

July 7, 2023

VIA EMAIL ONLY

Mankah Mitchell
Ben Roovers
Office of Legal Counsel
Madison Metropolitan School District
545 West Dayton Street
Madison, WI 53703

Re: Response to Summary of the Investigation Into Allegations Against Tim LeMonds

Dear Attorneys Mitchell and Roovers:

As your records should reflect, I am counsel for Tim LeMonds. For the record, I object to the short amount of time provided to him to respond to something this important, and I further object to expecting a thorough response when he does not have access to documents he would need to provide such a response. With those objections lodged, I respond on his behalf below.

Preliminary, general response: Tim was informed by Investigator Shana Lewis, by MMSD Human Resources and MMSD Legal Counsel that the second investigation [this investigation] would not include anything covered in the original complaint and associated investigation. Emails and other communications to which Tim lacks access should support this contention.¹ There is considerable overlap between this investigation and report and the first complaint and investigation report. Tim was absolved of nearly all allegations from the original complaint and investigation. A repeated investigation over matters already resolved constitutes labor-law double-jeopardy.

https://www.tdu.org/double_jeopardy_an_underappreciated_defense#:~:text=Under%20the%20workplace%20double%20jeopardy,original%20punishment%20was%20indefensibly%20lenient.

Allegation:

1. Tim engaged in retaliation against and bullying toward Ellie Herman. The facts supporting this conclusion include, but are not limited to:
 - a. From January 2022 until May 2022, Tim pursued a salary increase for Ms. Herman. He informed Ms. Herman and several others within the Communications Department about his efforts.

¹ Tim will make reference to situations where he believes email or other written communication would support his response.

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Response:

- There were many delays in response from HR with respect to this issue that spread over several months (due to staff shortages and turnover in HR). There is email evidence to validate this. But it appears Ms. Herman blamed Tim for the delays.
- Initially, Amy Knight was Ms. Herman's supervisor. Normally, Tim would require an individual's supervisor to advocate for a reclassification or pay raise. However, Ms. Knight was especially busy at this time. So, Tim took responsibility for leading the fight to address Ms. Herman's concerns. But this was an exception compelled by Ms. Knight's exceptionally busy schedule. (For reference, Ms. Knight was Ms. Herman's originally supervisor. A reorganization shifted responsibility to supervise her to Jared Kuruzovich. When Mr. Kuruzovich quit, Tim became Ms. Herman's interim supervisor until Ian Folger became her direct supervisor).
- In addition, Tim encouraged Ms. Herman to apply for two separate vacant communications positions with higher pay rates. On one occasion, Tim spoke to Amy Knight to gauge Ms. Herman's interest in a higher paying comms/marketing role for which MMSD was actively recruiting. Tim discussed with Ms. Herman how this position could open new doors for her, and it would solve her concerns regarding pay. Ms. Knight agreed this could be a great opportunity and indicated she would have a conversation with Ms. Herman about it. In both instances, Ellie Herman declined to apply for these higher classified positions.
- Witnesses who should be able to confirm these assertions include: Amy Knight and Richard McGregory. Also, there should be email communications verifying the assertions.

Allegation:

- b. In May 2022, when Tim learned that Ms. Herman had followed up with the District's Human Resources Department (HR) directly about the salary increase; he intentionally ceased all efforts to pursue a salary increase for her.

Response:

- Tim did not decide to "cease all efforts to pursue a salary increase" because she had followed up with HR. Rather, Tim chose to "wait" or pause efforts for his continued follow-up on Ms. Herman's potential reclassification for the following reasons only:
 - Tim decided to pause efforts for a job reclassification / pay raise for Ms. Herman due to labor negotiations occurring in May 2022 (the month cited in this finding). As a supervisor, it was well within Tim's right to pause this effort as he did not think the timing was appropriate. The district's teachers and staff were protesting a proposed two percent salary increase as too meager. Simultaneously, Ms. Herman was seeking, with Tim's help, a salary adjustment up to \$10,000 in addition to the two percent increase. Had Ms. Herman received everything she wanted, she would have received a 23 percent salary increase. At the time, Ms. Herman had only been working at MMSD for a year and a half, at the salary she originally accepted. Email evidence should support this contention. In sum, Tim's pause was a coincidence. Ms. Herman followed-up with HR at the same time the dispute over the size of a teacher raise was an intense and public issue.
- Evidence of Tim's intent to only pause and not "cease salary increase efforts" can be found in the actual complaint authored by Ellie Herman, which states Tim's intentions were to "wait" before resuming efforts for a salary increase as opposed to what the investigator incorrectly alleges in this finding, that Tim decided to "cease all efforts to pursue a salary increase." The excerpt from Ms. Herman's complaint states, "*June 2, 2022 Amy calls Ellie to update her further on Tim's stance about Ellie's raise. Amy shares that Tim said: he wanted to wait until the base wage pay MTI called for is settled over the summer. He can't talk to HR because if anyone in HR is in MTI, they might get mad that other Doyle employees are getting additional money.*"
- Later, the pause in pursuing a reclassification/pay increase for Ms. Herman was exacerbated when Tim's supervisor, Dr. Richard McGregory raised an issue regarding a lack of communications support for West High School, which is one of Ms. Herman's assigned

schools. Dr. Gregory also inquired with Tim if he thought Ms. Herman should be placed on an improvement plan. Tim replied that he first wanted to have a conversation with Ms. Herman regarding West High School so that Ms. Herman had a fair opportunity to make corrections / adjustments to her work. Ian Folger was a witness to this conversation with Ms. Herman, which was positive. Tim, as the communications director, was well within his right to continue to pause efforts of additional salary increase until performance issues raised by Tim's supervisor were appropriately resolved with Ms. Herman.

- Witnesses who should be able to verify these matters include: Amy Knight, Ian Folger and Richard Gregory. Moreover, email communications should also verify Tim's contentions.

Allegation:

- c. Tim never told Ms. Herman of his decision to stop pursuing the salary increase for her. Mr. LeMonds did, however, tell at least two colleagues within the Communications Department that he would no longer be pursuing a salary increase for Ms. Herman because of her decision to contact HR.

Response:

- Tim never decided to stop pursuing a salary increase for Ms. Herman. As previously outlined, Tim communicated to Ms. Herman's supervisor, Amy Knight, that he was only "waiting" or pausing efforts until the issues outlined above were resolved.
- At the relevant time, Amy Knight was Ms. Herman's supervisor, not Tim. Tim took on the reclassification effort out of courtesy to Ms. Knight, recognizing she already had a heavy workload. Tim acknowledges that when Ms. Herman contacted HR directly, Tim believed she effectively ignored his concerns about appropriate timing with MTI wage negotiations and other matters. Tim further acknowledges that Ms. Knight, as Ms. Herman's actual supervisor, was best suited to take over Ms. Herman's salary increase efforts. Tim perceived that Ms. Herman was unhappy about his decision to pause efforts, so he believed stepping aside so her actual supervisor could lead the efforts was the best course to take.
- Shortly after, when Ian Folger was hired as Ms. Herman's new supervisor, Tim shared with Mr. Folger that he (Folger) would be the lead in pursuing any salary increases for his staff moving forward, including Ms. Herman. Tim believed this was a duty best suited for Ms. Herman's direct supervisor who would have a better sense of her performance.
- In sum, Tim did not stop pursuing a salary increase for Ms. Herman in retaliation for anything. Considering Ms. Herman's dissatisfaction with his approach, he decided it was best that her actual supervisor lead the effort, which frankly made the most sense in the first place. Tim did not interfere in any way with Ms. Herman's desire for reclassification or a wage increase.
- The following witnesses should be able to verify Tim's contentions: Amy Knight and Ian Folger. The language in Ms. Herman's complaint also verifies the above.

Allegation:

- d. In Fall 2022, Tim assigned other Communications Department employees to supervise Ms. Herman. Tim did not inform Ms. Herman's newly assigned supervisors that she was waiting for a response to her request for a salary increase. In fact, with one supervisor, Tim told him that Ms. Herman had wanted a higher salary, but Tim wanted to see more productivity from Ms. Herman before he would advocate for her.

