell-brown@vermont.gov>; Boyce, Bonnie <bonnie.boyce@vermont.gov>
Cc: Matthews, Deborah <Deborah.Matthews@vermont.gov>
Subject: RE: Town of Victory

I'm not sure if this is a new allegation or is just a continuation of the previous allegations. In any event, it should be referred to VSP for an investigation.

John

From: Cornell-Brown, Rowan
Sent: Wednesday, January 11, 2017 2:33 PM
To: Treadwell, John <john.treadwell@vermont.gov>; Boyce, Bonnie <bonnie.boyce@vermont.gov>
Cc: Matthews, Deborah <Deborah.Matthews@vermont.gov>
Subject: Town of Victory

Hi John and Bonnie,

While covering the front desk phones at lunch today, I took a call from [REDACTED] from Victory, pleading that our office get involved in the situation up there. She claims that a [REDACTED] embezzled \$100,000, and that [REDACTED] also stole money out of a highway project.

I know that this situation is fairly well known, and has been ongoing for a long time. There has been a forensic audit, and the State's Attorney has apparently already investigated, so I do not believe there is anything our office could do.

However, when I talked to Deb about it, she mentioned receiving two calls from other Victory residents this week, so it is clear that Victory residents are hoping that, under a new administration, our office may want to get involved. Would we even have jurisdiction over this?

Thanks!

Rowan Cornell-Brown
Program Technician
Consumer Protection & Antitrust Units
Office of the Vermont Attorney General
109 State Street
Montpelier, Vermont 05609
802-828-5507

Boyce, Bonnie

From: Matthews, Deborah
Sent: Friday, February 3, 2017 3:56 PM
To: Meenan, Evan
Subject: VICTORY

Importance: High

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov (please note my new email address)

From: Matthews, Deborah
Sent: Thursday, January 12, 2017 10:45 AM
To: Silver, Natalie <Natalie.Silver@vermont.gov>
Cc: Diamond, Joshua <Joshua.Diamond@vermont.gov>
Subject: PHONE CALL
Importance: High

DATE: 1-12-17

TIME: 10:16am

FROM: [REDACTED]

PHONE: [REDACTED]

MESSAGE: She is a [REDACTED] who has lived in Victory for [REDACTED] years. Tired of the continual suing of good people. She was a [REDACTED] who was sued for doing her job. She's hoping TJ will help clean up Victory and Coventry. People have been taking money illegally, and Vincent Illuzzi will do nothing about it because he's personal friends with the people taking the money. The people's taxes are sky high, they have to make monthly payments, they can't afford to buy food ... The Town Attorney is involved in this up to his knees. [REDACTED] knows of one person who has called you, and that person is encouraging others to call you, so she is.

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov (please note my new email address)

Boyce, Bonnie

From: Matthews, Deborah
Sent: Friday, February 3, 2017 3:56 PM
To: Meenan, Evan
Subject: VICTORY
Attachments: Scan_0011.pdf

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov (please note my new email address)

From: Matthews, Deborah
Sent: Monday, January 30, 2017 11:17 AM
To: Silver, Natalie <Natalie.Silver@vermont.gov>
Subject: FW: Victory's Petition

Natalie,

Here is [REDACTED] email and attachment that came in on Friday. I had it in my folder to discuss with Josh – he said I should forward it to you.

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov (please note my new email address)

From: [REDACTED]
Sent: Friday, January 27, 2017 9:11 AM
To: AGO - Info <AGO.Info@vermont.gov>
Subject: Victory's Petition

Dear Deb,

Attached are the petition & email from Mr. Condos. Thank you for your time and hopefully the Attorney General's consideration.

