

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (Agreement) is entered into by and between Greater Naples Fire Rescue District, (GNFRD), and Christian Tobin (Tobin) (collectively "the Parties"), with each party intending to be bound by the terms and conditions of this Agreement. All references in this Agreement to GNFRD includes GNFRD's predecessors, successors, assigns, agents, directors, officers, employees, representatives, attorneys, divisions, subsidiaries, parent companies, affiliates, partners, owners, stockholders, and commissioners as well as Glatfelter Claims Management, Inc., and National Union Fire Insurance Company of Pittsburgh, PA. GNFRD and Tobin are collectively referred to as "the Parties" throughout this Agreement.

WHEREAS, on December 6, 2021, Tobin presented a request to arbitrate his November 18, 2021, employment termination from GNFRD ("request to arbitrate");

WHEREAS, GNFRD denies all the allegations of unlawful conduct and liability contained in the request to arbitrate and all other written and/or oral communications in which Tobin makes allegations of unlawful conduct and liability against GNFRD;

WHEREAS, the Parties want to resolve any and all disputes between them, including but not limited to the disputes set forth in Tobin's request to arbitrate and every other dispute that may exist up to the date this Agreement is executed;

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged and to avoid the arbitration and future litigation, the Parties expressly, knowingly, and voluntarily agree to the following:

1. Incorporation. All terms and conditions referenced in the previous "WHEREAS" and "THEREFORE" provisions are incorporated herein and made a part of this Agreement.

2. Denial of Liability. It is expressly understood by the Parties that this Agreement is a compromise and settlement of disputed claims and that consideration to Tobin is not, nor is it to be construed as, an admission of liability on the part of GNFRD and/or its predecessors, successors, assigns, agents, directors, officers, employees, representatives, attorneys, divisions, subsidiaries, parent companies, affiliates, partners, owners, stockholders, and commissioners and/or board members, as well as Glatfelter Claims Management, Inc., and National Union Fire Insurance Company of Pittsburgh, PA (the "Released Parties"). GNFRD expressly denies liability and has entered into this Agreement solely to avoid the legal fees and costs associated with the arbitration and subsequent litigation with respect to Tobin's claims, which are contained in his request to arbitrate and all other written and/or oral communications in which Tobin makes allegations of unlawful conduct and liability against GNFRD, including but not limited to his grievance dated November 19, 2021.

3. Consideration. In consideration for his execution and adherence to the terms of this Agreement, Glatfelter Claims Management, Inc., will provide Tobin on behalf of GNFRD with a settlement amount of NINETY-EIGHT THOUSAND THREE HUNDRED THIRTY-ONE DOLLARS AND ZERO CENTS (\$98,331.00). The breakdown of the \$98,331.00 settlement is as follows:

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- a. \$84,781.00 payable to Christian Tobin, without any deductions, for alleged emotional damages; and
- b. \$13,550.00 payable to Sugarman Susskind Braswell Herrera Trust Account, without any deductions, for Tobin's alleged attorney fees and costs.

Glatfelter Claims Management, Inc., will issue Tobin an IRS Form 1099/MISC (Other Income) for the alleged emotional damages payment described in sub-paragraph 3(a) of this Agreement. Glatfelter Claims Management, Inc., will issue Tobin and Sugarman, Susskind, Braswell, & Herrera P.A., an IRS Form 1099/MISC (Other Income) for the alleged attorney fees and costs described in sub-paragraph 3(b) of this Agreement. As a condition of this Agreement, Tobin will request, in writing, the withdrawal of his request to arbitrate. On behalf of GNFRD, Glatfelter Claims Management, Inc., will deliver the settlement checks to Hinton's counsel only if Tobin does not revoke this Agreement as outlined in paragraph 10 herein, and within twenty (20) days of receipt by counsel for GNFRD of the following: (1) the fully executed Agreement; (2) IRS W-9s completed and executed by Tobin and his counsel; and a copy of the written communication from Tobin withdrawing his request to arbitrate.

Tobin agrees to pay, be responsible for, and hold the Released Parties harmless for any and all of his individual taxes, including without limitation, F.I.C.A. and F.U.T.A. taxes (excluding any employer FICA and FUTA taxes), in the event that any are determined to be owed on the sums paid to Tobin. Tobin further agrees to indemnify and hold harmless the Released Parties for Tobin's personal taxes that may be assessed, levied or otherwise charged against the Released Parties by any taxing or governmental authority on account of the tax treatment of the settlement amount or any part of the settlement amount by Tobin. Tobin acknowledges that the Released Parties make no warranty or representation concerning the tax treatment of the sum paid to Tobin and his attorney, and received pursuant to this Agreement, under federal, state, or local tax or other laws and Tobin has not relied upon any alleged warranty or representation by the Released Parties. The parties agree to pay their own costs and attorney's fees, except as provided in this Agreement.