Response:

- In the fall, 2022, between the time Jared Kuruzovich departed and the hiring of Ian Folger, Tim served as Ms. Herman's temporary supervisor (for approximately 2.5 months), and during this time he did not assign anyone else as Ms. Herman's supervisor. Tim informed staff that he would serve the role of Ms. Herman's supervisor as well as crisis communications lead *until there was a new hire*. There was a new hire: Ian Folger. Tim did not assign "other Communications

Department employees” to supervise Ms. Herman. When Mr. Folger took over, he assumed the duties of his predecessor Mr. Kuruzovich, one of which was to supervise Ms. Herman.

- When Mr. Folger was ultimately hired as Ms. Herman’s new supervisor, Tim shared with him that he (Mr. Folger) would be taking the lead on all salary increases for his direct reports, including Ms. Herman. He also shared with him Ms. Herman’s desire for a higher salary.
- In the fall, 2022, Tim believed some of the concerns over Ms. Herman’s performance in supporting West High School remained as outlined above. This information was shared with both Mr. Kuruzovich and later Mr. Folger, as Ms. Herman’s supervisors respectively. They were informed that the Madison West issues were an area Ms. Herman needed to continue to focus on as they continued their work advocating for Ms. Herman’s salary increase.
- Witnesses who should be able to verify these contentions include: Ian Folger and Richard McGregory.

Allegation:

- e. Starting in and around December 2022, after he learned Ms. Herman had filed a complaint against him.
1. Tim largely stopped interacting with Ms. Herman, which impeded her ability to perform the functions of her employment. He did not pick up the phone when she called; he delayed responses or failed to respond to her email correspondence; and he avoided working directly with her.

Response:

- Tim was only Ms. Herman’s temporary supervisor/direct report until her new supervisor was hired. Tim’s contact / interactions with Ms. Herman became far more limited due to the hiring of Ian Folger who became Ms. Herman’s supervisor. With Mr. Folger in the role of her supervisor, Tim’s need to interact with Ms. Herman naturally substantially decreased, including his role in answering day-to-day questions and providing guidance and support. Tim did not treat any other employee with a separate direct report any differently than he treated Ms. Herman.
- There is no substantial evidence to support the claim that Tim did not pick up the phone or respond to Ms. Herman’s correspondence. It is possible that isolated emails went unanswered, or that Tim did not respond to a handful of calls. Again, if this happened, it was not because Tim treated Ms. Herman any differently from a similarly situated employee. Tim was Director of his department; thus, he was very busy with his own work and booked solid with meetings.

Allegation:

2. Tim also attempted to interfere with Ms. Herman's relationships with other Communications Department employees by informing them that she had made accusations against them within or related to the complaint against him.

Response:

- When Tim learned the details of the complaint just days before it was to be released to the news media through a public records request, Tim recognized the extremely inflammatory language it contained would make it a significant and highly negative news story, which it ultimately was. The complaint referenced two other staff members in his office, and cast them in a negative light. As their supervisor, Tim felt it was his responsibility to inform them about what was coming. Later, Tim checked-in with his supervisor, Dr. Richard McGregory, regarding sharing this information with the two staff members. Dr. McGregory agreed it was appropriate given the circumstances. Tim’s concern was only for the wellbeing of these two employees who were going to be portrayed negatively in the media.
- Tim did not provide details of the complaint to the two staff members, and only spoke in generalities. Tim did not share the complaint with either staff member, even though it was a public record and was to be printed in the news within days. Tim and both staff members agreed not to speak of the complaint moving forward.

- A few days later, Tim delayed the release of the complaint by taking legal action. Months later, the complaint would be released with intense news media attention. When the news finally broke, those employees listed in the complaint were recommended to work virtually for mental health reasons, further justifying Tim's feelings on how the public release of the complaint would impact these two staff members.
- In sum, Tim truthfully told two employees that Ms. Herman's complaint would cast them in a negative light at a time when Tim reasonably believed Ms. Herman's complaint was to be made public imminently, and that the report would garner a lot of media attention. His decision to do so was ratified by Tim's supervisor. While Tim was able to delay the release of the report, in the end, the report was released, which conclusively and publicly demonstrated that Ms. Herman "had made allegations against [the employees] within or related to the complaint."
- Witnesses who should be able to verify these assertions include: Richard McGregory, Amy Knight and Jodi Fiedler.