Sincerely,
[REDACTED]

Town Of Victory, VT

Warning For Town Meeting 2017

Shall the voters of Victory, Vermont authorize the elimination of the office of Town Listers in accordance with 17 V.S.A. 2651C replacing it with professionally certified assessors who shall have the same powers, discharge the same duties, proceed in the discharge thereof the same manner, and be subject to the same liabilities as are prescribed for the listers of the board under the provisions of Title 32?

| Print name | Signature | Address |
|------------------------|--------------------------|---|
| Sandra Hudson | <i>Sandra Hudson</i> | 323 River Rd Victory, VT |
| Stephen Easter | <i>Stephen Easter</i> | " |
| Arrick Mitchell | <i>Arrick Mitchell</i> | Woff Conway N.H. intends to move to Victory, VT |
| Janice Stanley | <i>Janice Stanley</i> | 11 Granby Rd |
| Mel Jacques-Stark | <i>Mel Jacques-Stark</i> | 3932 Victory Rd. |
| Dawn Peters | <i>Dawn Peters</i> | 750 River Rd |
| <i>Fernel Lucas</i> | FERNEL LUCAS | 2754 Victory Hill |
| <i>John Macdonald</i> | John Macdonald | 2754 Victory Hill |
| <i>Carol F. Easter</i> | Carol Easter | 2428 Victory Hill |

RECEIVED
JAN 02 2017
C. Easter

Deborah Bucknam

From: Senning, Will <will.senning@sec.state.vt.us>
Sent: Tuesday, March 21, 2017 9:26 AM
To: Deborah Bucknam
Cc: Charlie Bucknam
Subject: RE: Victory Complaint FYI

Thanks Deb,

Regarding our earlier discussion: The Office of the Secretary of State has advised the Town of Victory, as we do all towns and cities, that any valid absentee ballot requests from or authorized by registered voters should be fulfilled by mailing a ballot to the address indicated on the request.

Regards,

/ill

William Senning
Director of Elections
Office of the Secretary of State
128 State Street
Montpelier, VT 05633-1101
Phone: (802) 828-0175
FAX: (802) 828-5171

From: Deborah Bucknam [<mailto:DBucknam@vtlegalhelp.com>]
Sent: Tuesday, March 21, 2017 9:04 AM
To: Senning, Will <will.senning@sec.state.vt.us>
Cc: Charlie Bucknam <CBucknam@vtlegalhelp.com>
Subject: Victory Complaint FYI

/ill: here is the complaint we are filing today FYI. Please send your email at your earliest convenience so that we can forward that to the court this morning. Thanks. Deb



Deborah T. Bucknam, Esq.
Bucknam & Black
1097 Main Street, PO Box 310
St. Johnsbury, VT 05819
(802) 748-5525 ext 101
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THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



TEL: (802) 828-3171
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<http://www.ago.vermont.gov>

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

March 31, 2017

Dear [REDACTED]:

I write in response to your correspondence to the Attorney General's Office dated March 22, 2017. We understand you are concerned about possible absentee voter fraud and tampering with the U.S. Mail. Please be aware that the Attorney General's Office does not provide legal representation to municipal officials or private individuals. While not providing legal advice, I write to provide resource information that I hope is helpful to you.

To the extent you believe there has been tampering with U.S. Mail, we recommend you contact the U.S. Postal Service. With respect to your concern about absentee voter fraud, we understand you have concerns about the process for mailing absentee ballots for [REDACTED] and [REDACTED]. We are aware that Judge Bent has ruled that both men are entitled to absentee ballots. We recommend you consult with the Secretary of State's Office regarding the process for providing absentee ballots in these circumstances. In addition, you may wish to consult with the Town Attorney, and/or the Vermont League of Cities of Towns regarding additional legal resources that may be available to you. If you are concerned about criminal conduct regarding absentee ballots, you may wish to contact the State Police.

Again, I hope the above information is helpful to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah London".

Sarah London
Assistant Attorney General

THOMAS J. DONOVAN, JR.
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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

March 31, 2017



I write in response to your correspondence to the Attorney General's Office dated March 24, 2017, regarding a request for assistance with a judicial summons directed at municipal officials of the Town of Victory.

Please be aware that the Attorney General's Office does not provide legal representation to municipal officials or private individuals. We recommend you contact the Victory Town Attorney, and/or the Vermont League of Cities of Towns. Please also be aware that the Vermont Bar Association provides a Lawyer Referral Service, and their attorneys provide an initial 30-minute consultation for no more than \$25. The Vermont Bar Association Lawyer Referral Service can be reached at 1-800-639-7036.

We hope the above information is helpful to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah London".