Tobin acknowledges and agrees that the amount referenced in this paragraph constitutes full payment for the purported claims Tobin presents or could present and all damages alleged or that could be alleged, including but not limited to back-pay, front-pay, compensatory, punitive, and/or liquidated damages, full payment of Tobin's attorney fees and costs, and full payment for any and all vacation, sick leave, and/or any other leaves or benefits Tobin may have accrued during his employment with GNFRD. Tobin acknowledges and agrees that he is not entitled to any other compensation from GNFRD as a result of the claims he alleges or could allege against GNFRD, and that GNFRD has paid him all wages he is due through his final date of employment, including but not limited to minimum wages and/or overtime compensation as applicable. Tobin also acknowledges that he is not entitled to any additional payments from the Released Parties based upon any vacation, sick leave, and/or any other leaves or benefits Tobin may have accrued during his employment with GNFRD.

4. Mutual General Release. For purposes of this paragraph, all references to GNFRD include its predecessors, successors, assigns, agents, directors, officers, employees, representatives, attorneys, divisions, subsidiaries, parent companies, affiliates, commissioners and/or board members, partners, owners, stockholders, Glatfelter Claims Management, Inc., and National Union Fire Insurance Company of Pittsburgh, PA, which are referred to in this Agreement as "the Released

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Parties.” In exchange for the above referenced consideration, Tobin knowingly and voluntarily releases and waives any and all rights and claims, both known and unknown, that he may have against the Released Parties occurring on or before the date of Tobin’s execution of this Agreement. These claims include, but are not limited to, rights and claims under Title VII of the Civil Rights Act of 1964, as amended (Title VII), the Age Discrimination in Employment Act of 1967 (ADEA), the Americans with Disabilities Act of 1990, as amended (ADA), the Older Workers Benefit Protection Act (OWBPA), Family and Medical Leave Act (FMLA), 42 U.S.C. 1981, 42 U.S.C. 1983, Florida Civil Rights Act of 1992 (FCRA), the Fair Labor Standards Act of 1938 (FLSA), United States Constitution, Florida Constitution, Section 448.102, Florida Statutes, and any other claims against the Released Parties under any federal, state and/or local statute, regulation, ordinance, or code, or for any constitutional claims, or contractual (employment or otherwise) or common law contract and/or tort claims (including claims regarding breach of oral or written contract; negligent misrepresentation; promissory estoppel; detrimental reliance; fraud; negligent supervision; intentional infliction of emotional distress; etc.). Tobin also waives any and all rights and claims related to his alleged employment with GNFRD that are not otherwise specifically listed in this paragraph.

GNFRD, its predecessors, successors, assigns, agents, directors, officers, representatives, attorneys, divisions, subsidiaries, parent companies, affiliates, partners, owners, stockholders, commissioners, Glatfelter Claims Management, Inc., and National Union Fire Insurance Company of Pittsburgh, PA., hereby release Tobin from any and all claims, demands, obligations, suits, actions and causes of action of whatever kind, whether arising at law or in equity, which GNFRD may have had or may now have, against Tobin arising out of or in any way related to any matter, cause or thing, occurring or arising from the beginning of time through GNFRD’s execution of this Agreement.

5. Withdrawal of Request to Arbitrate. Tobin, through his counsel, will request in writing, the withdrawal of his request to arbitrate immediately upon signing this Agreement.

6. Affirmations. Except for the receipt of the monies provided in this Agreement, Tobin acknowledges and agrees that GNFRD has paid him for any and all hours worked, including minimum wage, overtime, commissions, bonuses, and any and all other forms of remuneration. Tobin also affirms that he has no known workplace injuries or occupational diseases as of the date of this Agreement.

7. Confidentiality. From the date Tobin signs this Agreement forward, Tobin represents and agrees that he shall keep this Agreement and the facts and circumstances leading up to the execution of this Agreement confidential and shall not disclose any of its terms and conditions to anyone other than his immediate family, attorney, accountant, tax advisor, governmental agency, or as required by law. Tobin represents and understands that if he discloses any of the terms and conditions of this Agreement to anyone other than the individuals listed in this paragraph, that such a disclosure is a material breach of this Agreement. Tobin represents and agrees that he shall not discuss with anyone any business, proprietary, or any other confidential information relating to GNFRD, or GNFRD’s business, except as required by law or to any governmental and/or regulatory agency. It will not be a breach of this provision for Tobin to submit or reveal the terms hereof when required by order of any court or federal administrative agency having competent jurisdiction over Tobin. In the event Tobin is required to disclose this Agreement, he agrees that such submission will be accompanied with a request that the Agreement be marked as “Confidential.” If asked about his request to arbitrate, Tobin agrees to state only that he withdrew his request to arbitrate.

