

ATTORNEY-CLIENT PRIVILEGED and ATTORNEY WORK PRODUCT

Memorandum

From: Sergio E. Acosta
Akerman LLP

To: Nick Steker, Acting Village President
Members of the Board of Trustees
Village of Westchester

Date: July 2, 2022

Subject: Initial Report Regarding Employees

You have asked us to conduct an inquiry and determine the circumstances surrounding certain alleged employee misconduct that resulted in two Village employees—[REDACTED] and Scott Russell—being placed on administrative leave with pay. In addition to providing our factual findings, you have asked us to provide guidance and recommendations regarding next steps regarding these employees. Our findings and recommendations are set forth below.

I. Background and Findings

A. Methodology

Working in conjunction with Shari Schindler, CPA, CFE, CAMS, of StoneTurn, our inquiry included reviewing and analyzing credit card purchases by members of the Public Works Department over the course of the past several years. The vast majority of purchases were made by Public Works supervisor Scott Russell ("Russell") utilizing his Home Depot or BMO Mastercard credit cards, both of which were issued to him by the Village. In particular, we focused on any suspicious purchases. We also conducted in person interviews of [REDACTED] and Russell ("Russell"), who was accompanied by his personal attorney. Finally, we reviewed and considered: (1) documents provided to us by the Village Attorney's law firm, which included notes of interviews conducted by counsel of [REDACTED] and Russell on May 19, 2022; (2) information provided to us by the Acting Village Manager Gregory Hribal ("Hribal"); and (3) the Village's Purchasing Policies and Procedures Manual and Personnel Manual.

B. Summary of Events

This matter initially came to the Village's attention in approximately early May 2022 when Hribal was contacted by [REDACTED]. At that time, [REDACTED] asked to meet privately with Hribal at an offsite location, and arrangements were made for them to meet. At that meeting, [REDACTED] asked that their conversation be "off the record." Hribal did not agree, but told [REDACTED] he would keep his identity confidential for as long as possible. [REDACTED] proceeded to tell Hribal that he had been directed by [REDACTED], Russell, to use a Village credit card to purchase a bath tub for then-Village Manager Paul Nosek ("Nosek"), and that [REDACTED], [REDACTED], had subsequently delivered and installed the tub in a home owned by Nosek in North Riverside. [REDACTED] explained that he knew what he had done was wrong and wanted to report these events to Hribal.

After receiving this information, Hribal reviewed credit card records and discovered that a bath tub had been purchased from a plumbing supply company called Ferguson. However, Hribal could not locate a copy of the receipt. He contacted Ferguson and was advised they did not have ready access to the receipt due the age of the transaction (the tub had been purchased in October 2020), but that they would attempt to find it. Hribal then directed Village staff to send a request to all department heads, including Russell, to promptly submit all credit card receipts to the Village's Finance Clerk. Russell initially balked at the request, so Hribal told the Finance Clerk to advise Russell that he would have until the close of business the next day to submit his receipts. The next day, Russell submitted his credit card receipts, but his submission did not include the receipt for the bath tub. Hribal's further review of Russell's receipts revealed additional suspicious purchases. Hribal decided to interview Russell and [REDACTED].

1. Russell 5/19/22 Interview¹

On May 19, 2022, Hribal and Ms. Erin Blake, an attorney with Montana & Welch, conducted the interviews. Russell was interviewed first. He was initially questioned about certain purchases at Home Depot stores. These included purchases of home security cameras, patio table and chair covers, home wiring, recessed lighting, and a home cable kit. In summary, Russell stated that (1) he didn't know about the security camera purchase, but would investigate what happened; (2) the covers were for chairs by the fountain, but that the chairs were now gone from that location; (3) the wiring could have been for Christmas decorations at the fountain; (4) the recessed lighting had been purchased by him for his personal use, but he had mistakenly used a Village credit card and not his personal card; and (5) he was not sure about the cable kit purchase. Russell also acknowledged that several of these purchases had no receipts and were not properly coded. He also stated that although he takes responsibility for any purchasing issues in his department, he sometimes gave his Village credit cards to other Public Works employees to make purchases.

¹ The summaries of Russell's and [REDACTED] May 19, 2022 interviews are based on information provided by Hribal and by attorney Erin Blake of Montana and Welch on Monday, June 20, 2022.

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Hribal and the attorney then questioned him about the bath tub from Ferguson. Russell initially denied any knowledge of what had been purchased from Ferguson in the amount of \$1,139.42 in October 2020. Upon being informed that the Village had contacted Ferguson and had learned that the item purchased was a bath tub, Russell smiled and responded that he assumed the bath tub had gone to Nosek's home. Russell denied making the purchase and denied any knowledge of it. He stated that 8 or 9 Public Works employees had been working on their own time on a house renovation for Nosek and that Nosek was personally paying them. He assumed that if the bath tub was purchased for Nosek's home, the purchase would have been made by [REDACTED] and an individual named Mike from Esposito Plumbing. He further stated that he would have thought that Esposito plumbing would have paid for the tub. When it was pointed out to him that the purchase was made with his Village credit card, Russell reiterated that he sometimes let other employees use his credit card and suggested that Hribal and the attorney should talk to [REDACTED], who might have more information about the bath tub purchase.