Sarah London
Assistant Attorney General

AFF

COMES NOW [REDACTED], after

under oath as follows:

1. I am a resident of Victory, Vermont and
2. I have two stepsons, [REDACTED]
time college students in Connecticut.
They are registered voters in Victory,
3. In December 2016, I requested [REDACTED] to send my stepsons absentee ballots for the
justice of the peace election. She sent those ballots.
4. I also requested that [REDACTED] sent absentee ballots to my stepsons for Town Meeting
election. She sent the ballots.
5. For the April 5, 2017 election, I emailed [REDACTED] to request absentee ballots for my
stepsons. She refused in a return email, saying that only parents and grandparents can
request absentee ballots. [See attached]

Dated at St. Johnsbury, Vermont this 21st day of March, 2017.

STATE OF VERMONT
CALEDONIA COUNTY, SS.

At St. Johnsbury this 21 day of March, 2017 personally appeared [REDACTED] and, upon oath duly administered, declared the foregoing statements by her own knowledge, information, or belief; and, so far as upon information and believes the statements to be true.

Before me,

Liberal T. Backus
Notary Public

Deborah Bucknam

From: [REDACTED]
Sent: Tuesday, March 21, 2017 11:11 AM
To: Deborah Bucknam
Subject: Fw: absentee ballots

Sent from Yahoo Mail on Android

On Tue, Mar 21, 2017 at 9:53 AM, [REDACTED]
[REDACTED] > wrote:

Sent from Yahoo Mail on Android

On Mon, Mar 20, 2017 at 7:46 PM, townofvictory@myfairpoint.net
<townofvictory@myfairpoint.net> wrote:

[REDACTED]
It is a parent or grandparent that has to request the absentee ballot.
[REDACTED]

On Mon, 20 Mar 2017 21:54:24 +0000 (UTC), [REDACTED] wrote:

Hi [REDACTED],

I'm emailing you to ask you if you have sent out the absentee ballots for the run-off election for the selectboard
position to [REDACTED] and [REDACTED]?

Thank you,

[REDACTED]
Sent from Yahoo Mail on Android

Boyce, Bonnie

From: [REDACTED]
Sent: Friday, March 24, 2017 10:35 AM
To: Meenan, Evan; chris.winters@sec.state.vt.us
Subject: Fwd: Requesting Assistance
Attachments: 1-1-16 Excv Decision.pdf; 10-3-17 excv.pdf

To: Thomas.Donovan@vermont.gov, contact@jimcondos.com, [REDACTED]
[REDACTED]

Cc: [REDACTED]

Good Morning,

Attached to this email, please find a judicial summons that was served on many residents in the Town of Victory yesterday. This is yet another law suite being filed regarding individuals on the check list amongst other things.

I am also attaching a Decision on the Merits, issued By Judge Bent under docket 1-1-16 Excv on February 19, 2016. Judge Bent issues his conclusion based on 17 VSA 2122 (a) and (b) regarding temporary absences from Victory with the intent to return.

We, defendant's named in this suit, are seeking assistance in regards to representation and consultation on a response to be filed with the court. Any assistance that we can receive will be greatly appreciated. The hearing is to be held on March 28, 2017.

Thank you for your time

Sincerely,

[REDACTED]

STATE OF VERMONT

SUPERIOR COURT
Essex Unit

CIVIL DIVISION
Docket No. 1-1-16 ExcV

Ruth Anne Neborsky,
Andrew J. Marden,
Anthony Schifone,
Plaintiffs

v.

Town of Victory,
Defendant

DECISION ON THE MERITS

The Court took further evidence concerning the petitions of Andrew Marden and Anthony Schifone pursuant to 17 V.S.A. § 2148. The parties were both represented by counsel. This decision supplements the one previously made concerning Ms. Neborsky. Mr. Marden and Mr. Schifone are her adult sons. The court will determine the residency and voting status of each:

Andrew Marden:

Mr. Marden is currently an airman on active duty in the United State Air Force stationed in Oklahoma City, OK. He enlisted in 2011. He has never voted in any other state.