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Notwithstanding any other provision of this Agreement, or any confidentiality or protective order entered by any Court, Tobin or GNFRD may use protected or Confidential information for purposes of complying with reporting and reimbursement obligations under the Medicare Secondary Payer statute and the Medicare, Medicaid, and SCHIP Extension Act of 2007 or for addressing any allegation or claim asserting any reporting violations, penalties, or reimbursement liabilities, and may disclose protected or Confidential information to the Department of Health and Human Services, the Centers for Medicare & Medicaid Services, and their representatives and contractors, for such purposes. To the extent the permission of any Court or a modification of any confidentiality order or protective order is needed to implement the purposes of this provision, the Parties agree to cooperate in seeking such permission or modification.

8. Non-Encouragement Provision. Tobin agrees that he will not instigate, cause, advise or encourage any other individuals or entities to file a formal complaint, charge, request to arbitrate, or lawsuit against GNFRD.

9. No Pending Complaints and Covenant Not to Sue. Tobin represents that other than the request to arbitrate, he has no suits, claims, charges, complaints or demands of any kind currently pending against GNFRD with any federal, state or local administrative, investigative, civil rights or other agency or board, or with any court based upon events occurring before and up to the date of the execution of this Agreement. Tobin also represents and understands that the general release contained within this Agreement will forever bar any action or claim which arose or which might arise in the future based upon any acts, omissions, agreements or other occurrences taking place prior to and including the date Tobin executes this Agreement. This provision is not intended to interfere with the filing of a discrimination charge, but Tobin acknowledges and agrees that this Agreement precludes any and all monetary recovery as a result of any discrimination charge Tobin filed or files against GNFRD either before or after signing this Agreement.

10. ADEA Release. Tobin specifically acknowledges that he:

- a. is specifically releasing, among other claims referenced in paragraph 4 of this Agreement, any claims under the Age Discrimination in Employment Act of 1967, and all amendments to said law;
- b. is not waiving any rights or claims that may arise after the date this Agreement is executed;
- c. is waiving his rights or claims in exchange for consideration the sufficiency of which is hereby acknowledged;
- d. is aware of his right and opportunity to consult with an attorney before signing this Agreement and acknowledges that GNFRD has advised him of this right and that he has exercised or waived that right. Tobin understands that he has twenty-one (21) calendar days after his receipt of this Agreement during which to consider this Agreement;

- e. has been advised through this Agreement to consult with an attorney prior to executing this Agreement and Tobin confirms that he consulted with his attorney prior to signing this Agreement; and
- f. has seven (7) days following the execution of this Agreement to revoke this Agreement and this Agreement will not become effective or enforceable until after this seven (7) day period has expired. To revoke this Agreement, Tobin must advise counsel for GNFRD, Reynaldo Velazquez, Esquire, Jackson Lewis, One Biscayne Tower, Two South Biscayne Boulevard, Suite 3500, Miami, Florida 33131, in writing of an election to revoke within the seven (7) day period. This Agreement shall not become effective or enforceable until the revocation period has expired. If Tobin revokes his release of any claim under the ADEA or OWBPA, this entire Agreement will be considered void and unenforceable.

11. Voluntary and Informed Decision. Tobin agrees that he is entering into this Agreement knowingly and voluntarily and that no promises, representations, or inducements not expressly stated in this Agreement were made to him which caused him to sign this Agreement. Tobin further acknowledges that he has read and fully understands the meaning and intent of all the provisions and terms of this Agreement, including the final binding effect of the waiver of rights and claims under this Agreement.

12. Non-Admission by Parties. For the good and sufficient consideration set forth in Paragraph 3 above, GNFRD and Tobin agree that the entry of the Parties into this Agreement, and the covenants contained herein, are not and shall not be construed to be an admission of any liability on the part of the Parties nor on the part of any of the Released Parties.

13. Medicare. Tobin represents and warrants that he is not Medicare eligible and that Medicare has not made any conditional payments for medical services or products received by Tobin (pursuant to U.S.C. § 1395y(b) and the corresponding regulations) and related to the alleged accident(s), injury(ies), or illness(es) giving rise to this Agreement. Further, after notice of his claim, Tobin represents that Medicare claimed no interest in Tobin's claims asserted in his charge. Further, Tobin represents and warrants that if any conditional payments related to the alleged accident(s), injury(ies), or illness(es) giving rise to this Agreement are or have been made by Medicare, then within sixty (60) days of the execution of this Agreement, Tobin shall reimburse Medicare for such conditional payments as required by Medicare Secondary Payer law, including Medicare regulations at C.F.R. § 411.24(g) and (h). The Parties agree that all representations and warranties made herein shall survive settlement.