Finally, Russell assured the interviewers that no Public Works employees had done any work at Nosek's home during regular work hours, but that the workers may have, on occasion, taken a Village truck to the home renovation project during their lunch break to check on project's progress. Russell also acknowledged that he had gone to Nosek's home on occasion to check on the project, and that he had done this as a favor to Nosek.

2. [REDACTED] 5/19/22 Interview

[REDACTED] confirmed that several Public Works employees were performing work at Nosek's home. [REDACTED] indicated that the work was required of the employees. He stated that the amount Nosek paid the workers was minimal and insulting. He also stated that some, but not all of the work at Nosek's home was performed during Village work hours. [REDACTED] explained that he felt forced into working for Nosek because employees that did not perform work as asked were not given promotions or OT opportunities. They were also subjected to changes in their working conditions that were at times unsafe and humiliating. He explained that he needed his job and so believed he needed to do what was asked of him by Russell and Nosek.

On October 30, 2020, a Friday, [REDACTED] was working for the Village but was tasked with picking up two bathtubs for Nosek's home renovation. He went first to Home Depot for the bathtubs in his Village vehicle. Home Depot only had one of the tubs. He paid for that tub out of pocket in cash. The tub was approximately \$300. Home Depot did not have the other tub. [REDACTED] told Russell the second tub was out of stock and Russell told him to call Nosek. Nosek did not answer the call; and so, he touched base with Russell again who told him to look around for other tubs available that day. [REDACTED] found another bathtub at Ferguson and Russell told him to go pick up that tub. [REDACTED] did not have enough money for the tub at Ferguson; and so Russell told him to stop back at the Public Works Department to get money from him. When [REDACTED] arrived at Public Works, Russell handed him the Village credit card for the purchase. [REDACTED] questioned the decision to use the Village credit card and Russell told him not to worry

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about it, to go make the purchase, and to bring the bathtubs to Nosek's home. [REDACTED] went to Ferguson, purchased the bathtub with Russell's Village credit card and then transported both bathtubs to Nosek's home. He installed the bathtubs and has photographs of the bathtubs in Nosek's home. [REDACTED] also stated that after Russell was interviewed that morning, he approached [REDACTED] and told him to tell the interviewers that Nosek was to blame for the bathtub purchase.

[REDACTED] expressed his regret and his knowledge of his own wrongdoing. He said that this had been weighing on him for years and impacting his work and family life, and that coming forward had provided him with relief. He hoped that by coming forward he would be spared. He also expressed fear of reprisal from persons in the community for being a whistleblower.

As a result of the information provided by [REDACTED] and Russell, and based on the evidence of credit card misuse, Hribal decided to place both employees on administrative leave with pay effective that same day. When Russell was summoned back to the office, he provided no additional information regarding the bathtub, the work at Nosek's home, or any of the other discrepancies noted during his interview.

Akerman and StoneTurn were subsequently retained to conduct an independent investigation.

C. Financial Document Review

StoneTurn was engaged to provide a forensic accounting investigation into certain Village of Westchester employee credit card purchases.

StoneTurn requested all credit card statements and all receipts submitted for purchases using Scott Russell's Village credit cards. The Village provided statements but stated that all receipts were not in the Village's possession. StoneTurn requested approval forms for certain purchases using Scott Russell's Village credit cards >\$2,500 and received none.

Records reviewed included:

- BMO Mastercard statements and Copies of certain credit card receipts for employee Scott Russell for the period May 2020 through April 2022.
- Summary and detailed purchases of Home Depot Employee purchases using card for Scott Russell for the period April 2020 through May 2022.
- Village of Westchester Purchasing policies and procedures manual.

Interviews conducted:

- [REDACTED] 6/29/2022
- Scott Russell 7/1/2022

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StoneTurn compiled and analyzed the credit card information and found purchases exhibiting potential red flags, including purchases on weekends, holidays, non-local vendors, and purchases that appear to possibly be outside the scope of Village business expenses.

Of the approximately \$62,000 of credit card purchases reviewed, nearly \$14,000 were transacted on weekends or holidays. Purchases for which no receipt was provided accounted for 120 of 298 transactions and totaled approximately \$21,000 or one-third of the total purchases on the two Scott Russell cards. One of the most significant of these expenses was the alleged purchase of a bathtub for \$1,139 on 10/30/2020 allegedly for the renovation of former Village Manager Paul Nosek's house. During his interview, Scott Russell opined that the charge would have been coded to the new building. Upon review of the finance records regarding October/November 2020 BMO card transactions it was determined that the Ferguson purchase was charged to the general ledger account for the Utility fund, specifically to materials and supplies for the Crestwood facility. Other employees are using the Scott Russell cards, as evidenced by receipts showing the point of contact other than Mr. Russell and confirmed by the interviews of [REDACTED] and Scott Russell. The Village policy requiring an approval form for purchases > \$2,500 was not followed in regard to the two purchases made on company credits cards in the name of Scott Russell during the time period reviewed.

D. Interviews

After the preliminary document review, interviews were conducted of both [REDACTED] (6/29/22) and Russell (7/1/22). Mr. Acosta and Ms. Schindler conducted the interviews at the Village offices.

