

**VILLAGE OF HIGHLAND FALLS BOARD OF TRUSTEES
RESOLUTION APPROVING A MODIFICATION TO
THE DISCIPLINARY SETTLEMENT AGREEMENT DATED FEBRUARY 10, 2017
WITH KENNETH SCOTT**

WHEREAS, Kenneth Scott (Employee) was served with a Notice of Discipline on January 3, 2017 and Amended Notice of Discipline on January 26, 2017; and

WHEREAS, Kenneth Scott interposed Answers to both Notices of Discipline in which he denied the allegations and raised certain Affirmative Defenses: and

WHEREAS, Kenneth Scott and the Village of Highland Falls reached a resolution of issues raised in the Notices of Discipline and such resolution was reduced to writing and a Disciplinary Settlement Agreement dated February 10, 2017 was signed by both parties; and

WHEREAS, the Disciplinary Settlement Agreement was accepted by the Village Board of the Village of Highland Falls at a meeting of the Village Board held on or about February 21, 2017; and

WHEREAS, by Resolution dated June 19, 2017, the Board of Trustees identified certain modifications to be made to the Disciplinary Settlement Agreement and directed its Labor Attorney to revise said agreement accordingly; and

WHEREAS, a Modified Disciplinary Settlement Agreement was prepared and circulated to the Board of Trustees for review.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees finds and determines that the Modified Disciplinary Settlement Agreement accurately reflects the proposed modifications identified in the June 19, 2017 Resolution and hereby approves said Agreement.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to sign the Modified Disciplinary Settlement Agreement, attached hereto as Exhibit A, after said agreement has been executed by Kenneth Scott.

BE IT FURTHER RESOLVED, that said Modified Disciplinary Settlement Agreement, if executed by Kenneth Scott and the Mayor, shall supersede and replace the Disciplinary Settlement Agreement dated February 10, 2017.

BE IT FURTHER RESOLVED, that the Modified Disciplinary Settlement Agreement shall, if executed by Kenneth Scott and the Mayor, become effective as set forth in the Agreement.

On a motion by Trustee Ramus, seconded by Trustee Livsey, the Mayor declared the Resolution adopted on a roll call vote of 3 ayes and 2 nays.

Mayor D'Onofrio	<u> x </u> Aye	<u> </u> Nay
Trustee Aylward	<u> </u> Aye	<u> x </u> Nay
Trustee Livsey	<u> x </u> Aye	<u> </u> Nay
Trustee Murphy	<u> </u> Aye	<u> x </u> Nay
Trustee Ramus	<u> x </u> Aye	<u> </u> Nay

Dated August 25, 2017

Regina M. Taylor, Village Clerk of the Village of Highland Falls, does hereby certify that the foregoing Resolution of the Board of Trustees was filed in my office on the following date:

Regina M Taylor 8/28/17

Signature and Date

Settlement Agreement

This agreement made this 25th day of August, 2017 by and between Kenneth Scott and the Village of Highland Falls.

WHEREAS, Kenneth Scott (Employee) was served with a Notice of Discipline on January 3, 2017 and Amended Notice of Discipline on January 26, 2017; and

WHEREAS, Kenneth Scott interposed Answers to both Notices of Discipline in which he denied the allegations and raised certain Affirmative Defenses; and

WHEREAS, Kenneth Scott and the Village of Highland Falls reached a resolution of issues raised in the Notices of Discipline and such resolution was reduced to writing and a Disciplinary Settlement Agreement dated February 10, 2017 was signed by both parties; and

WHEREAS, the Disciplinary Settlement Agreement was accepted by the Village Board of the Village of Highland Falls at a meeting of the Village Board held on or about February 21, 2017; and

WHEREAS, the parties hereto wish to modify said Disciplinary Settlement Agreement.

NOW THEREFORE in consideration of the mutual covenants contained herein, the parties agree as follows:

1. All provisions of the parties' settlement agreement dated February 10, 2017 shall remain in full force and effect except as specifically modified herein.

