

Village of Mamaroneck  
Ethics Board  
Complaint No. 2023-3  
March 18, 2024

**Decision**

**The Complaint**

The Ethics Board received a sworn complaint dated June 9, 2023 which alleged that the Village Manager, Jerry Barberio, authorized the hiring of a full-time employee who was the brother of village Trustee Leilani Yizar-Reid in violation of Code of Ethics section 21-4(1)(e), which prohibits such a hiring without a waiver approved by the Ethics Board. The complaint also expressed “concern” that the hiring “...has the appearance of a payback for [the trustee’s] support of Mr. Barberio’s salary increase.”

**Summary of the Findings of the Ethics Board**

The Ethics Board conducted an investigation of the complaint. The board found:

- the Village Manager authorized the hiring of the trustee’s brother as a Laborer with the Harbor Master’s Department
- there had been no application for a waiver of the nepotism prohibition of the Code of Ethics prior to the employee’s hiring
- the hiring constituted a violation of the nepotism section of the Code of Ethics
- although once he became an employee of the village, and was chargeable with knowledge of the Code of Ethics, the trustee’s brother could fairly have assumed that a waiver of the nepotism section was obtained by a village official, as specified under section 21-15 of the Code of Ethics. When he was advised by the Ethics Board to request a waiver, the trustee’s brother made such application
- although Trustee Yizar-Reid was chargeable with knowledge of the Code of Ethics, when she became aware that her brother had applied for the job of Laborer at the Harbor Master Department, she could have fairly assumed that a waiver of the nepotism section was obtained by a village official. Trustee Yizar-Reid was never under an obligation in this situation to request a waiver on behalf of her brother. When she was informed that a waiver was required, she made such a request to the Ethics Board
- The Ethics Board conducted interviews of the persons involved in the hiring of the trustee’s brother and those associated with the complaint; examined emails and texts from the Village of Mamaroneck email accounts and mobile phones of the Village Manager, the trustee and the Harbor Master’ and examined documents and records

relating to the hiring. The board found no evidence of the “concern” expressed in the complaint.

Subsequent to the hiring of the trustee’s brother, he made a request of the Ethics Board for a waiver of the nepotism section. His request was supported by the Harbor Master, his department head. Based on its review of the procedure followed by the village’s Human Resources office in the application process, the factfinding made in the investigation, and the interview of the employee and the Harbor Master, the board approved a post-hiring waiver of the nepotism section.

The Village Manager is no longer serving in his position and is on terminal leave. Under the Code of Ethics, the board could still bring a formal complaint against the Village Manager, but has decided to conclude its investigation with the stated findings of fact.

The board has decided not to bring a formal complaint for the following reasons:

- the Village Manager is now on terminal leave from his position
- to date the Ethics Board has expended several thousand dollars for 1) the cost of stenographic reporters making a record of interviews; 2) forensic technical services for the imaging of email accounts and mobile phone data; and 3) legal fees payable to the lawyers representing village employees who appeared before the board for interviews

If the board filed a formal complaint, it would incur additional costs equal to or greater than those already incurred for the same professional services, as well as possible fees for the issuance and enforcement of subpoenas and litigation arising from the enforcement of any penalties assessed, if a violation of the Code of Ethics were found.

## **The Investigation**

### **The Complaint**

The board received a sworn complaint dated June 9, 2023. The complaint alleged that:

- Village Manager Jerome Barberio violated Code of Ethics Nepotism section 21-4 E (1) (e), by hiring as a full-time employee the brother of Trustee Leilani Yizar-Reid, an elected official, and that
- The hiring of the trustee’s brother gave “...the appearance of a conflict of interest insofar as Trustee Yizar-Reid was the individual who called a March 3, 2023 ‘emergency’ meeting of the Board of Trustees, wherein the Board extended the contract of Mr. Barberio for 4 years at higher salaries in a backroom decision. The hiring of her brother, shortly thereafter, has the appearance of a payback for her support of Mr. Barberio’s salary increase.”

Code of Ethics section 21-15 provides that upon written application by a Village of Mamaroneck officer or employee and/or written approval by the employee’s department head, the board may

grant a waiver of any provision of the Code of Ethics, with certain exceptions, if the board finds that a waiver would not be in conflict with the purpose and interest of the village.

Following the filing of the complaint, the Ethics Board received the following email from Trustee Yizar-Reid:

**From:** Leilani Yizar-Reid <lreid@vomny.org>  
**Sent:** Tuesday, May 23, 2023 5:50 PM  
**To:** Karson, Dan < DKarson@vomny.net>  
**Cc:** Thomas A. Murphy &lttmurphy@vomny.org>  
**Subject:** Nepotism Policy

Dear Chairman Karson:

I am an elected member of the Board of Trustees. I was sworn in on December 5, 2022. Many months after that date, my brother was hired on a full-time basis working for the VOM Harbor Master. I have become aware of Section 24-1 E. of the Ethics Code which states the Nepotism Policy.

Most importantly on learning about the policy stated in 24-1 E, I wanted to immediately disclose my brother's employment by the VOM. I was not involved in any way with his hiring, and I do not directly oversee him or his superior who reports to the Village Manager.

Section 21-4 R. advises to contact the Ethics Board with questions on application of the law, and Sections 21-5 regarding Waiver and 21-6 regarding Advisory Opinions may be applicable.

I am seeking advice on the applicability of the Ethics Code and its provisions on this matter and am available to discuss or answer any questions at your convenience. Thank you for your attention to this matter.

Sincerely,

Leilani Yizar-Reid

A reply was sent to Trustee Yizar-Reid informing her that a request for waiver would have to be made at this time by her brother. In a separate email, the board advised Trustee Yizar-Reid that she notify the Village Manager and Human Resources Director of the matter, including her request for a waiver.

On June 2, 2023, the trustee's brother emailed the Ethics Board requesting a waiver of the nepotism section, permitting his employment by the Harbor Master. The email included a letter from Harbor Master Jeff LaRusso endorsing the request for a waiver.

## **The Investigation**

Following the receipt of the sworn complaint, the Ethics Board initiated an investigation. The investigation included 1) the conduct of interviews; 2) the forensic extraction and examination of selected Village of Mamaroneck email accounts; 3) the forensic extraction and examination of selected Village of Mamaroneck mobile telephones; and 4) the examination of relevant documents.

## **The Chronology, the Job Vacancy and the Hiring**

The job of laborer at the Harbor Master Department became vacant on March 4, 2023. Upon the vacancy's occurrence, and according to the HR Director, HR followed its regular procedure by posting the job opening publicly on the Village's website. Following the posting, the village's clerk's office received six applications for the position, including that of the trustee's brother. The six applications were then forwarded to the Harbor Master. Of the six, the Harbor Master chose two applications for interviews, the trustee's brother and one other.

Following the interviews, the Harbor Master recommended to the HR Director that the trustee's brother be hired for the vacant position, and that the other applicant be hired for a part-time position that was open. The HR Director then informed the Village Manager of the Harbor Master's recommendation, and the Village Manager authorized the hiring of the trustee's brother.