1. [REDACTED] 6/29/22 Interview

[REDACTED]
[REDACTED] In summary, [REDACTED] related the following:

[REDACTED] provided background information regarding his work history and responsibilities. [REDACTED] explained that he decided to reach out to Hribal in May 2022 because Nosek was gone, Russell was by himself, and "it just didn't feel right." When pressed as to what it was that didn't feel right [REDACTED] said, "what was all going down. I felt it didn't feel right what was going on during work hours and the tub issue." [REDACTED] said he knows Hribal well and felt comfortable talking to him. When asked for details of the meeting, [REDACTED] said that they met in the small office in the water storage building and he told Hribal that it was getting crazy, and that the issue had been lingering for a while. He stated that he told Hribal about going over to Nosek's house for a month or so and that he also did work at Russell's son's house. The tub purchase was really bothering him and that he didn't know if Russell had reimbursed the Village.

We asked about [REDACTED] about his relationship with Russell. [REDACTED] described that he has known Russell for about 9-10 years, since Russell came to work at the Village. Russell was low man, so [REDACTED] trained him. They became friends, as they spent a lot of time together, sometimes working 3-4 days straight. They had a good relationship, which included [REDACTED]. [REDACTED] stated that when Russell became the director of Public Works, he "became nuts." He stated that Russell's attitude became "my way or the highway" and that he regularly began using terms like "my guys," "my trucks," etc. [REDACTED] stated that Russell's behavior was erratic and that he would go on "hissy fits." For example, [REDACTED] said that when Russell got angry, he would pull power equipment and make [REDACTED] dig holes by hand. When asked if he thought about complaining to the Union, [REDACTED] stated he didn't want to be a tattletale and reiterated this was his job and he wanted to keep it. [REDACTED] also advised that Russell's brother-in-law, Paul Gattuso, was Village President when Russell became the Public Works Director.² [REDACTED] was asked if there was just tension between he and Russell, to which he responded that Russell treated everybody in Public Works the same way.

Paul Nosek House Renovation

[REDACTED] was asked how he became aware of the job at Nosek's house. [REDACTED] explained that he was approached by Russell and Nosek maybe 3-4 years ago. When trying to narrow down the timeframe, he thinks it was 2020 right around when Covid started. He then stated maybe it was summer of 2020 and confirmed that it was a 2-3-month job and that the bathtub placement was at the end of the project in October 2020. [REDACTED] relayed that Russell said that [REDACTED]. [REDACTED] agreed. He stated that the home was in North Riverside and that he looked at it during work hours. He said Nosek told him at that initial meeting what he wanted to have done. There was no discussion of price. [REDACTED] stated it was a big project that involved demolition and building an addition to the house.

[REDACTED] accepted the job to renovate the bathrooms for Nosek. He stated that he originally went to the jobsite from 3-9pm each day, after working at the Village, but that this was not fast enough. According to [REDACTED] Russell told him to "kick it up" and start going to Nosek's house at 11am, while on the clock. When asked "what if you told him no?" [REDACTED] stated, "he's my boss, what am I going to do? He tells me to jump, I jump." [REDACTED] was asked how he could get both his Village duties and Nosek's' home remodeling job done. He stated that Russell would distribute [REDACTED] Village duties to other employees during this time.

[REDACTED] said he was told by Russell that he could bring in another guy to help expedite the work at Nosek's house, so he brought in a plumber named Mike, who was formerly with Esposito Plumbing, but was not working at the time at a rate of \$500/day. Russell told [REDACTED]

² Mr. Moore stated that when Russell was promoted, there was a change in the Union contract providing for Russell to come back with his seniority intact if his tenure as Director of Public Works lasted less than 5 years. He stated that this was an unusual request coming from the Village (management) but that the union accepted it because it set a precedent for the other union employees.

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that Nosek would pay Mike directly. [REDACTED] stated that he personally never got paid for his labor by Nosek. After adding another worker, they completed the job in another 1-2 weeks. The bathtubs and trim were the last pieces.

Regarding the bathtub purchases, [REDACTED] said that he did all the measurements and went online to find that Home Depot had the two tubs needed for the two bathrooms. He stated that Russell gave him \$600 cash (allegedly from Nosek) to go to Home Depot to pick up the tubs. When he went to the Home Depot, [REDACTED] only found one tub, so he purchased it. He then called Russell to advise that only one tub was available, and Russell told him to find the other tub somewhere else. [REDACTED] was familiar with and knew of Ferguson and found the tub there. At some point, Nosek had changed his mind and decided that he wanted a more expensive, soaker tub. [REDACTED] advised Russell that the tub was available at Ferguson and that he could get a discount using Esposito Plumbing's account, but that he didn't have enough cash left to purchase the tub. [REDACTED] stated that Russell said to come to the Village garage. When he arrived, Russell handed him the Village BMO Mastercard to use to buy the tub. [REDACTED] said that he questioned Russell ("what are you f*in nuts?) and Russell replied that "he" would have to deal with it. [REDACTED] understood "he" to mean Nosek. When asked about his concerns, [REDACTED] said he wondered how Russell could use a Village credit card for this type of expense. He did recall that in the past, a prior Village Manager, Mike Delray, had used Village credit cards for personal expenses and paid the Village back, so he didn't know if Russell or Nosek was planning to pay it back.

[REDACTED] said he went to get the tub at Ferguson and used Russell's Village MasterCard to buy it. When asked if Ferguson questioned whose credit card it was, he stated they did not. [REDACTED] said the next day or the day after that, he took the tub to Nosek's house in his Village issued truck. When asked about the invoice for the tub, [REDACTED] stated he got an invoice from Ferguson and gave it to Russell. Mr. Acosta asked if [REDACTED] returned the other \$300 cash that Russell had given him to buy both tubs, he said he wasn't sure, but likely used it to buy other stock, and that Russell never asked for it back.