Mr. Marden graduated from St. Johnsbury Academy in about 2008. He enlisted in 2011. He primarily lived in Victory, Vermont during his high school years. After high school and before enlisting he worked for two separate periods in his brother's plumbing business in West Tisbury, Massachusetts on Martha's Vineyard – one period for 1 ½ years and the other for about nine months.

While in Massachusetts he experienced a medical issue for which he needed surgery. He had no medical insurance at the time, and in order to obtain status sufficient to qualify for Massachusetts insurance, he declared himself to be a Massachusetts resident. In doing so he obtained a Massachusetts driver's license which he still uses as proof of his right to operate a motor vehicle.

Mr. Marsden moved back to Victory, Vermont to live with his mother and step-father about half a year before he actually entered service. The purpose of his move was to devote some time to physical training with his former high school coach in preparation of applying for some form of special services within the Air Force. While in Victory he acted as an assistant to the running coach at St. Johnsbury Academy. It is not clear to the Court whether this was a formal position.

Mr. Marden lists Victory as his address of record with the Air Force, although he used his Massachusetts identification to reflect his residency when he entered the Air Force. There is no

record that Mr. Marden maintains any permanent home other than the one he claims at his mother's residence in Victory.

Anthony Shifone:

Mr. Shifone graduated from St. Johnsbury Academy in 2014 and is currently a student at the College of Idaho. His residency was with his mother in Victory, Vermont during the time he was in high school. This Court has already determined his mother's residence to be Victory. He is not on any other voting checklist.

Mr. Shifone worked as a nursing assistant at St. Johnsbury Health and Rehab before he entered college. His nursing license and driver's license both show his address as Victory Hill, which is his mother's residence. During the summer after his 2014 high school graduation he lived in Victory and worked to renovate property that his mother owns in Kirby, Vermont, sometimes staying there overnight.

Evidence was adduced that Mr. Shifone submitted three applications to the Town of Victory to be put on the checklist: one during a voter drive at high school, another, and the current application. The Victory Town clerk testified she only is aware of the current application, and believing this Court would make the decision, she has not acted on it.

The Court was not presented with any copies of the prior applications and cannot make a finding that they were presented to the current clerk. In making that ruling, the Court notes that lack of organization within the clerk's office is a possible explanation for the conflicting evidence as to whether Mr. Shifone actually had presented an application to be placed on the checklist prior to this proceeding. Mr. Shifone's mother was the prior town clerk, ending her term in 2013. She held that job for about nine years, taking over from the now current clerk, Carol Easter. Ms. Neborsky credibly testified that, to her observation, the clerk's office under Ms. Easter was disorganized. The Plaintiffs would have the Court reach the conclusion that the action of the Town was organized, intentional, and in derogation of the rights of Mr. Shifone. The Court cannot reach that conclusion either. The nature of this proceeding is limited and not intended to be a far reaching inquiry as to possible wrongdoing. The record thus remains a limited one and only reaches the question of voter eligibility.

Analysis:

The Court has no trouble reaching the conclusion that Anthony Shifone is a resident of Victory. His temporary absence from Victory for college will not change his residence if otherwise established. See 17 V.S.A. § 2122(a).¹

The indicia of residence, such as where he declared his residence to be for his nursing license and college entrance exams and where it is listed on his driver's license, are all useful in reaching the conclusion he was a Victory resident upon entering college. There is evidence that

¹ (a) A person shall not gain or lose a residence solely by reason of presence or absence while in the service of the state or of the United States; nor while engaged in the navigation of the waters of the state or of the United States or on the high seas; nor while in a hospital, nursing home, or other health care facility; nor while confined in a prison or correctional institution; nor while a member of a veterans' home; nor while a student at any educational institution; nor while living outside the United States; nor while certified as a participant in the address confidentiality program under 15 V.S.A. chapter 21, subchapter 3.

his high school tuition was paid as a Kirby resident, which is where his mother has other property. However, this Court has already concluded in Ms. Neborsky's case and does so in Mr. Shifone's that there is insufficient evidence that either made Kirby their principal dwelling. Mr. Shifone is therefore eligible to be a Victory voter and his application should be processed forthwith.