## **Interviews**

The Ethics Board conducted interviews of Village Manager Jerome "Jerry" Barberio, Trustee Leilani Yizar-Reid, the trustee's brother, Harbor Master Jeff LaRusso and HR Director Danielle Gilliard.

In each of the interviews conducted, the Ethics Board asked the persons interviewed whether they discussed, in any form of communication, an understanding that if the village hired the trustee's brother, that the trustee would support or vote to approve the Village Manager's contract. Each denied any knowledge or involvement in such discussion or agreement.

## **Jerry Barberio**

On June 6, 2023, Mr. Barberio sent the following email to the distribution indicated:

<p><b>From:</b> Jerry Barberio &lt;jbarberio@vomny.org&gt; <b>Sent:</b> Tuesday, June 6, 2023 2:49 PM <b>To:</b> Karson, Dan &lt;DKarson@vomny.net&gt;; Agostino Fusco &lt;afusco@vomny.org&gt;; Sally Roberts &lt;sroberts@vomny.org&gt;; Danielle Gilliard &lt;dgilliard@vomny.org&gt; <b>Cc:</b> Allison, Chari Topol &lt;CALLison@vomny.net&gt;; Susan Berenzweig &lt;berenzweig@gmail.com&gt;; DeRose, Maria &lt;MDeRose@vomny.net&gt;; Lauren Perone-Jones &lt;lperone@vomny.net&gt; <b>Subject:</b> Re: Waiver Request Section 21-4 E</p>
--

Hi all,

I first met [the trustee's brother] and his wife [name deleted] on 2/17/23 when we met at the Regatta to discuss raising their house (flood mitigation) and trying to get documentation for available grant money to do so. They live on Lester and suffered significantly from Hurricane Ida. At that meeting, [the trustee's brother] mentioned that if there are any positions that come available to please keep him in mind since [The trustee's wife] is a MAS teacher and works locally. I also learned they have a small child and they want to provide a secure home for their family.

On March 4, 2023, [name deleted] Muller, the former Harbor Master laborer separated employment with the Village because he failed his probationary period, thereby opening up a position at the HM department. Generally, I do not interview or pick candidates for open positions if I do not interview them. I leave that up to the Department Head and the HR Director to recommend a candidate.

In our form of government, the Village Manager is the appointing authority for all Village employees except the C/T and the Police Chief. All other employees are hired and fired/released by me. I only hire the recommendations of the department head and HR Director and have been consistent in that process since day one. I was not asked to hire [the trustee's brother] or even interview him by anyone.

All that being said, if the Board wants to focus on who violated the code, you could only focus on me. If I did, I will face the **appropriate** consequences, however I also respectfully ask you strongly consider a waiver for [the trustee's brother] since he is local resident with local ties, a family man with a small child, and his wife is employed as a local teacher.

Thank you Mr. Karson and Board.

JB

**Jerry Barberio**

*Village Manager*

*Village of Mamaroneck*

*123 Mamaroneck Avenue*

*Mamaroneck, NY 10543*

*Phone 914-777-7703*

*Fax 914-777-7760*

*E-mail [jbarberio@vomny.org](mailto:jbarberio@vomny.org)*

Mr. Barberio was interviewed on October 30, 2023. He was represented by legal counsel.

In the course of his interview Mr. Barberio stated that he had become aware of the nepotism section of the Code of Ethics only when informed of it by the Ethics Board:

CHAIR KARSON: When did you  
4 first become familiar or aware of the  
5 section regarding nepotism?  
6 MR. BARBERIO: I became

7 familiar when you sent me the email  
8 outlining that section.

...

CHAIR KARSON: Is your  
4 statement that prior to receiving  
5 notification from me regarding an  
6 allegation involving the nepotism  
7 section, you were unaware of the  
8 nepotism section of the Code of  
9 Ethics?  
10 MR. BARBERIO: That's correct.

When asked whether he had ever read the Code of Ethics, Mr. Barberio responded as follows:

CHAIR KARSON: When you became  
12 village manager, were you provided  
13 with a copy of the Code of Ethics?  
14 MR. BARBERIO: Amongst other  
15 documents, yes.  
16 CHAIR KARSON: Did you sign an  
17 acknowledgement of your receipt of  
18 the Code of Ethics?  
19 MR. BARBERIO: I signed the  
20 acknowledgement of the new hire  
21 packet. I don't recall if the Code  
22 of Ethics was in there.  
23 CHAIR KARSON: Did you ever  
24 read the Code of Ethics?  
25 MR. BARBERIO: No, sir.

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2 CHAIR KARSON: As village  
3 manager, you never read the Code of  
4 Ethics?

5 MR. BARBERIO: No, sir. I had  
6 no occasion to do so.

7 CHAIR KARSON: And you're  
8 saying the first time you became  
9 aware of the nepotism section is when  
10 I either emailed or you wrote you a  
11 letter informing you of the complaint  
12 regarding the Code of Ethics or the  
13 nepotism section?

14 MR. BARBERIO: That's correct.

Subsequent to the interview, the Ethics Board obtained a copy of the employment packet Mr. Barberio was issued on February 1, 2019, when he was hired as Village Manager. The packet included the Code of Ethics. It was signed by Mr. Barberio and witnessed by the Deputy Village Manager. Mr. Barberio's signature appears below an acknowledgement that "...you have

received and reviewed all the above information”. The “above information” included the Village Code of Ethics, which was attached to the Acknowledgement.

When asked about the hiring of the trustee’s brother, Mr. Barberio gave the following responses:

CHAIR KARSON: When did you  
12 become aware that [the trustee’s brother] was hired  
13 for the position?  
14 MR. BARBERIO: I became aware  
15 that the Harbor Master and the HR  
16 director wanted to hire [the trustee’s brother]  
17 after they interviewed two  
18 candidates.

In response to further questions regarding the hiring of the trustee’s brother, Mr. Barberio stated that after a vacancy occurred in the Harbor Master’s department, a job opening was publicly posted. The Harbor Master and the HR Director conducted interviews of job applicants, and then sent a recommendation to Mr. Barberio that the trustee’s brother be hired.

In response to questions as to whether he had had any discussion with Trustee Yizar-Reid regarding the hiring of her brother and the renewal of Mr. Barberio’s contract, Mr. Barberio stated:

11 CHAIR KARSON: Did you ever  
12 have a conversation with Trustee  
13 Yizar-Reid regarding the renewal of  
14 your employment contract with the  
15 Village, the most recent renewal of  
16 your employment contract with the  
17 Village?  
18 MS. BERG: You're saying  
19 one-on-one?  
20 CHAIR KARSON: A one-on-one  
21 conversation.  
22 MR. BARBERIO: Yes, I think --  
23 I can't recall the date. It was  
24 prior to my March 3rd renewal. She  
25 wanted to know why I was leaving.  
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2 CHAIR KARSON: And what did she  
3 say to you and what did you say to  
4 her?  
5 MR. BARBERIO: I don't recall,  
6 Mr. Karson, what she said to me, but  
7 what I said to her was I'm done with  
8 the games, I'm done with the  
9 nonsense. Stuff like that.  
10 CHAIR KARSON: And what did

11 Trustee Yizar-Reid say to you?  
12 MR. BARBERIO: I can't recall.  
13 CHAIR KARSON: Did Trustee  
14 Yizar-Reid ever express to you her  
15 opinion regarding retaining you as  
16 village manager in a one-on-one  
17 conversation?  
18 MR. BARBERIO: If she did, I  
19 can't recall what she said.  
20 CHAIR KARSON: Did Trustee  
21 Yizar-Reid inform you that she was  
22 planning to call an emergency meeting  
23 of the Board of Trustees for the  
24 purpose of discussing your contract  
25 as village manager?