[REDACTED] was asked to estimate the value of his labor at Nosek's house, and he thought it was a \$3,000-\$4,000 job for one guy just for labor. He stated that he did buy some supplies at a plumbing supply store or Menards or Home Depot and that he took some supplies out of his own private stock. He stated that Nosek gave him cash to buy the copper pipe that was used on the job. [REDACTED] stated that Nosek occasionally gave him cash for materials, but mostly [REDACTED] gave Nosek a list of the supplies [REDACTED] needed. [REDACTED] stated that Nosek had all the fixtures, pipe, valves, and faucets.

[REDACTED] was asked if he ever approached Russell to get paid for his work at Nosek's house. He said that he did, and that Russell would tell him that he would talk to Nosek, but that [REDACTED] got a "song and dance" with excuses like he was on vacation or in meetings. [REDACTED] never presented an invoice to Russell or Nosek for his labor and he never got paid.

██████████ stated that he was just doing the plumbing at Nosek's house and there were other contractors doing carpentry and electrical work. He thought that Russell was acting as the General Contractor for the Nosek home renovation. He said that the communications between Russell and ██████████ regarding the Nosek project were either in person or via phone--no texting. ██████████ stated that Nosek came in and out of the house at all hours and that Nosek knew ██████████ was there during regular Village working hours. When asked if there were other Village employees doing work at the house during regular working hours ██████████ stated no.³ When asked if other Village employees knew that ██████████ was working at Nosek's house, he said he was fairly sure they knew because he mentioned it to his close friends.

██████████ was asked about how he was paid by the Village and stated he was hourly and on a timeclock. When asked how he managed the clocking in and out while performing work at Nosek's house, he stated that Russell told him he (Russell) was writing him in. ██████████ further explained, however, that during the pandemic they were trying to stagger shifts and not everyone was physically there in the Village offices. As a result, some employees went directly to job sites and their hours were written in also. ██████████ stated that on occasion he had to leave Nosek's house for Village water emergencies and in that those instances, Russell would come over to Nosek's house or call ██████████ to let him know. ██████████ stated that Russell absolutely knew that ██████████ was at Nosek's house during work hours.

Scott Russell Jr. House Remodel

The conversation shifted to Russell's son's house remodeling project. ██████████ stated that the son bought a house in Westchester on Kensington and remodeled the basement. Part of the project was a remodel of the basement bathroom and re-piping of an upstairs bathroom. ██████████ said that about 6-8 months after the Nosek house job, Russell asked him to do ██████████ at his son's house. When asked why ██████████ agreed to do this, he said the Public Works employees all helped each other with side jobs and that Russell had helped ██████████ ██████████.

██████████ stated that he went over to the house to look at the job. He gave Russell a material list and didn't have to buy any of the supplies for this job. ██████████ said it took about 2 weeks, performing the work after working hours, some during working hours, but mainly over two weekends. ██████████ stated that Russell was helping with the remodel as well. He was asked if other village employees were there, and he said "no." As to the work that ██████████ performed during the Village working hours, he stated that he would go to work and punch in, then go to the house for a few hours, then go back to work and punch out. Asked to estimate the value of his

³ Mr. Moore brought up UB (Ubaldo Rodriguez) a landscaping and brick paver. He said he was terminated by the Village and is pending arbitration, but didn't go into the details. He is alleged to have priced Nosek's driveway at Russell's direction. ██████████ said he heard that UB did work on Nosek's house, but doesn't have any direct knowledge of it.

labor for this project, ██████ estimated around \$1,000. He stated that he was not paid for this job.

██████ was asked if he knew of any other village employee projects, and he stated no.

Use of Village Credit Cards

The conversation shifted to various categories of expenses being paid using Village credit cards. ██████ was asked if he was aware of Russell using any other Village credit card for the Nosek expenses, and he advised he was not aware of any other uses of the Village card for Nosek-related expenses.

With respect to specific documented purchases, ██████ advised as follows:

- Patio Furniture Covers – ██████ said he was asked this before and knows there is patio furniture out by the gazebo but didn't know anything about this purchase.
- Cable TV and security cameras – ██████ had no knowledge of these.
- Miscellaneous Tools – ██████ said the Village buys and has tools. He stated that tools are subject to heavy use and wear out. Sometimes he uses his own tools to work faster.
- Clothing – ██████ said the Village provides coveralls.⁴
- Propane – ██████ said the paving machine, striping machine, and a heater in the water trailer use propane and occasionally they would need to replace it from Home Depot or a gas station.
- Holiday Decorations – ██████ said the Village puts up holiday decorations.
- Lawnmowers – ██████ said the Parks Department contracts out most of the mowing, but there are a few spots where a laborer needs to push a mower. ██████ thinks the Village has a few push mowers.
- Paint – ██████ said the Village has multiple accounts to buy paint at Sherwin Williams, Home Depot and two other supply houses. They buy in 25-gallon buckets. He recalled going to Sherwin Williams when he painted the Crestwood Lane facility. ██████ thought striping, hydrants, curbs, walkways, and some of the inside offices used paint.

⁴ Mr. Moore stated that the Union contract requires certain clothing be provided by the Village.

