

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

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EDWARD MARKUNAS, in his capacity as
Mayor of the VILLAGE OF SUFFERN, New
York, and derivatively on behalf of the
VILLAGE OF SUFFERN, New York,

Petitioner/Plaintiff,

For a Judgment Pursuant to Article 78 of the
Civil Practice Law and Rules and for Declaratory
Judgment Pursuant to CPLR § 3001,

-against-

PAUL GIRARD, CHARLES BARONE, JO
MEEGAN-CORRIGAN, in their capacities as
Trustees for the VILLAGE OF SUFFERN, New
York and TERRY RICE, ESQ.,

Respondents/Defendants.

STEVEN ALPERT, in his capacity as Trustee for
the VILLAGE OF SUFFERN, New York,

Necessary Party.

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FILED - DJ
MAR 16 2020
ROCKLAND COUNTY
CLERK'S OFFICE

JUDGMENT AND ORDER

Index No. 1570/2019



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Kind: ARTICLE 78
Recorded: 03/16/2020 at 11:31:42 AM
Fee Amt: \$210.00 Page 1 of 5
Transaction: JUDGMENT
Rockland County, NY
Paul Piperato County Clerk

SU-2019-001570

WHEREAS, Petitioner/Plaintiff Edward Markunas (“Petitioner” or “Mayor Markunas”) duly filed and served a Notice of Petition, a Summons and a Verified Combined Petition/Complaint in the above-captioned action/proceeding and

WHEREAS, these proceedings were commenced to challenge a motion adopted by the Village Board of Trustees (“Board of Trustees”) of the Village of Suffern (the “Village”) December 2, 2019, contracting with Respondent-Defendant Terry Rice, Esq. (“Mr. Rice”) as attorney for the Village for the period January 1, 2020 to December 31, 2020 on the same terms as the contract with Keane & Beane, P.C. for the period February 4, 2019 to December 31, 2019 (the “Motion”); and

WHEREAS, Petitioner appeared in these proceedings by Keane & Beane, P.C., by Jaclyn G. Goldberg, Esq. and Lance H. Klein, Esq.; the Respondents appeared by Terry Rice, Esq.; and

WHEREAS, the Court thereafter issued and entered a Decision and Judgment, dated January 28, 2020, on Petitioner's application for a preliminary injunction (the "January 28, 2020 Decision"); and

WHEREAS, the January 28, 2020 Decision ruled upon the merits of the action/proceeding as a matter of law; and

WHEREAS, the parties have agreed to bring these proceedings to conclusion on terms fully set forth in this Final Order and Judgment, to be entered on consent;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED
and

DECREED, that the January 28, 2020 Decision shall constitute the final order of this Court, and it is further

ADJUDGED AND DECLARED that only the Mayor has the authority to appoint the Village Attorney pursuant to N.Y. Village Law § 4-400(1)(c)(i), and it is further

ADJUDGED AND DECLARED that the December 2, 2019 motion adopted by the Village Board of Trustees contracting with Respondent-Defendant Terry Rice, Esq. as attorney for the Village for the period January 1, 2020 to December 31, 2020 on the same terms as the contract with Keane & Beane, P.C. for the period February 4, 2019 to December 31, 2019 was unauthorized, and it is further

ADJUDGED AND DECLARED that the December 2, 2019 motion violated

N.Y. Village Law § 4-400(1)(c)(i) , and it is further

ADJUDGED AND DECLARED that the Village Board of Trustees is estopped from enforcing their December 2, 2019 motion, and it is further

ADJUDGED AND DECLARED that Respondent-Defendant Terry Rice, Esq. is not the Village Attorney, and it is further

ORDERED AND ADJUDGED that the application by Petitioner/Plaintiff for a judgment under Article 78 of the CPLR is granted permanently enjoining the Village Board of Trustees from taking any action in furtherance of the December 2, 2019 motion, and it is further

ORDERED AND ADJUDGED that the application by Petitioner/Plaintiff for a judgment under Article 78 of the CPLR is granted permanently enjoining the Village Board of Trustees from appointing a Village Attorney, including but not limited to, Respondent- Defendant Terry Rice, Esq., and it is further

ORDERED AND ADJUDGED that the application by Petitioner/Plaintiff for a judgment under Article 78 of the CPLR is granted enjoining Respondent-Defendant Terry Rice, Esq. from holding himself out or acting in any capacity, directly or indirectly, as Village Attorney or counsel to any department, board or committee of the Village, or to any officer or employee of the Village in such officer or employee's official capacity pursuant to the December 2, 2019 motion, and it is further

ORDERED AND ADJUDGED that the retainer agreement between the Village and Keane & Beane, P.C. is extended until entry of this Judgment and Order, payment for which is subject to approval of the Board of Trustees, and it is further

ORDERED AND ADJUDGED that the Village Treasurer is

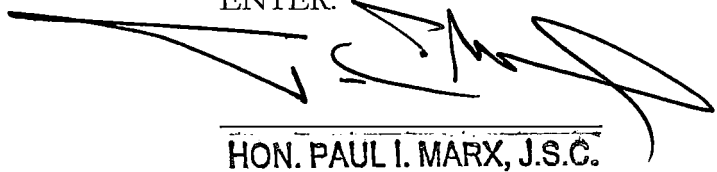
authorized to make payments to Keane & Beane, P.C. for its legal services as Village Attorney through the entry of the Judgment and Order, subject to approval of the Board of Trustees, and it is further

ORDERED that the relief requested in Verified Combined Petition/Complaint is granted.

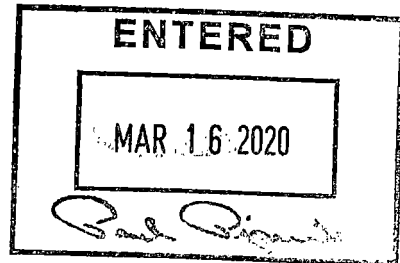
PM
JSE

This constitutes the ~~Decision~~, Order and Judgment of this Court.

ENTER:



HON. PAUL I. MARX, J.S.C.



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

EDWARD MARKUNAS, in his capacity as Mayor of the
VILLAGE OF SUFFERN, New York, and derivatively
on behalf of the VILLAGE OF SUFFERN, New York,

Petitioner-Plaintiff,

Index No. 1570/2019

-against-

PAUL GIRARD, CHARLES BARONE, JO MEEGAN-CORRIGAN, in their capacities as Trustees for the
VILLAGE OF SUFFERN, New York and Terry Rice, Esq.,

Respondents-Defendants.

STEVEN ALPERT, in his capacity as Trustee for the
VILLAGE OF SUFFERN, New York,

Necessary Party.

JUDGMENT AND ORDER

TERRY RICE

Attorneys for Respondents
Four Executive Boulevard
Suite 100
Suffern, New York 10901
(845) 357-4000

Service of a copy of the within
Dated:

is hereby admitted.

Signature

PLEASE TAKE NOTICE

that the within is a true copy of an Order entered in the office of the clerk of the within named
Court on

that an Order of which the within is a true copy will be presented for settlement to the Hon.
one of the judges of the within named Court

TERRY RICE

Four Executive Boulevard
Suite 100
Suffern, New York 10901
(845) 357-4000