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2 MR. BARBERIO: No, I don't  
3 think so. I can't recall if she did.  
4 CHAIR KARSON: Did Trustee  
5 Yizar-Reid ever mention to you,  
6 either at the time your contract was  
7 under discussion for review or at any  
8 other time, the -- the subject of her  
9 brother come into the subject of the  
10 conversation?  
11 MR. BARBERIO: No, sir.  
12 CHAIR KARSON: You never had  
13 any conversation with Trustee  
14 Yizar-Reid regarding her brother for  
15 any reason whatsoever?  
16 MR. BARBERIO: After he was  
17 hired, but not before.  
18 CHAIR KARSON: And after the  
19 conversation in which -- in the  
20 conversation which you stated you had  
21 with Trustee Yizar-Reid in which you  
22 informed her that the Village just  
23 hired her brother, what else was said  
24 during that conversation with [her brother]?

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2 MR. BARBERIO: That's all I  
3 said. I don't recall what Trustee  
4 Yizar-Reid said.  
5 CHAIR KARSON: Either prior to  
6 or subsequent to that conversation,  
7 did you have any conversation or,  
8 again, be it an oral conversation, a  
9 text, an email, written  
10 correspondence, a communication of



11 any kind regarding [her brother's]  
12 employment with the Village other  
13 than your statement to her that the  
14 Village had just hired her brother?  
15 MR. BARBERIO: No, sir, not  
16 that I can recall.  
17 CHAIR KARSON: Did you in any  
18 conversation of any kind, be it  
19 email, text, letter, written  
20 document, ever ask or discuss with  
21 Trustee Yizar-Reid her support or  
22 vote in your favor for the renewal of  
23 your contract?  
24 MR. BARBERIO: No, sir.  
25 MS. PERRONE-JONES: Can you  
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1  
2 describe the circumstances under  
3 which that conversation came up, the  
4 one between you and Trustee  
5 Yizar-Reid with regard to you saying  
6 that you had just hired her brother?  
7 Like what brought that up, what were  
8 the circumstances around that?  
9 MR. BARBERIO: Lauren, I think  
10 it was we were passing each other in  
11 the hallway. She uses the conference  
12 room as like a work room sometimes  
13 and maybe we're just passing each  
14 other. It wasn't -- it wasn't a  
15 sit-down or anything of that nature.  
16 MS. PERRONE-JONES: Okay.  
17 CHAIR KARSON: Putting Trustee  
18 Yizar-Reid aside, did you ever have  
19 any communication of any kind with  
20 anyone besides Trustee Yizar-Reid  
21 regarding -- and aside from Ms.  
22 Gilliard informing you that he had  
23 been hired, did you ever have any  
24 communication of any kind with anyone  
25 else regarding the hiring of

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2 [the trustee's brother's] application for  
3 employment or his hiring?  
4 MR. BARBERIO: Yes, sir.  
5 CHAIR KARSON: And please  
6 describe what that was.  
7 MR. BARBERIO: Mayor Murphy  
8 comes to my office several times a  
9 week. And I don't recall the date,

10 but I told the Mayor that Jeff  
11 LaRusso hired [the trustee's brother] to be the new  
12 laborer.  
13 CHAIR KARSON: And what did  
14 Mayor Murphy state in response?  
15 MR. BARBERIO: I don't think  
16 anything, but I don't recall exactly.  
17 CHAIR KARSON: And what was the  
18 reason for your mentioning that to  
19 the Mayor?  
20 MR. BARBERIO: The Mayor comes  
21 into my office and asks -- will ask  
22 me what's going on today, what  
23 happened today.  
24 CHAIR KARSON: Do you recall  
25 when this conversation took place?  
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1  
2 MR. BARBERIO: It must have  
3 been after I signed the paperwork.  
4 CHAIR KARSON: Did the Mayor  
5 say anything to you regarding the  
6 need to get a waiver for the hiring  
7 of [the trustee's brother]?  
8 MR. BARBERIO: No, sir.  
9 CHAIR KARSON: Did anyone  
10 communicate to you the necessity of  
11 obtaining the waiver for the hiring  
12 of [the trustee's brother]?  
13 MR. BARBERIO: Only the email  
14 that came from you and the Board.  
15 CHAIR KARSON: Did the Mayor at  
16 any time prior to [his] hiring  
17 have a conversation with you in which  
18 [the trustee's brother] name came up for any  
19 reason?  
20 MR. BARBERIO: No, sir.  
21 CHAIR KARSON: Did anyone --  
22 again, putting aside the conversation  
23 you may have had or you had with  
24 Trustee Yizar-Reid, and the Mayor,  
25 and the Harbor Master, and Ms.  
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2 Gilliard, did anyone communicate to  
3 you any request, comment whatsoever  
4 regarding the hiring of [the trustee's brother]?  
5 MR. BARBERIO: No, sir.  
6 CHAIR KARSON: Did anyone  
7 suggest to you -- ever suggest to you  
8 in any form of communication that

9 hiring [the trustee's brother] would be a good idea  
10 for purposes of assisting in the  
11 approval of your contract?

12 MR. BARBERIO: No, sir.

13 CHAIR KARSON: Did you ever  
14 have a conversation with Trustee  
15 Yizar-Reid in which you suggested  
16 that you would hire [the trustee's brother] in  
17 consideration for her approval of the  
18 renewal of your contract?

19 MR. BARBERIO: No, sir.

20 MS. ALLISON: Can I just ask a  
21 quick question? In this whole  
22 process of hiring [the trustee's brother] and  
23 people knowing that his sister is an  
24 elected official, nobody, not anybody  
25 not one time said oh, this could be  
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2 construed as nepotism? Never?

3 MR. BARBERIO: Never. Until I  
4 received a communication from you.

Subsequent to the interview, the Ethics Board obtained from the village Human Resources office a copy of the employment packet Mr. Barberio was issued on February 1, 2019, when he was hired as Village Manager. The packet included the Code of Ethics. It was signed by Mr. Barberio and witnessed by the Deputy Village Manager. Mr. Barberio's signature appears below an acknowledgement that "...you have received and reviewed all the above information". The "above information" included the Village Code of Ethics, which was attached to the Acknowledgement. The Deputy Village Manager confirmed to the Ethics Board that he signed the document.