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- Food – [REDACTED] said if they are on a 24 hour stretch of work, they get breakfast, lunch and dinner provided. For instance, in a water main break, a storm or severe snow, the Public Works employees would order food and use Russell's credit card.

With respect to the use of credit cards and Village processes, [REDACTED] provided the following information:

- Coding of credit card expenses: [REDACTED] said that "Steve" does much of the coding and has them memorized. Russell would tell Steve what the expenses were for, and Steve would do the coding for the most part. [REDACTED] was not involved in coding of expenses.
- Procedure for using Home Depot Card: [REDACTED] said he frequently goes to Home Depot and uses Russell's Village credit card. He didn't realize that he had one in his name. He would typically tell Russell before he went and physically get Russell's Home Depot card if Russell approved the purchases. He said he had to use the tax exemption, which involved going to the service desk at Home Depot. When he got back from the store, he would turn in the receipts to Russell and give him back the card.
- Tax Exempt purchases: [REDACTED] said if he were going to a store that the Village didn't have an account with, he would grab a pre-printed tax exemption form and bring it with him. He didn't do this at Ferguson.
- Home Depot locations: [REDACTED] said he occasionally went to other Home Depot locations besides the Broadview store when needed. He mentioned Oakbrook Terrace, Hodgkins, LaGrange, and Countryside. He said he would not go to the Glendale Heights store.

Conclusion

[REDACTED] was asked about recent conversations with Russell. [REDACTED] relayed that about a week after he initially met Hribal, Russell came into the office and met with Hribal. After the meeting, Russell came outside and told [REDACTED] that he needed to talk to him. [REDACTED] said Russell advised him that he [REDACTED] needed to meet with Hribal at 2 PM. [REDACTED] asked Russell how his name came up and Russell told him that he had to tell them (Hribal and the attorney) something about the tub, so Russell mentioned [REDACTED] name. Russell told [REDACTED] to say Nosek told [REDACTED] to get the credit card from Russell to pay for the tub. [REDACTED] said that Russell proceeded to follow [REDACTED] and some contractors he was working with that day and that [REDACTED] eventually told the others to walk away because he was embarrassed. [REDACTED] said that a Public Works employee named Jimmy was present also and that [REDACTED] and Russell got into an argument. Russell told [REDACTED] to tell the story the way Russell wanted. [REDACTED] said he told Russell he was going to get a lawyer. [REDACTED] advised he has had no other contact with Russell since then.

2. Russell 7/1/22 Interview

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Russell arrived for his interview accompanied by attorney Michael Leonard. We advised Russell that Akernan LLP had been hired by the Village to conduct an objective independent investigation into the issues surrounding the use of credit cards and related matters. We told him that we represent the Village and do not represent any individuals. Russell stated that he understood.

By way of background, Russell stated that he has been at the Village for 10 years, since June 25, 2012. He stated that before he took the Village job, he owned a painting contracting business, focusing on homes in the Naperville area. Russell started as a laborer in the Public Works Department at the Village. Russell resides in North Riverside. He found out about the Village job opening through his brother-in-law, Paul Gattuso, who lives in Westchester and was a board trustee at that time. Russell stated that his duties as a laborer involved water main breaks, street repair, fixing lights, painting offices, replacing floors, running a woodchipper, and tree cutting. He stated that the Village does a lot of maintenance in-house vs. hiring outside contractors.

Russell was asked about his career progression within the Village, and he stated that in 2019 he became the Director of Public Works. He stated that at the time of his promotion, there was a Director and a Superintendent. He became the Director and appointed two foremen, or supervisors under him and discontinued the Superintendent position. [REDACTED]

[REDACTED] When asked how he got the position of Director, when he had been there for 7 years, Russell stated that he had learned the job well for 7 years and had previous knowledge through his painting work. He said that at the time, Superintendent Carl Muell left his position and went to Brookfield. He helped Robert Lewis, who was the Director of Public Works at that time, until he was no longer an employee. At that point, Russell was running the Department as Acting Director and was asked if he wanted the job. He did not go into specifics regarding who asked him but maintained that Mr. Gattuso was not involved.

Russell stated that when he took over as Director of Public Works there was a staff of 12-14 laborers, which he has increased over time to approximately 20. He stated that the laborers are at varying levels within the union structure. He was asked about the duties of Crowley and [REDACTED] to which he answered that Crowley is in charge of day-to-day operations, administrative duties streets, and trees. Russell said that [REDACTED]

[REDACTED] Russell stated that [REDACTED] also provided other labor.

Village Issued Credit Cards

Russell was asked which Village credit cards he was issued as Public Works Director. Russell stated that he received a BMO Harris MasterCard and that he already had a Home Depot card in his previous role. He was asked who else in his department held a Home Depot card and he stated that everyone had a card and that [REDACTED] maintained possession of most of them. The guys who went to the store most often and used their own cards were himself, Crowley, James Suero and Vince Monaco.

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Russell denied ever receiving any training or instruction regarding proper use and policies when he received the credit cards from the Village. Russell claimed that he basically learned from other guys that he had to give a tax id number when making purchases. When Carl Muell (Muell) was the Director and Russell was a laborer, he would give Muell the receipts from purchases and that Russell didn't have to state what the purchases were for. Russell said that oftentimes Muell would know in advance if Russell was going to the store and what he was going to purchase.