As to John Marden, the facts illustrate the fluidity of concepts surrounding residency and why it is not always clear where a person is a resident. The Court believes residency to be particularly problematic when young people have parents and families living in different locations. Like Mr. Shifone's college tenure, Airman Marden's military service makes no difference to this analysis except to explain why he is now absent from his claimed residence.

Without question, Mr. Marden's Vermont residence, which he held while in high school, was lost when he declared himself to be a Massachusetts resident. The impetus for the shift was his need for documentation regarding his health insurance needs. From the scant information provided, he was living and working at the time in Massachusetts; the Court thus finds nothing improper about his declaration of Massachusetts residence. However, his job and domicile in Massachusetts came to an end when he moved back to Victory to train with his former coach. There is no evidence that he intended to return to his West Tisbury domicile at that time. See 17 V.S.A. § 2122(b) ("resident' shall mean a person who is domiciled in the town as evidenced by an intent to maintain a principal dwelling place in the town indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent.") The evidence is sufficient to persuade the Court that he abandoned his Massachusetts domicile despite still having a Massachusetts driver's license and using that license to join the service.

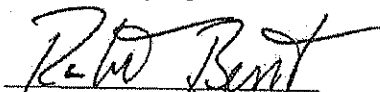
Young adults who have not established permanent addresses of their own often do consider their home to be that of their closest relatives – i.e., their parents. Here, Mr. Marden had declared to the military that Victory was his designated residence. The Court cannot identify any other dwelling which he still has access to as being a likely principal dwelling. That declaration, coupled with the evidence that Victory is the place to which he returns when absent², is sufficient for this court to find that Victory is his residence. Mr. Marden is therefore also a resident of Victory for purposes of voting.

The Court denies the Plaintiffs' motion to reconsider the issue of attorney's fees. The evidence is insufficient for the Court to reach the conclusion that there was a meritless and abusive denial of residency status sufficient to warrant fees. The Court is not unmindful of the allegations of unfair and partisan conduct toward the Petitioners in this case. Fees, however, in the absence of a statute, are reserved for extraordinary circumstances and are not a matter of right. The development of additional evidence which might support a fee award involves a far-reaching inquiry inappropriate to the nature of this case. The Court is not convinced that the facts presented warrant fees. In fact, in both Ms. Neborsky's case and Mr. Marsden's case, the facts required sifting and analysis and may have admitted of more than one conclusion. In Mr.

² Cast another way, "Home is the place that when you go there, they have to take you in." Robert Frost, Death of the Hired Man, in The Poetry of Robert Frost.

Shifone's case, the clerk's decision to simply let the Court make the decision as to residency was incorrect but not sanctionable. Accordingly, the Court will not reconsider the issue of attorney's fees

Electronically signed on February 19, 2016 at 01:42 PM pursuant to V.R.E.F. 7(d).

A handwritten signature in black ink, appearing to read "Robert R. Bent". The signature is written in a cursive style with a horizontal line underneath the name.

Robert R. Bent,
Judge

Boyce, Bonnie

From: London, Sarah
Sent: Friday, March 31, 2017 5:22 PM
To: Treadwell, John; Meenan, Evan; Shafritz, Megan J.
Cc: Diamond, Joshua
Subject: FW: Victory VT letters to D. Peters and C. Easter
Attachments: ltr to [REDACTED] re Victory 3.31.17.pdf; ltr to [REDACTED] re Victory 3.31.17.pdf

Purely FYI, thank you again for your help. It sounds like the case brought by Deb Bucknam on behalf of residents against various Victory town officials is proceeding, and SoS Elections Director Will Senning has been subpoenaed/testified. Dan Richardson is now acting as attorney for Town of Victory, according to Will Senning.

From: Handwerger, Elizabeth
Sent: Friday, March 31, 2017 3:44 PM
To: London, Sarah <Sarah.London@vermont.gov>
Subject: Victory VT letters to [REDACTED] and [REDACTED]

Going out in today's mail.

Thanks!
Liz

Elizabeth J. Handwerger
Administrative Services Technician
Office of the Attorney General | GCAL
109 State Street
Montpelier, VT 05609-1001
Phone | 802-828-0241
Email | elizabeth.handwerger@vermont.gov

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