Trustee Yizar-Reid was interviewed on October 24, 2023. She was represented by legal counsel. She stated that she was not aware that her brother had applied for the vacant job at the Harbor Master.

CHAIR KARSON: Were you aware  
14 prior to your brother's employment by  
15 the Harbor Master that he had applied  
16 for a job with the Harbor Master?

17 MS. YIZAR-REID: No.

18 CHAIR KARSON: Were you aware  
19 after you became a trustee that there  
20 were job openings with the Harbor  
21 Master?

22 MS. YIZAR-REID: No, not until  
23 [my brother] had told me.

24 CHAIR KARSON: When did he tell  
25 you?

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2 MS. YIZAR-REID: Around the

3 time he applied, he said that he  
4 applied for a job.  
5 CHAIR KARSON: And after he  
6 told you that he had applied for a  
7 job with the Harbor Master, did you  
8 call anyone, talk to anyone --  
9 MS. YIZAR-REID: No.  
10 CHAIR KARSON: -- or email or  
11 text anyone to -- in which the  
12 subject of that communication was  
13 your brother's application for  
14 employment with the Harbor Master?  
15 MS. YIZAR-REID: No.  
16 CHAIR KARSON: No?  
17 MS. YIZAR-REID: No.  
18 CHAIR KARSON: You were sworn  
19 into office as a Village Trustee on  
20 December 5th, 2022, when you were --  
21 at that time you recall being  
22 provided with a copy of the code of  
23 ethics?  
24 MS. YIZAR-REID: Yes.

Trustee Yizar-Reid stated that she had had no conversations or communications with Mr. Barberio or anyone else regarding her brother's application for a job.

CHAIR KARSON: And after he  
6 told you that he had applied for a  
7 job with the Harbor Master, did you  
8 call anyone, talk to anyone --  
9 MS. YIZAR-REID: No.  
10 CHAIR KARSON: -- or email or  
11 text anyone to -- in which the  
12 subject of that communication was  
13 your brother's application for  
14 employment with the Harbor Master?  
15 MS. YIZAR-REID: No.  
16 CHAIR KARSON: No?  
...  
CHAIR KARSON: Any other  
25 questions? I would just like to make  
2 clear by probably repeating some  
3 questions I already asked you which  
4 is prior to the -- the first time.  
5 Is it your -- are you saying that the  
6 very first time you learned that your  
7 brother was hired by the Harbor  
8 Master was when Jerry Barberio told  
9 you I just hired your brother or  
10 words to that effect?  
11 MS. YIZAR-REID: Yes, it was

12 like a -- like a passerby

13 conversation.

14 CHAIR KARSON: Prior to that  
15 time, did you have any conversation  
16 with Jerry Barberio regarding your  
17 brother being hired by the Village in  
18 any capacity?

19 MS. YIZAR-REID: No.

20 CHAIR KARSON: Did you have a  
21 conversation with anyone in Village  
22 government, elected, appointed  
23 regarding your brother's application  
24 for employment in the Village?

25 MS. YIZAR-REID: No.

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2 CHAIR KARSON: Did you have any  
3 discussion with Jerry Barberio,  
4 regarding any consideration for your  
5 effort to execute his contract,  
6 meaning at any time did you have a  
7 conversation in which Jerry Barberio  
8 either promised you something or  
9 assured you that he would give  
10 something to you or do something for  
11 you in exchange for approval of his  
12 contract?

13 MS. YIZAR-REID: No. And I  
14 wouldn't even take it, honestly. I  
15 can't. I would quit this job before  
16 I do something like that.

17 CHAIR KARSON: Your answer is  
18 no?

19 MS. YIZAR-REID: No,  
20 wholeheartedly, no.

21 CHAIR KARSON: Did you ever ask  
22 or seek assistance from any employee,  
23 elected or not elected, in Village  
24 government to gain employment for  
25 your brother with the Village?

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2 MS. YIZAR-REID: No.

Trustee Yizar-Reid stated that she exercised her authority to call an emergency meeting of the Board of Trustee, out of her concern that the Village Manager's contract was not being addressed, and that the village could lose the Village Manager.

MS. BERENZWEIG: You need to  
25 come to a resolution. What were you

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2 hoping was going to come out of that  
3 meeting?

4 MS. YIZAR-REID: I was -- in  
5 terms of what are we going to do  
6 about Jerry's behavior, in terms of  
7 trying to resign, and also how are we  
8 coming together as a board, because  
9 we literally couldn't even make a  
10 decision. And this is something that  
11 was in executive session -- I can't  
12 remember the dates, but it was the  
13 executive session right before. So  
14 and -- and we couldn't come up with a  
15 decision.

16 MS. BERENZWEIG: Decision --

17 MS. YIZAR-REID: In terms of  
18 Jerry's contract because that was in  
19 executive session, and literally  
20 going back and forth and arguing and  
21 not having -- I don't know if you  
22 know our board now. There's a lot of  
23 animosity constantly happening and it  
24 just funnels back into almost every  
25 decision we make.

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2 MS. BERENZWEIG: Right, so an  
3 executive decision -- you were  
4 thinking that an executive session  
5 would be an emergency session.

6 MS. YIZAR-REID: Yes, in my  
7 head.

8 MS. BERENZWEIG: Would solve  
9 the conflicts you thought.

10 MS. YIZAR-REID: It was to  
11 solve the conflicts within our board.

12 MS. BERENZWEIG: What were you  
13 hoping was going to happen at the end  
14 of the -- at that meeting?

15 MS. YIZAR-REID: That we could  
16 come to a decision of, one, how to  
17 respond to Jerry. It wasn't  
18 necessarily to sign a contract, but  
19 it was to have a discussion about how  
20 are we moving forward, how are we  
21 moving forward as a board. And I was  
22 really upset that why was this  
23 something that waited so long. It is  
24 March. I came in in December. He  
25 was requesting this in a previous

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2 board.

3 MS. BERENZWEIG: Right.

4 MS. YIZAR-REID: Why --

5 MS. BERENZWEIG: When you say

6 this, what --

7 MS. YIZAR-REID: His contract.

8 MS. BERENZWEIG: Was he

9 requesting an extension, or more

10 money or what specifically?

11 MS. YIZAR-REID: I don't know.

12 MS. BERENZWEIG: You don't

13 know?

14 MS. YIZAR-REID: That was a

15 previous board.

16 MS. BERENZWEIG: Because it was

17 before you?

18 MS. YIZAR-REID: But I do know

19 from that executive session, I do

20 know he was requesting something from

21 a previous board that should have

22 been taken care of.

23 MS. BERENZWEIG: That they

24 wouldn't give him.

25 MS. YIZAR-REID: I don't know.

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1 PROCEEDINGS

2 I wasn't there. So that was my

3 issue. That's why I called the

4 meeting. You literally have a

5 village manager who is about to quit,

6 who wants to quit, who's like give

7 him any day, any hour and he will

8 quit, and yet still our board can't

9 come together as a board. That to me

10 is a problem and that's why I called

11 the meeting.