When asked which stores Russell frequented, he stated that the Village has an account at Home Depot but at no particular store. He typically would go to Broadview because it was nearby, but also went to Oakbrook Terrace and sometimes Countryside. When asked about the Glendale Heights Home Depot, Russell said his brother-in-law lives in Bloomingdale. Russell stated that he works 7 days a week and if he needed something for Monday, he would get it at his convenience on Sunday, including at the Glendale Heights store when visiting his family. Russell stated that if a product were unavailable at Home Depot, they would go to Menards in either Hodgkins or Melrose Park. Regarding other weekend purchases, Russell stated that his guys are on call 24 hours a day. He stated that if a regular supplier were closed on the weekend, they would go to Home Depot.

When asked about others using his credit cards, Russell said that he would hand over his Home Depot card to one of the guys when working on emergencies so they could get supplies. When asked the mechanics of that, if someone had to come to his house or office to get the credit card, Russell said he would be working with the guys through the emergencies.

Russell was shown a copy of the Village's Purchasing Policies and Procedures Manual and asked if he was familiar with it. Russell said he was familiar with it. He stated that any purchase under \$2,500 he can approve. He said that purchases over \$2,500 had to have three quotes and were signed off by the Village Manager. Russell said that projects \$20,000-\$25,000 went out for bid and he would have to put together the bid package. Russell stated that anything over \$25,000 had a bidding process that involved an opening in court, an audience and recording of the bid openings and then the Board would determine which bidder was awarded the project. To clarify the need for 3 proposals for purchases greater than \$2,500, Russell stated that he would call and get three price quotes and bring them up front to Nosek. He stated that it was usually on paper, but not a formal process. Russell said he would show the written quotes from vendors to Nosek – no forms were filed. Russell stated that when a product or service could come from only one source, he would advise Nosek.

Russell gave an example from this past winter of performing trench work and needing drainage grates. He said the project was under a deadline and there was only one vendor who sold those particular grates. Russell relayed that he talked to Nosek for approval and then one of the other department heads put the purchase on their Village credit card (possibly [REDACTED] or Stephan). Russell said he thought there was a balance issue on his card which is why another employee used their credit card. Russell stated that he turned in the receipt via email as it was sent to him electronically.

Accounting Coding for Purchases

The conversation moved to the process of coding the bills for payment processing. Russell stated that he is given a monthly statement of purchases made on his BMO card. He stated that the front office gives it to Lynn, his secretary, who gives it to Crowley to code. Russell advised that there are funds such as utility, general, and MFT (motor fuel tax) funds for which his department codes expenses. Russell said that after Crowley writes the codes onto the front of the statement, he (Russell) spot checks Crowley's work and signs off by initialing the statement. He then gives it to Lynn who gives it to Cathy Barker in Accounts Payable, who provides it to Chris in Finance and then Stephan in Finance gets it and presents it to the Village Manager. Russell stated that the Board approves all expenditures, which means the week before the Board Meetings (2nd and 4th Tuesday) all billing has to be provided by the departments. Russell stated that if any of those people have questions, the questions come back to his department and are fielded by Crowley.

Russell was asked if the same procedure that was described for the MasterCard was used for Home Depot purchases. Russell stated that Home Depot sends a monthly statement of detailed purchases that goes to Lynn and then to Crowley to code. When asked how Crowley knows what all the items are used for, i.e., how they should be coded, Russell stated that Crowley was like "Rain Man." By that, Russell said he means that Crowley is very detail oriented, and that Crowley has been there twenty something years, helps with the budget, projects, and acts as an unofficial Superintendent. Russell stated that Crowley is running the Public Works Department now while Russell is on administrative leave.

Russell stated that he spot checks the Home Depot bill and then sends it to Cathy Barker. If she has any questions or needs a receipt, she reaches out to Russell and then sends it on to the Finance Department. When questioned about the actual physical receipts from purchases, he stated that since Home Depot provides a detailed report of everything purchased, they do not keep the paper receipts.

Moving back to the BMO Harris card procedures, Russell stated that he only gets the portion of the monthly statement with his card purchases. He was asked if Crowley ever has questions or if he (Russell) has questions about the charges. Russell said that sometimes he goes to Crowley or Lynn to ask about a purchase. Russell claimed that he had never come across a situation where anyone in Public Works had used a credit card for an inappropriate purchase.

When asked how Crowley would know about all the purchases, Russell again stated that Crowley is the operations guy. When given an example of a McDonalds or a Jewel purchase, Russell stated that if the guys are there over a long time, the Village feeds them--provides lunch or soda. The details were not necessary. Mr. Acosta asked Russell if he knew about the purchase of a self-propelled mower. Russell said the Village used to have riding mowers but now contracts with landscapers. Russell said that there are still mowing needs in the alleys and at the new buildings, so they use summer help for that. Russell said there is also a weed wacker and a gas-powered edger in the back.

Paul Nosek

The conversation shifted to Russell's relationship with Nosek. Russell stated that he has known Nosek since 2019, when Nosek became the Village Manager. Russell said he had a good working relationship with Nosek, that they got to know each other, but that he rarely socialized with Nosek. Russell thought he had been in social situations with Nosek only 3 to 4 times. Russell said that his [REDACTED], is good friends with Nosek and recalls being at [REDACTED] house twice when Nosek was there. Russell thought he went out after work maybe twice to gatherings when Nosek and the Trustees were present. Russell said he would have stopped in because Nosek was his boss.