2. Item 1 of said agreement shall be modified to read as follows:
 - 1) Effective upon approval of this Agreement by the Village Board of Trustees, Kenneth Scott shall resume the performance of his duties as Chief of Police for the Village of Highland Falls.

Upon the resumption of his duties of Chief of Police, Kenneth Scott voluntarily agrees to and accepts that he will be subject to a probationary period of twenty-six (26) weeks and no less, during which time he may be disciplined and/or terminated by the Village as determined by the Village without recourse to Sections 75 and 76 of the New York State Civil Service Law. During said probationary period, the Chief may, as determined by the Village, be disciplined and/or terminated for any violation(s) of law, rule or policy. Kenneth Scott knowingly and voluntarily waives any and all rights he may have pursuant to Sections 75 and 76 of the Civil Service Law during the twenty-six (26) week probationary period. He further acknowledges and agrees that he is receiving sufficient consideration under this Agreement to support the knowing and voluntary waiver of his rights under Sections 75 and 76 of the Civil Service Law.

3. The irrevocable letter of retirement included in the parties' February 10, 2017 Agreement shall be of no force or effect.
4. Kenneth Scott acknowledges and agrees that he is entering into this Agreement knowingly and voluntarily and has had the opportunity, if desired, to consult with counsel of his choosing before executing this Agreement.
5. Employee releases and discharges Employer and any and all of its affiliates, subsidiaries, employees, officers, agents, successors, and assigns, in both individual and official capacity ("The Releasees"), from any and all claims, demands, causes of action, fees, and liabilities of any kind whatsoever, whether known or unknown, which the Employee ever had, now has, or may hereafter have against the Releasees by reason of any actual or alleged act, omission, transaction, practice, conduct, occurrence, or other matter up to and including the date of this Release. Employee does not release and discharge any rights or claims under the Age Discrimination in Employment Act which may arise after he signs this Agreement and General Release.


Without limiting the foregoing, the Employee forever releases and discharges the Releasees from any and all claims, demands, causes of action and liabilities of any kind whatsoever, whether known or unknown, which the Employee now has, ever had, or hereafter may have, arising out of Employee's employment with Employer or the termination thereof, including, but not limited to (I) any claim under the Fair Standards Labor Act; (II) any claims arising under the Age Discrimination and Employment Act and the Older Workers' Benefit Protection Act; (III) any claim arising under the Employee Retirement Income Security Act; (IV) any claim arising under the New York Human Rights Law; (V) any claim arising under the New York Labor Law; (VI) any claim arising under the Civil Rights Act and any claim of discrimination in employment arising under any other Federal, State, or local law, regulation, or ordinance; and (VII) any claim for attorney's fees, costs, and disbursements.

In accordance with the Older Workers' Benefit Protection Act, Employee represents and warrants that he has carefully read this Agreement and General Release in its entirety; that he fully understands the terms and significance of this Agreement and General Release; that he was afforded an opportunity to consider the terms of this Agreement and General Release for at least twenty-one (21) days; that he has been advised that he should consult with counsel of his choice before signing this Agreement and General Release; that he is afforded seven (7) days following his execution of this Agreement to revoke it; that the consideration he is receiving under this Agreement and General Release is over and above that which he would otherwise be entitled under any agreement with Employer or any applicable policy, plan or practice of Employer; and that he is signing this Agreement and General Release voluntarily and of his own free will.

6. Employee shall have seven (7) days to revoke this Agreement and General Release after he signs it. Should Employee wish to revoke this Agreement, he must deliver a written revocation to the Village Clerk at 303 Main Street, Highland Falls, New York, within said seven (7) day period. Should he fail to do so, this Agreement and General Release will become binding on the parties. This Agreement and General Release will not become effective or enforceable until the seven (7) day revocation period expires.

7. This Agreement is subject to approval by the Village of Highland Falls Board of Trustees.


Joseph D'Onofrio, Mayor
Village of Highland Falls
8/25/2017


Kenneth Scott 8/2/17