Harbor Master Jeff La Russo was interviewed on November 29, 2023 and was represented by legal counsel. In his interview the Harbor Master stated that he sought to fill a vacancy in his department following the dismissal of an employee for cause. He confirmed that he had written the letter to the Ethics Board requesting that the trustee's brother be given a waiver of the nepotism section of the Code of Ethics.

He gave the following answers to questions:

Did you receive other

4 résumés for the position?

5 MR. LaRUSSO: I received two

6 résumés.

7 M S . B E R E N Z W E I G : D i d y o u m e a n  
8 t w o o t h e r s o r t w o i n t o t a l ?  
9 M R . L a R U S S O : T w o i n t o t a l .

In fact, Mr. La Russo had received six resumes for the position. On March 6, 2023, Susan Albanese, then an Intermediate Clerk in the Clerk-Treasurer's office sent an email to Mr. LaRusso forwarding six resumes received by the village in response to the posting of the vacant position. Mr. LaRusso responded to the email in the same email string on April 3, stating that he wanted to interview two of the six applicants. One was the trustee's brother.<sup>1</sup>

Mr. LaRusso interviewed both applicants in person. When asked how he evaluated the candidate's qualifications, he stated as follows:

C H A I R K A R S O N : H o w w o u l d y o u  
3 d i s t i n g u i s h t h e q u a l i f i c a t i o n s - - t h e  
4 d i f f e r e n c e i n q u a l i f i c a t i o n s b e t w e e n  
5 [ t h e t r u s t e e ' s b r o t h e r ] a n d [ t h e o t h e r a p p l i c a n t ] ?  
6 M R . L a R U S S O : [ t h e t r u s t e e ' s b r o t h e r ] h a d  
7 c a r p e n t r y e x p e r i e n c e , h e ' s b e e n t o  
8 t r a d e s c h o o l f o r c a r p e n t r y a n d w o r k e d  
9 f o r a b u i l d e r b u i l d i n g h o m e s a n d d i d  
10 a l o t o f w o r k w i t h f l o o r i n g a n d  
11 d e c k i n g , w h i c h i s w h e n w e b u i l d d o c k s  
12 i s w h a t w e ' r e d o i n g . S o h e h a d a l o t  
13 m o r e e x p e r i e n c e i n t h a t a s p e c t a n d  
14 u s i n g h a n d t o o l s a n d s t u f f o f t h a t  
15 n a t u r e .

Mr. LaRusso stated that following the interviews, he hired the trustee's brother to the vacant position and hired the other applicant to a seasonal position.

When asked about whether he had had any communication with the Village Manager or anyone else regarding the hiring of the trustee's brother, Mr. LaRusso stated:

C H A I R K A R S O N : A s i d e f r o m t h e  
19 a p p l i c a t i o n t h a t [ t h e t r u s t e e ' s b r o t h e r ] m a d e f o r  
20 t h e p o s i t i o n , d i d a n y o n e m e n t i o n t o  
21 y o u [ t h e t r u s t e e ' s b r o t h e r ' s ] n a m e a s a p o s s i b l e  
22 a p p l i c a n t f o r t h e j o b ?  
23 M R . L a R U S S O : N o .  
24 C H A I R K A R S O N : D i d y o u e v e r  
25 h a v e a c o n v e r s a t i o n o r c o m m u n i c a t i o n  
Page 20  
1 P R O C E E D I N G S  
2 - - w h e n I r e f e r t o c o m m u n i c a t i o n I ' m

---

<sup>1</sup> The Ethics Board later sent a copy of the email exchange and the transcript of Mr. LaRusso's interview to his lawyer, and asked, through the board's counsel, whether Mr. LaRusso wished to amend his answer to the question. No request to do so was received.



3 referring to an in-person  
4 conversation, a telephone  
5 conversation, an email, a text,  
6 anything that constitutes a  
7 communication between two people.  
8 Did anyone speak to you or  
9 communicate with you regarding the  
10 hiring of [the trustee's brother] other than [the trustee's brother]?  
12 MR. LaRUSSO: No.  
13 CHAIRKARSON: Did anyone  
14 instruct you to hire [the trustee's brother]?  
15 MR. LaRUSSO: No.  
16 CHAIRKARSON: Did you know  
17 [the trustee's brother] prior to the time he  
18 applied for the job?  
19 MR. LaRUSSO: I did not.  
20 CHAIRKARSON: When was the  
21 first time you met [the trustee's brother]?  
22 MR. LaRUSSO: In the interview.  
23 CHAIRKARSON: After [the trustee's brother]  
24 was formally hired and informed that  
25 he was hired, when was the next time

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1 PROCEEDINGS

2 that you saw him.

3 MR. LaRUSSO: His first day of  
4 work.

5 CHAIRKARSON: After he was  
6 appointed to the job, did you have  
7 any communication of any kind with  
8 anyone regarding the hiring of [the trustee's brother]?  
10 MR. LaRUSSO: No.

11 CHAIRKARSON: Did you ever  
12 have a conversation with trustee  
13 Leilani Yizar-Reid, his sister  
14 regarding the hiring of [her brother]?  
15 MR. LaRUSSO: No.

16 CHAIRKARSON: Did you ever  
17 have a conversation with Mr. Barberio  
18 regarding the hiring of [the trustee's brother]?  
19 MR. LaRUSSO: No.

20 CHAIRKARSON: None whatsoever?

21 MR. LaRUSSO: No.

22 CHAIRKARSON: No communication  
23 of any kind?

24 MR. LaRUSSO: No.

...

CHAIRKARSON: Do you know who  
3 Leilani Yizar-Reid is?

4 MR. LaRUSSO: Yes.

5 CHAIRKARSON: Who is she?

6 MR. LaRUSSO: She's a trustee.  
7 CHAIRKARSON: At the time  
8 [her brother] was hired, were you aware  
9 that Leilani Yizar-Reid was a  
10 trustee?  
11 MR. LaRUSSO: I knew that she  
12 was a trustee. I did not know that  
13 they were related.  
14 CHAIRKARSON: Are you aware  
15 now that --  
16 MR. LaRUSSO: Now, yes.  
17 CHAIRKARSON: -- that they are  
18 brother and sister?  
19 MR. LaRUSSO: Yes.  
20 CHAIRKARSON: But you were not  
21 aware of that fact at the time that  
22 you hired [her brother]?  
23 MR. LaRUSSO: Not at the time.  
24 MR. NOTO: Again, he didn't  
25 hire him. I just want to be clear.  
Page 24