When asked how Nosek was as a boss, Russell said that Nosek seemed to know what he was doing. Russell said he worked for Nosek, Hribal and couple of other Village Managers in the last 5 years because Village Managers come and go. Russell said Nosek was a middle of the road guy. He stated that if you do your job it's all fine and dandy, but if you got Nosek aggravated, he held a grudge. For the most part, Russell stated, Nosek was easy going.

Russell was asked if Nosek's anger was ever directed at him. Russell talked about an incident in which Russell questioned something at a Board Meeting and Nosek "threw him under the bus." Russell stated that the topic of the sale of the current Village buildings was being discussed and that Russell had done research into the cost of demolition and abatement in order to sell the property. Russell relayed that the cost of demolition would be in the \$257,000 range and that the total cost between surveyors, asbestos and lead abatement and fuel tank removal would be in the \$1.6 million range. Russell said the Village would have to incur those costs to sell the property and that he discussed this with Nosek. Russell also mentioned a US Post Office lease that would have to be dealt with as well. At the Board Meeting, Russell said that Nosek was pushing a sale offer by a developer for \$2 million. Russell said he spoke up about the fact that the proposed deal would not net the Village much money. Nosek claimed that Russell never told him about all the other costs besides the demolition. Russell was asked if he ever talked to Nosek about this incident after the fact. Russell said no, he wasn't going to question his boss. Russell was asked if this event soured his relationship with Nosek, to which he replied no.

Nosek's House Renovation

Russell was asked when he became aware of Nosek's new house. Russell stated that when he was buying it, Nosek would discuss the purchase at work in the presence of his co-workers. Russell said there was a joke that Nosek, who lived in Berwyn, wanted to move closer to his favorite restaurant, The Village Pub, in North Riverside. Russell was asked if he knew that at some point there were Village employees working at Nosek's new house. He said yes and was asked how he knew. Russell said that he knew [REDACTED] Russell said both [REDACTED] and Nosek told him separately that [REDACTED] was going to do work at Nosek's house on his personal time. Russell was asked if other Village employees were working at Nosek's house, and he said he knew that his guys worked with

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[REDACTED]. Russell then said that [REDACTED] has a lot of friends and he pulls other Public Works employees into side jobs occasionally. When asked if Russell knew who else did work at Nosek's home, Russell said he was not involved with anything at the house and doesn't know who else might have worked there. He thought [REDACTED] used some new guys to dig something, but he couldn't say for sure who.

Russell was asked if Nosek asked Russell to do any work on his house. Russell said no.

Russell was asked if he saw the work that was done at the house. To this, Russell answered that on occasion he would see it because he lived nearby, and it was a big project. Russell said Nosek gutted the whole house.

Russell offered that he didn't get involved because Nosek was known to be cheap. Russell also said that Nosek was the boss, so he didn't want to ruin that relationship. Russell was asked if he recommended anyone to Nosek and Russell said he recommended Gilberto Valentine Flooring. Russell said he is not a Village employee or contractor. Russell did not recommend anyone else to Nosek.

The Bathtub Purchase 10/30/2020

Russell was asked what he knew about the [REDACTED] purchase of the approximately \$1,200 bathtub for Nosek's house renovation. Russell stated that the first he heard of it was when Hribal and a lawyer told him in May 2022. Russell said he was asked for receipts, and this was one of them. Russell was asked if he knew anything about the coding of the tub purchase on the BMO credit card statement. He stated he did not. Russell added that they don't use Ferguson Plumbing a lot. Russell said he didn't recall any conversation with Crowley or anyone else regarding the expense when they got the credit card bill.

Russell was asked if [REDACTED] asked to use Russell's BMO credit card or asked Russell about going to Ferguson to purchase the tub. Russell responded, "Ferguson only happens if we are in a pinch," for instance "doing something at the new building and we need special fittings or triple basins." Russell was asked if [REDACTED] was the only person to go to Ferguson. Russell said that [REDACTED], so he would be the one to go. Russell was asked, if [REDACTED] came to Russell asking to use the BMO card to buy a bathtub, what would Russell say? Russell responded, "Why?" or "No you can't do that," or "I would rather me give you money than you do something stupid." Russell was asked again if [REDACTED] asked him to use the card and he said he had no specific recollection. Russell was asked why [REDACTED] would risk using Russell's card to buy the tub. Russell answered, "stupidity" and said that maybe [REDACTED] was under pressure, but he didn't know.

Russell was asked again if he knew anything more about the tub purchase. He said that after the conversation with the lawyer in May 2022, he heard that [REDACTED] had tried to buy a tub from Home Depot, but they had the wrong tub and [REDACTED] had to get a tub. Russell was asked again

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if [REDACTED] came to Russell for the credit card to which he responded he didn't know. Russell then offered that [REDACTED] had Russell's BMO card information from using the card for [REDACTED] online continuing education purchases and maybe [REDACTED] used the credit card information at Ferguson unbeknownst to Russell.

Russell was asked if Crowley would have more information or recollection about seeing the Ferguson purchase on the BMO card statement. Russell surmised that Crowley may know how it was coded to the new building likely because they put in plumbing equipment, sprinklers, and basins there and Crowley may have assumed the Ferguson purchase was for the new building.

Russell was asked if he has had any recent contact with Nosek. Russell said no. Russell said that when he was put on administrative leave, however, he got a cell phone call from Nosek, and Russell said that he told Nosek he wasn't going to talk to anyone. When asked if he thought this call from Nosek was unusual, Russell said he guessed so. Russell said that Nosek and the Board left on not so good terms and Russell figured Nosek wanted to know what was going on for Nosek's own interest.

