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600 Fifth Avenue
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COUNCIL OF THE CITY OF ROCHESTER

SINGLETARY, LA'RON

Total Fees Paid: \$0.00

Employee:

State of New York

MONROE COUNTY CLERK'S OFFICE
WARNING – THIS SHEET CONSTITUTES THE CLERKS
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JAMIE ROMEO

MONROE COUNTY CLERK



**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE**

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In the matter of the Application of :
COUNCIL OF THE CITY OF ROCHESTER : Index No. E2020009990
Petitioner, :

For an Order, Pursuant to Article 23 of the CPLR, :
to Compel Compliance with Legislative :
Subpoena, :

-against- : **AFFIRMATION OF
MALIK D. EVANS**

LA'RON SINGLETARY, :
Respondent. :

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MALIK D. EVANS, pursuant to CPLR § 2106 states the following under penalty of perjury:

1. I am a member of the Council of the City of Rochester, Petitioner in this matter. I submit this affirmation in further support of Petitioner’s application for an order, pursuant to CPLR § 2308(b), compelling Respondent La’Ron Singletary, former Chief of Police of the Rochester Police Department (“RPD”) to comply with a legislative subpoena issued to him by the City Council on September 24, 2020, requiring his testimony under oath and the production of certain documents in his possession, custody and control.

2. On September 15, 2020, the City Council unanimously passed Ordinance No. 2020-283, authorizing the City Council President to retain the law firm Emery Celli Brinckerhoff Abady Ward & Maazel, LLP (“ECBAWM”) “to conduct an investigation into the City’s

communications, processes, and procedures that took place related to the death of Daniel Prude in police custody” (the “Investigation”). City of Rochester Ordinance No. 2020-283 § 2 (Dkt. 5).

3. On September 17, 2020, City Council President Scott appointed me to the newly created Rochester City Council Prude Independent Investigation Committee (the “Special Committee”). The Special Committee comprises myself and Councilmember Michael Patterson. The purpose of the Special Committee is to oversee ECBAWM’s work, on behalf of the Council, over the course of the Investigation, and to serve as an intermediary between the firm and the full Council. For example, if ECBAWM wanted to inform the City Council that it would be releasing a statement to the press, that information would be conveyed to the Special Committee.

4. The Special Committee was also listed on the subpoenas for witness testimony issued by City Council in furtherance of the Investigation. For example, the subpoena issued to Respondent Singletary directs him to “appear at a meeting of the City Council Prude Independent Investigation Committee . . . to testify under oath.” *See* Dkt. 7 at 1. This reflected the City Council’s intention that the Special Committee oversee the Investigation.

5. Because of the City Council’s desire that the Investigation be independent, I determined in September that I should not be present for the examination of subpoenaed witnesses; my fellow member of the Special Committee decided the same. Although witnesses were commanded in the subpoenas to appear at a meeting of the Special Committee to provide testimony, we determined that convening such meetings with the two of us present could create the appearance of a lack of independence and therefore would frustrate the purpose of the Investigation. Convening a Special Committee meeting for each deposition would mean that City Council members would be privy to witness testimony as it unfolded, and it would also require that the depositions be open to the public under the Open Meetings Law. If these

depositions were open to the public, a witness who was scheduled to be deposed later in the Investigation could access, and might be influenced by, earlier witness testimony. This arrangement would put the integrity of the Investigation at risk.

6. In light of these concerns, on September 29, 2020, Councilmember Patterson and I sent a letter to Andrew G. Celli, Jr., the attorney leading the Investigation, informing him that we did “not wish to be present at any of the depositions taken by virtue of subpoenas already issued or to be issued by the Council President.” *See* Exhibit A to the Affirmation of Andrew G. Celli, Jr, dated January 11, 2021. This letter authorized Mr. Celli to conduct the depositions outside the public view.

7. While it is our intention that depositions of subpoenaed witnesses be taken outside the public eye, upon completion of the Investigation, the City Council will examine the resulting report and its supporting documents, including transcripts of the depositions taken by Mr. Celli and his team, at a public meeting or hearing.

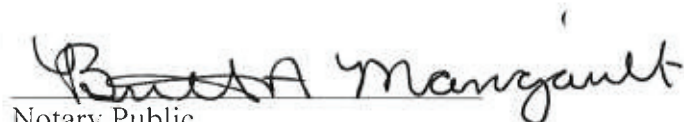
8. I believe that this arrangement is in the best interests of the Investigation and that the Special Committee is authorized to instruct Mr. Celli to conduct depositions pursuant to City Council subpoenas made returnable to the Special Committee outside the public eye. In the event that this Court should rule otherwise and require instead that the deposition of Respondent Singletary be conducted in public, I am prepared to convene and attend a public meeting of the Special Committee so Respondent Singletary can testify in such a forum. This meeting would be open to the public, in accordance with the Open Meetings Law.

Dated: January 11, 2021
New York, New York



MALIK D. EVANS

Sworn to before me this
11 day of January 2021.



Notary Public

BIRTH A. MANGAULT
Notary Public, State of New York
No. 01MA6291735
Qualified in Monroe County
Commission Expires Oct. 21, 20**21**