1 PROCEEDINGS  
2 MS. BERENZWEIG: Interviewed.  
3 MS. ALLISON: Interviewed.  
4 MS. BERENZWEIG: Recommended.  
5 CHAIRKARSON: I will rephrase  
6 my question. At the time [the trustee's brother]  
7 was hired by the Village.  
8 I would like to have this  
9 document marked as Exhibit 2, please.  
10 (Whereupon, a Village of  
11 Mamaroneck annual disclosure  
12 statement for calendar year 2023 was  
13 marked as Exhibit 2 for  
14 identification as of this date by the  
15 Reporter.)  
16 CHAIRKARSON: Mr. LaRusso,  
17 prior to this interview, and aside  
18 from conversations you've had with  
19 Mr. Noto, did you have any  
20 conversations with Jerry Barberio  
21 regarding your interview tonight at  
22 the Ethics Board?  
23 MR. LaRUSSO: No.  
24 CHAIRKARSON: Did you have any  
25 conversation or communication with  
Page 25

1 PROCEEDINGS  
2 any employee of the village regarding  
3 your meeting with the Ethics Board?  
4 MR. LaRUSSO: Only one was

5 Danielle. I just let her know that I  
6 had to come tonight.  
7 CHAIR KARSON: Aside from that  
8 conversation with Danielle Gilliard  
9 -- Gilliard is who I assume you're  
10 referring to?  
11 MR. LaRUSSO: Yes.  
12 CHAIR KARSON: Did you have any  
13 conversation with anyone else  
14 regarding your interview?  
MR. LaRUSSO: No.

Village Human Resources Director Danielle Gilliard was interviewed on January 10, 2024. She provided the details regarding procedures for hiring employees to fill open job positions with the village.

CHAIR KARSON: Would you  
16 describe the regular process for  
17 filling a vacancy, a job vacancy at a  
18 village department when a vacancy  
19 occurs?  
20 MS. GILLIARD: Sure. So a  
21 department notifies me that they have  
22 an opening. Usually I'm aware  
23 because I handle all of the paperwork  
24 for hires, separations, retirements,  
25 so I understand the flow when an

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1 PROCEEDINGS  
2 opening is going to happen. And once  
3 the supervisor says that they are  
4 ready to fill an opening, I get  
5 approval from the village manager to  
6 post the job. I'll do a job posting,  
7 standard language, including  
8 requirements, and I will email it to  
9 all my department heads, copying the  
10 person that's going to be collecting  
11 the responses asking that it's posted  
12 in an area where all employees can  
13 see it. I then give it to my public  
14 information officer, who's Robert  
15 Ingenito, who will post it on the  
16 village's website. I put copies in  
17 my office, I put copies in the break  
18 room. Then I also email a copy to  
19 the community resource center.  
20 CHAIR KARSON: And after that  
21 process is completed, what is the --  
22 when there are responses to the

23 posting of a job, what is the next  
24 thing that happens when the village  
25 receives these various applications?

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2 MS. GILLIARD: Sure. So there  
3 is a person that's designated to  
4 collect the responses. It's not me.  
5 So at the time it was Susan Albanese.  
6 So the responses went to her. She  
7 collects them, she watches the  
8 deadline. It's a ten-day posting,  
9 especially for a union position, and  
10 it's her responsibility to email all  
11 the applications to me, the  
12 supervisor, and depending upon the  
13 role, sometimes the manager and/or  
14 the assistant manager.

Ms. Gilliard confirmed that the office received six applications in response to the posted notice of the job.

Ms. Gilliard also stated that she recalled seeing trustee's brother's application as one of those submitted, and that she was aware that the applicant was the trustee's brother. When asked whether aside from the application submitted by the trustee's brother, anyone had mentioned him to her in connection with the job. Ms. Gilliard said that Trustee Yizar-Reid had done so:

CHAIR KARSON: Ms. Gilliard, in  
8 the following questions I'm going to  
9 refer to anyone communicating with  
10 you regarding the job with the harbor  
11 master and the hiring of [the trustee's brother.]  
12 By the word communicating I mean in  
13 any form: Face-to-face conversation,  
14 telephone, email, text, other  
15 electronic means, writing, or any  
16 other form of communication, so if I  
17 say communicate, talk, write,  
18 whatever, I'm referring to any kind  
19 of contact.  
20 Aside from the application that  
21 [the trustee's brother] submitted for the job, did  
22 anyone mention [the trustee's brother] to you  
23 regarding the job at the harbor  
24 master?

25 MS. GILLIARD: Leilani  
6 (Pages 18 - 21)

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2 Yizar-Reid did. She indicated that  
3 her brother submitted an application,  
4 and she said that it was very nice

5 when I accepted it, so he turned in  
6 his application, he handed it to me  
7 and I just gave it to Susan.  
8 CHAIR KARSON: Was that before  
9 or after he was hired?  
10 MS. GILLIARD: It was before.  
11 CHAIR KARSON: And can you  
12 recall the conversation?  
13 MS. GILLIARD: It was just that  
14 she said that -- my brother says  
15 you're really nice, and I said oh  
16 okay, and I was like okay.  
17 CHAIR KARSON: Did she make any  
18 comment regarding his qualifications  
19 for the job?  
20 MS. GILLIARD: No.  
21 CHAIR KARSON: Did she ask you  
22 to hire him?  
23 MS. GILLIARD: No.

Ms. Gilliard further stated that the decision to recommend the trustee's brother to be hired was made after she and Mr. LaRusso had interviewed the two applicants selected from the six resumes submitted.

CHAIR KARSON: How was the  
25 decision made to offer the job to [the trustee's brother]

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## 1 PROCEEDINGS

3 MS. GILLIARD: Sure. So after  
4 Jeff LaRusso and I interviewed the  
5 two candidates, we spoke about the  
6 openings that we had, and he  
7 indicated that [trustee's brother] would be --  
8 because we had two positions  
9 available. So he wanted Mr. -- he  
10 actually recommended [the trustee's brother] for  
11 the full-time opportunity and Luciano  
12 for the seasonal role. So when the  
13 supervisor is interested in a  
14 candidate, I have to present the  
15 candidate to Jerry Barberio, who is  
16 the hiring manager

When asked whether she was aware of the Code of Ethics section prohibiting nepotism, Ms. Gilliard gave the following answer:

CHAIR KARSON: I will direct  
23 your attention to -- if you flip open  
24 the first page you'll see a yellow  
25 highlighted paragraph and that's the

8 (Pages 26 - 29)

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2 section 24-E1 E which is -- which  
3 states that "where one of the parties  
4 is an elected official, except when  
5 the family member is currently  
6 employed by the village prior to the  
7 elected official obtaining office, or  
8 if the family member is currently  
9 employed by the village and becomes a  
10 family member of an official, an  
11 employee's relative will not be  
12 employed by the village on a  
13 full-time basis."

14 Were you aware at the time that  
15 if [the trustee's brother] was hired that could be  
16 a violation of the code of ethics?

17 MS. GILLIARD: No.

18 CHAIR KARSON: And did you sign  
19 an acknowledgement when you became an  
20 employee of the Village of Mamaroneck  
21 of having received and read the code  
22 of ethics?