Allegation:

- f. In March 2023, Tim reported his concerns about Ms. Herman's conduct to HR and inaccurately attributed the concerns to another employee within the Communications Department.

Response:

- In March, 2023, staff member Jodi Fiedler reported to Tim's office to share three comments made by Ms. Herman to comms team members which were inaccurate and derogatory. These comments included:
 - Alleging that Tim told her nobody at West High School liked her (which is false, as there was a witness to this conversation, Ian Folger, who can verify this comment was never made).
 - Alleging that Tim told her that no other staff member was able to speak to a reporter, even if it was for pitching a good news story. (This is also false. Tim had to clarify repeatedly at staff meetings the need to progressively pitch positive news stories to the news media. Several witnesses can verify these conversations).
 - It was also alleged Mr. Herman called Ian Folger a liar.
- When Tim learned of Ms. Herman's behavior from Ms. Fiedler, he was concerned enough to contact legal counsel Ben Roovers to share his concerns, and to obtain his thoughts on how to address Ms. Herman's behavior without it being retaliatory in any way. Tim shared with Mr. Roovers that all he wanted was the behavior to stop. Mr. Roovers felt it was concerning enough to email HR and to recommend HR independently look into Ms. Herman's behavior.
- Tim followed-up Ben Roovers' email with his own email to HR's Lisa Mortenson requesting a conversation as a follow-up to Mr. Roovers' recommendation, further expressing in the email the importance of this being done fairly for Ms. Herman (there is email evidence to support this).
- The next day, Tim spoke to Lisa Mortenson about Ms. Herman's alleged behavior, and requested she look into it to verify the allegations of Ms. Herman's behavior. Tim did not want nor did he request any discipline; rather, he only expressed how he wanted someone to tell Ms. Herman to stop this behavior if it had occurred. Tim also requested from Ms. Mortenson a mediation with Ms. Herman to fix the relational issue between them so they could move forward.
- Ms. Mortenson then asked Tim to share the alleged comments by Ms. Herman via email.
- Tim called staff member Jodi Fiedler and asked her to share with him what Ms. Herman allegedly had said. However, Ms. Fiedler shared with Tim that she preferred to share the information directly with HR.
- Tim then emailed a message to Ms. Mortenson informing her that Jodi Fiedler would be sharing the information with her directly (Tim believes there is email evidence to support this).
- Tim never heard back on the review of Ms. Herman's alleged behavior, nor did he hear anything back from Ms. Mortenson on his request for mediation between himself and Ms. Herman.
- The accusation lacks sufficient detail to respond to what is meant by "inaccurately attributing the concerns to another employee." If the insinuation is that Tim attributed the concern to Ms. Fiedler,

the response demonstrates that he did *not* do that. If there is another employee at issue, Tim does not know who that could possibly be.

- Witnesses who should be able to verify Tim's assertions: Amy Knight, Jodi Fiedler, Ben Roovers and Lisa Mortenson.

Allegation:

2) Tim engaged in retaliation against and bullying of Michael Wetzel. The facts supporting this conclusion include, but are not limited to:

- a. In December 2022, when Tim learned that Mr. Wetzel had filed a complaint against Tim, Tim assigned Mr. Wetzel to staff the reception desk at the District's office; something Mr. Wetzel had not been assigned to do previously.

Response:

This allegation was investigated in the first investigation and was found to be without merit.

- Mr. Wetzel's staffing the reception desk was a directive from Tim's supervisor Dr. Richard McGregory, and a directive that Tim followed. At the urging of Dr. McGregory, both Mr. Wetzel and former staff member Brad Mackey, were working virtually, with Mr. Wetzel on a hybrid model, and were both asked to return in-person, full time. Part of that restart process included temporarily helping provide coverage for the front desk until LTE's could be hired to provide coverage.
- Tim inquired about a hybrid model where Mr. Mackey and Mr. Wetzel could rotate in-person and virtually, however, this concept was rejected by Tim's supervisor.