14. Medicare Indemnification. Tobin and his representatives agree to indemnify and hold harmless, GNFRD's insurers against any loss, cost, expense, or liability imposed upon or incurred by the insurer arising from, relating to, or concerning Medicare conditional payments related to the alleged claims giving rise to this Agreement.

The Parties have been advised by their counsel before signing this Agreement and have relied upon advice of such counsel with respect to all aspects of this Agreement, including but not limited to the Parties' respective obligations (if any) to reimburse Medicare for conditional payments related to

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the alleged claims giving rise to this Agreement. It is understood and agreed that no mistake of law or mistake of fact made by any party to this Agreement, including but not limited to any mistake with respect to any obligation to reimburse Medicare for conditional payments, shall constitute a basis for rescission or reformation or render any portion of this Agreement void or voidable.

15. Entire Agreement, Severability, and Modification. This Agreement contains the entire Agreement between the Parties and supersedes any and all prior signed and/or unsigned agreements or understandings between the Parties arising out of or relating to the employment of Tobin. It is agreed that the covenants of this Agreement are severable, and that if any single clause or clauses shall be found unenforceable, the entire Agreement shall not fail but shall be construed and enforced without any severed clauses in accordance with the terms of this Agreement. The Parties agree that any modification to this Agreement must be in writing and signed by the Parties.

16. Jury Waiver. The Parties hereby knowingly, voluntarily, and intentionally waive any right either may have to a trial by jury with respect to any litigation related to or arising out of, under, or in conjunction with this Agreement, or Tobin's alleged employment with GNFRD.

17. Successors and Assigns. The Parties agree that this Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, predecessors, heirs, successors, and assigns.

18. Choice of Law. The Parties agree that the laws of the State of Florida shall govern this Agreement.

19. Counterparts. This Agreement may be executed in any number of counterparts; each of which when executed and delivered shall be an original but all such counterparts shall constitute one and the same agreement. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect of any signatures thereof, and may be attached to another counterpart, identical in form thereto, but having attached to it one or more additional signature pages.

20. Settlement Proceeds, Medicare Eligibility, Good Faith Resolution of Claims. This settlement is based upon a good faith determination of the Parties to resolve a disputed claim. The Parties have not shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. Sec. 1395y(b). The Parties resolved this matter in compliance with both state and federal law. The Parties made every effort to adequately protect Medicare's interest and incorporate such into the settlement terms.

The Parties acknowledge and understand that any present or future action or decision by CMS or Medicare on this Agreement, or Tobin's eligibility or entitlement to Medicare or Medicare payments, will not render this Agreement's release void or ineffective, or in any way affect the finality of this alleged liability settlement.

21. Retirement and Reemployment Waiver. Tobin agrees to retire from service with GNFRD, to be effective on the date this Agreement is fully executed. GNFRD agrees to accept said retirement. Tobin agrees not to make any application for employment at any time and/or in any capacity, with GNFRD. Tobin further waives and releases any right to be reemployed with GNFRD. Tobin further agrees that in the event he applies for employment with GNFRD and is rejected for such

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employment, he will not file a lawsuit or any civil action against GNFRD alleging discrimination, harassment, retaliation, and/or any other claims.

22. Neutral Reference and Non-Disparagement. In the event that a prospective employer requests an employment reference for Tobin, the Parties agree that GNFRD will only provide dates of employment, date of retirement, and/or positions held, and/or rates of pay. Tobin agrees that he will not make derogatory or disparaging statements, in writing or verbally, to any person or entity about GNFRD, its employees, commissioners, and/or board members.

23. GNFRD Property, Events, and Functions. Tobin agrees not to knowingly enter and/or come on to any GNFRD property at any time and/or for any reason, on or after the date Tobin executes this Agreement. Additionally, Tobin agrees not to knowingly enter and/or come on to any GNFRD event or GNFRD sponsored event at any time and/or for any reason, on or after the date Tobin executes this Agreement.

24. Prevailing Party. Any breach of any term, provision, or obligation of this Agreement by any party, shall entitle the other to seek enforcement of such term, provision or obligation in a court of law of competent jurisdiction, and shall entitle the prevailing party to an award of the reasonable attorney fees and costs incurred in such proceeding. The proper and only venue for any action, based upon any alleged breach of any term, provision, or obligation of this Agreement, shall be in Collier County, Florida.

The Parties have knowingly executed this seven (7) page Agreement on the dates set forth below.

06/07/2022
Date

6/14/2022
Date



Christian Tobin


Greater Naples Fire Rescue District