23 MS. GILLIARD: So what I  
24 received was kind of a summary of  
25 some policies that was presented to

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2 me. And I wasn't hired as the HR  
3 director, I was hired in another  
4 capacity, so this was what I was  
5 given --

6 CHAIR KARSON: Would you hand  
7 that to the stenographer. And you  
8 can mark that as Exhibit 4, please.

9 MS. GILLIARD: So I wasn't  
10 given -- I was given policies, but I  
11 didn't have to sign-off on that  
12 specific --

[exhibits market -- relevant questions continued:]

CHAIR KARSON: Exhibit 4 states  
8 that you received the code of ethics.

9 MS. GILLIARD: Mm-hmm, when I  
10 was hired.

11 CHAIR KARSON: And did you read  
12 the code of ethics?

13 MS. GILLIARD: At the time,  
14 yes.

15 CHAIR KARSON: And the code of  
16 ethics contained the nepotism clause?

17 You don't recall?  
18 MS. GILLIARD: I don't recall.  
19 But I did -- you know.  
20 CHAIR KARSON: So when [the trustee's brother] was hired, did you recall  
22 anything regarding the code of ethics  
23 and its --  
24 MS. GILLIARD: No, I did not.  
25 CHAIR KARSON: So you did not

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1 PROCEEDINGS  
2 recall or did not know that his  
3 hiring could involve a violation of  
4 the code of ethics?  
5 MS. GILLIARD: No.

...

the record, we have that.  
12 After [the trustee's brother] was hired, did  
13 it come to your attention at any time  
14 that there was a question as to  
15 whether his hiring violated the code  
16 of ethics.

17 MS. GILLIARD: Probably months  
18 later, like beginning of the summer.

19 CHAIR KARSON: How did you  
20 learn of it?

21 MS. GILLIARD: I think [the  
22 trustee's brother] came to my office and said  
23 that there was a problem.

24 CHAIR KARSON: You first heard  
25 about it from [the trustee's brother?]

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2 MS. GILLIARD: Yes.

3 CHAIR KARSON: Did you have a  
4 conversation with anyone else  
5 regarding the hiring of [the trustee's brother] in  
6 connection with the code of ethics?

7 MS. GILLIARD: No.

8 CHAIR KARSON: Did you ever  
9 have a conversation with Jerry  
10 Barberio regarding [trustee's brother's] -- the  
11 hiring possibly violating the code of  
12 ethics?

13 MS. GILLIARD: Once [the trustee's brother]  
14 came to me, yeah, because again, I  
15 was unaware, especially because Jerry  
16 was the hiring manager. I wasn't  
17 aware.

18 CHAIR KARSON: Would you state  
19 what the content of that conversation  
20 was?

21 MS. GILLIARD: I don't really

22 recall. It's more like [the trustee's brother]  
23 came to my office and indicated that  
24 he needed a waiver and I didn't know  
25 what he meant by that.

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2 CHAIR KARSON: What did Mr.  
3 Barberio say?

4 MS. GILLIARD: I don't think he  
5 really said anything. Because I  
6 wasn't directly asked to do anything,  
7 so I just kind of was -- I didn't  
8 know what to do.

9 CHAIR KARSON: Did you have a  
10 conversation with Mr. LaRusso about  
11 it?

12 MS. GILLIARD: I gave -- I did  
13 have a conversation with Mr. LaRusso.  
14 I'm not sure at what point. But  
15 again, it was after [the trustee's brother] came to  
16 my office. I don't recall the  
17 timeframe.

18 CHAIR KARSON: Do you recall  
19 what that conversation was?

20 MS. GILLIARD: He wasn't aware  
21 that he did something wrong and I was  
22 like I'm not aware either.

23 CHAIR KARSON: Mr. LaRusso said  
24 he was not aware?

25 MS. GILLIARD: Well, Mr.

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1 PROCEEDINGS

2 LaRusso was unaware of a waiver or --  
3 he was just unaware of this, that  
4 there was an issue.

The board interviewed the trustee's brother] on November 29, 2023. He stated that he learned of the availability of job at the Harbor Master because he regularly checks the village's website for job openings. He stated that he had met Village Manager Barberio and other village officials after his home and neighborhood were damaged in the flood by Hurricane Ida. He said that he met with village officials in discussions about obtaining a FEMA grant for the damage incurred.

Aside from those meetings, Trustee's brother said that he never had any conversation with Mr. Barberio or any other person regarding a job with the Harbor Master, other than communications with the village about his application for the open position.

Have you ever

13 met Jerry Barberio?

14 ... Yes.

15 CHAIR KARSON: When did you

16 first meet Jerry Barberio?



17...:FirstmetJerry  
18BarberioaftertheHurricaneIda  
19flood.MywifeandIliveinthe  
20village,inWashingtonvillesection  
21ofMamaroneck,acrossthestreetfrom  
22Mamaroneckschool,andwewere  
23floodedprettybad.Andworkingwith  
24thevillageandFEMAtryingto  
25receiveagrant,wehadtomeetwith  
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2DanSarnoffandJerryBarberioI  
3believeanumberoftimes.  
4CHAIRKARSON:Atanytimewhen  
5youattendedameetingwithMr.  
6BarberioorMr.Sarnoff,was there  
7evermediscussionaboutobtaininga  
8jobwiththeVillage?  
9.:No,thiswas  
10strictlybusinessonfloodmatters.  
11Iwasn'teventhinkingaboutworking  
12atthattime.Ihadafull-timejob  
13atthattime.Unfortunateevents,  
14youknow,tumble-weeding,rolling,  
15justlandedmeworkingwiththe  
16villagewhichjustworkedoutinmy  
17favor.

18CHAIRKARSON:Didyoueverat  
19anytimehaveaconversationwith  
20JerryBarberioregardingthejobat  
21theHarborMaster?

22.:No.  
23CHAIRKARSON:Didyouever  
24haveaconversationwithtrustee  
25Yizar-Reidregardingthejobasa  
Page 10

2HarborMaster?

3...:No.  
4CHAIRKARSON:Didyouever  
5haveaconversationwithanyemployee  
6oftheVillageofMamaroneck  
7regardingthejobattheHarbor  
8Master?

9...:No.  
10CHAIRKARSON:Otherthan--  
11asidefromtheinterviewwithMs.  
12GilliardandMr.LaRusso?

13.:No.  
14CHAIRKARSON:Byconversation  
15Imean--I'mreferringtoanykind  
16ofcommunication,email,text,  
17letter,telephonecall,in-person

18 conversation, did you ever have any  
19 kind of conversation regarding your  
20 employment with the Harbor Master  
21 with Mr. Barberio, Mr. Sarnoff, or  
22 any employee of the Village of  
23 Mamaroneck prior to the time you  
24 applied for the job?

25.: I was notified that

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2 I wasn't getting the Parks job.

3 That's pretty much my notification.

4 CHAIRKARSON: I'm referring to

5 the Harbor Master position.

6...: No, not to the

7 Harbor Master. And before I applied

8 at the Parks I applied with DPW as

9 well. I really didn't receive any

10 notification back on that at all,

11 like anything.

12 MS. DeROSE: Would it be fair

13 to say that you regularly check the

14 Village's websites for open positions

15 and applied for where you thought

16 you'd be a good fit.