Mr. Acosta brought up the concern that Nosek was potentially cheating the Village, not just with the bathtub purchase, but also using Village laborers during working hours. He offered Russell the chance to let us know now if Russell knows anything about what was going on. Russell said he has enough on his plate with the \$42.6 million referendum, redoing the whole town and the sewer lines. Russell said he didn't want to be involved with "it." Russell was asked if Nosek involved Russell and Russell responded, "I try and keep to myself,...I'm pretty straightforward,...I work for Westchester, ... a lot of stuff is getting done." Russell reiterated that he tries not to be involved. Mr. Acosta pointed out that Russell is involved because it was Russell's credit card that was used and offered Russell an opportunity to tell us anything else about the Nosek renovation or the tub. Russell did not respond.

Russell was asked if there was anything else he wanted to tell the interviewers. Russell then recalled an incident involving the budget for the MFT fund in which he got \$183,000 or \$186,000 that needs to be spent within 5 years. Russell said that the Village has protocols to follow with the State of IL to use the money and needs a resolution at the beginning and ending of each funding cycle. Russell offered that the Village has not been following the State procedures since 1995 and he knows this because he worked with the State to get the Village up to date from 2014 when Village records begin, until the present. Russell said he was able to have the prior balances wiped out. Russell stated concern over the MFT funds and where the money is actually going. Russell said he closely scrutinizes his budget, and asked Stephan in Finance and was told it was in another account, but it would be there when Russell needed it. Russell said he talked to Hribal about this.

Russell was asked if he is aware of any personal purchases on his Village credit cards and said no. He offered that sometimes it goes the other way, and he uses his personal money for Village expenses. Russell was thanked for coming in and the interview was concluded.

E. Findings

We find [REDACTED] to be a credible witness. During his interview, [REDACTED] was forthcoming and direct. His demeanor was serious. His responses were consistent with the information he provided on May 19, 2022, and consistent with the other evidence. He did not attempt to minimize his own conduct. We credit his assertion that he initially came forward because of concerns about his own exposure for the things he had done and because the events described had been weighing heavily on him.

Russell was not a credible witness. He repeatedly failed to answer the question presented and was otherwise evasive in his responses. Moreover, his statements to us were materially inconsistent with statements he made to Hribal and Erin Blake on May 19, 2022. For example, when confronted about the tub purchase on May 19th, Russell smiled and told the interviewers that he assumed the tub had gone to Nosek's house. On July 1st, he claimed that the May 19th interviewers *informed him* that the tub had gone to Nosek. On July 1st, Russell stated that he only saw the work at Nosek's house because he would at times drive by it since he also lives in North Riverside. Yet on May 19th, he told the interviewers that he would on occasion go by the Nosek house project to check on its progress and that he would do this as a favor to Nosek. His story also changed in significant respects regarding his knowledge of whether other Public Works employees worked on the Nosek project. And there are other inconsistencies as well. Notably, Russell did not claim a lack of memory regarding these events, which could account for a difference in stories from one occasion to another. Instead, he was emphatic and unequivocal in his denials. In short, our conclusion is that Russell was not credible. The fact that he attempted to get [REDACTED] to lie to the interviewers on May 19th, coupled with this evasive and inconsistent responses to us, demonstrates a pattern of obstructive conduct.

II. Recommendations

A. [REDACTED]

[REDACTED] admitted to engaging in serious misconduct: improper use of a Village credit card for the personal benefit of the former Village Manager and working on the Nosek home during regular work hours. His conduct violated section 7-2 M of the Village's Personnel Policy Manual, which provides that misconduct subject to discipline by the Village includes:

Acting carelessly, negligently, or dishonestly with the monies or other property of the Village, or taking or using, without authorization, any property of the Village for personal use or for sale or as a gift to others.

In mitigation, [REDACTED] stepped forward and voluntarily brought these matters to the attention of the Acting Village Manager. From a policy standpoint, the Village should encourage employees

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to step forward in this manner. In addition, [REDACTED] has cooperated fully in the Village's investigation of these matters and has exhibited remorse for his actions.

We recommend that the Village consider these factors together with all other relevant factors and, in consultation with the HR Department and the Village Attorney, determine an appropriate disposition for [REDACTED]

B. Scott Russell

Russell changed his story, was evasive, and was not cooperative. Indeed, it is our conclusion that Russell attempted to obstruct the Village's investigation both by encouraging a subordinate, [REDACTED], to lie to the May 19th interviewers, and by not being truthful in his interview on July 1st. Russell's conduct not only violated the aforementioned Section 7-2 M, but we believe his conduct may also violate Section 7-2 O:

Any other act, or failure to act, which may disrupt Village operations, endanger the health, safety, and welfare of the public or another employee, or bring discredit to the Village of Westchester.

In addition, as the Director of Public Works, Russell is responsible for ensuring compliance with the Village's Purchasing Policies and Procedures Manual. As outlined in Stone Turn's findings as set forth in Section I C, above, there are apparent deficiencies in the Public Works Department regarding its recordkeeping and its compliance with the Village's Purchasing Policies.

We recommend that the Village consider these factors together with all other relevant factors and, in consultation with the HR Department and the Village Attorney, determine an appropriate disposition for Russell.