17.: Yes. I'm sure all

18 of you live herein Mamaroneck. It's

19 not cheap. Working pretty much

20 part-time job is not fitting to suit

21 a family in-- or a house herein

22 Mamaroneck, so I was constantly

23 regularly checking.

24 CHAIRKARSON: I may have asked

25 you this before, but when you were

Page 12

2 notified that you were going to be

3 hired by the Harbor Master, what form

4 did that notification take?

5...: A phone call from

6 Danielle. At the same time I was

7 applying to Harrison, Scarsdale, Town

8 of Mamaroneck. It was just one of

9 those things.

...

When was the

12 last time you had a conversation or

13 communication of any kind with

14 Mr. Barberio?

15...: I'm part of a flood

16 committee. We talk every other

17 Friday regarding flood matters. It's

18 via Zoom. I want to say 12 other

19 people involved on that Zoom.

### The Forensic Examination of VOM Emails and Texts

In seeking any evidence of a connection between the renewal of the Village Manager's contract and the hiring of the trustee's brother, the board retained a digital forensics firm to image selected portions of the Village of Mamaroneck email accounts and village-issued mobile telephones of Mr. Barberio, Trustee Yizar-Reid and Harbor Master LaRusso.

With the cooperation of the village's IT department, the forensics firm imaged the vomny.org email accounts of the Village Manager, the trustee and the Harbor Master. The imaging included any deleted email communications which were retained in the cloud network. Following procedures standard in the legal and investigative professions for email review, the board supplied Repario with search terms that would best indicate whether there had been any agreement consonant with the content of the complaint. The Ethics Board was provided with access to the dedicated server that uploaded the emails and searched the database under the instruction of the firm's technicians.

The forensics firm was instructed to recover all emails, and then narrow down those communications between the period January 2023 to December 2023. After downloading emails from the village server and imaging texts from the mobile phones, the board utilized the search terms to determine if there were emails or texts that suggested or reflected discussions about the relevant subjects of the investigation.

The imaging of the VOM server produced 88,422 emails - 67,630 for Mr. Barberio; 9,776 for Mr. La Russo; and 11,016 for Trustee Yizar-Reid.

The Ethics Board worked with the forensics firm in utilizing the platform created to read the emails and mark those that were responsive to the issues in the investigation.

The email review disclosed one thread, referenced above, that contradicted the testimony of the Harbor Master, regarding the number of applications received for the Laborer position. No other communications relevant to the investigation were found in the email analysis. The Ethics Board found no indications or evidence of an agreement between or among any of the persons interviewed that if the trustee's brother was hired by the village, the trustee would vote to approve the village manager's contract extension.

The Ethics Board then conducted a forensic investigation of phone texts and voicemails.<sup>2</sup> The board requested that Mr. Barberio, Trustee Yizar-Reid and Mr. LaRusso produce their Village of Mamaroneck issued cell phones for phone data recovery. The forensic firm was instructed to recover all texts and voicemails and the Ethics Board narrowed down the dates from January 1, 2023 to July 1, 2023.

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<sup>2</sup> The board was informed by the forensics firm that to synchronize the iPhone with the Cloud would have required the user to choose those options on their device. None of the three phones were synced to the Cloud or other devices.

From the review of these three mobile phones, the Ethics Board found no responsive communications on Mr. LaRusso's or Trustee Yizar-Reid's phones. The Board found that there were much fewer text/call data on Mr. Barberio's VOM phone between the dates of March 2022 and August 2023. The forensics firm confirmed that this was an indication that data during that period of time was not necessarily deleted, but that the phone may not have been used for all work calls and texts. Mr. Barberio was asked if he had or has had more than one Village of Mamaroneck issued phone to which he replied that he did not. The forensics firm indicated that Mr. Barberio's current VOM issued phone was bought in March 2023 and had its data migrated from another device. It should also be noted that the data on these phones were not synced with the Cloud or with other devices. Therefore, if data was deleted, it would be unrecoverable.

Again, the Ethics Board examined the content of the mobile phones utilizing selected search terms and under the guidance of Repario technicians. No indications or evidence of an agreement were found.<sup>3</sup>

### **Findings**

Based upon the interviews conducted, its review of relevant documents and of the emails and phone contents it examined, the Ethics Board finds as follows:

- In authorizing the hiring of the trustee's brother, the Village Manager violated section 21-4(E)(1)(e) of the Code of Ethics.
- Assuming the statements made in their interviews were truthful, the board makes the following findings regarding the duties and responsibilities to observe the Code of Ethics provisions:
  - the Village Manager and HR Director should have been aware of the nepotism section of the Code of Ethics and should have initiated a request for a waiver
  - the trustee's brother was not chargeable with knowledge of the Code of Ethics until he became an employee of the village on April 17, 2024. Although he was responsible for such knowledge upon becoming an employee, he could fairly have assumed that a waiver on his behalf was sought and obtained. Upon learning that a waiver was required, he made application for a waiver on June 2, 2024.
  - trustee Yizar-Reid was not under a duty in this situation to apply for a waiver of the Code of Ethics on behalf of her brother. She was responsible for knowledge of the Code of Ethics upon her assumption of office in December 2022. However, even assuming that she was chargeable with knowledge of the nepotism section of the code, when she learned of her brother's employment by the village, she fairly could have assumed that the Village Manager or the Harbor Master, if either knew that her brother was her brother, would have sought the waiver required by the code. It was never her duty or obligation to do so.

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<sup>3</sup> None of the mobile phone users installed iCloud accounts. Consequently, any data erased from the phones were not stored in the Cloud network.

- The Ethics Board cannot determine the qualifications or suitability for the job for which the trustee's brother was hired. However, based on the board's review of the six applications submitted to the village for the job, the trustee's brother's qualifications did not appear to be inferior to any of the other applicants, and the reasons provided by the Harbor Master and the HR Director for hiring the trustee's brother, based solely on the requirements of the position, as described, appeared sufficient to support his hiring. While the board finds that the employment of the trustee's brother without gaining a prior waiver violated the Code of Ethics, the board has held that the trustee's brother was not culpable of any wrongdoing. Not granting a post-hiring waiver, while possibly redemptive of the intent of the Code of Ethics, would have been unnecessarily punitive. Consequently, the Ethics Board approved a post-hiring waiver of the nepotism section.
- To date the Ethics Board has expended several thousand dollars for: 1) the cost of stenographic reporters making a record of interviews; 2) forensic technical services for the imaging of email accounts and mobile phone data, and 3) legal fees payable to the lawyers representing village employees who appeared before the board for interviews. If the board now files a formal complaint, the board would incur additional potential costs equal to or greater than that already incurred for the same professional services. Additional cost could include fees involving the issuance and enforcement of subpoenas, and litigation arising from the enforcement of any penalties levied for finding of a violation of the Code of Ethics, if a violation were found and a fine imposed.

March 18, 2025

Daniel E. Karson – Chair  
 Chari Topol Allison  
 Susan Berenzweig  
 Lauren Perone Jones