Allegation:

- b. Starting in and around December 2022, when Tim learned that Mr. Wetzel had filed a complaint against Tim, Tim resurrected prior discussions about eliminating Mr. Wetzel's position in order to remove him from the Department. Tim continued to pursue the elimination of Mr. Wetzel's position through May 2023.

Response:

- Tim did not "resurrect prior discussions about eliminating Mr. Wetzel's position" as alleged by the investigator of this report. Rather, it was a recommendation by Tim's supervisor, and a recommendation Tim followed to achieve a required 12 percent budget cut within all departments at Central Office. The concept was to consolidate both Mr. Wetzel's position and another vacant position into one and create a higher-level position to provide web lead services and technical support while also achieving the 12 percent budget cut. Dr. McGregory made the recommendation because the consolidation concept had been used in the communications department previously with success. Prior to Dr. McGregory's recommendation to consolidate, Tim and Jodi Fiedler were contemplating monetary budget cuts to what was already a very small communications budget.
- There is email evidence that supports Tim's attempts to engage with HR, on several occasions, to provide Mr. Wetzel months of time and support prior to any cut, to find another equivalent position within the school district if the consolidation concept was approved.
- The action to consolidate and create a new position was approved by Dr. McGregory and other MMSD leaders. In addition, the consolidation of these positions was referenced by Dr. McGregory at a Senior Leadership Team meeting as a creative concept to achieve cuts that many departments were struggling to make.
- Only later, when Mr. Wetzel's supervisor, Amy Knight, requested a follow-up meeting with HR on next steps, did HR inform Tim and Ms. Knight of a plan to offer Mr. Wetzel an opportunity to receive the appropriate training for the newly created position. Tim and Ms. Knight agreed with this new strategy.
- Witnesses who should be able to verify this assertion include: Amy Knight, Jodi Fiedler, Ben Roovers and Lisa Mortenson.

Allegation:

3. Tim was dishonest with District employees, including his supervisor, and insubordinate toward his supervisor, Dr. McGregory. The facts supporting this conclusion include, but are not
 - a. On or about September 8, 2022, Tim contacted Mr. Folger to explain his leadership philosophy and plans for the position that had been offered to Mr. Folger, to identify his efforts to increase the salary for this position, to address confusion about the title and the responsibilities, and to encourage him to accept the position. During the call, Tim told Mr. Folger: "The job is how I've described it to you, not HR."

Response:

- Tim attempted to explain to Mr. Folger that his position would report to and support the communications manager position which was still vacant and would later be filled by Jared Kuruzovich. In this support role, Tim explained to Mr. Folger to expect the communications manager to pull Mr. Folger into some of his marketing-related projects for support. Tim understood that Mr. Folgers' years of marketing experience was also an asset that could help the new communications manager, the communications department, and the school district in their marketing efforts. Tim felt that Mr. Folgers diverse experience is what made him a great addition to the team and Tim believed this additional support would fall under the "other duties as assigned" category included in all communications department position descriptions. This was in alignment in developing a communications work model with communications generalists to support cross functional work and support. Tim did *not* rewrite Mr. Folger's job description or "go rogue." In explaining the position to Mr. Folger, Tim merely meant that the description did not explicitly include the manner in which Mr. Folger's marketing experience could be useful to the department, but that Mr. Folger should consider Tim's explanation of his vision to fit into the "other duties as assigned" category.

Allegation:

- b. In October 2022, Tim provided inaccurate information to Dr. McGregory and others when he reported that Ms. Fiedler and other female Communications Department employees had complained about Mr. Kuruzovich.

Response:

- On the day that Mr. Kuruzovich informed Tim at a check-in meeting that he did not believe he was a good fit for the position and was resigning, Ms. Fielder shared with Tim that afterwards, Mr. Kuruzovich came into her office, agitated. She informed Tim that Mr. Kuruzovich had spoken negatively about Tim. She also told Tim that Mr. Kuruzovich said that he had "sent a long email to Dr. Jenkins." Later, Ms. Fielder explained to Tim that Mr. Kuruzovich's behavior was concerning and that she did not want to engage in a conversation about Tim with him.
- Mr. Kuruzovich showed up for work the next day and sent an email to Tim indicating his intention to resign, but still wanted to work two more weeks.
- Amy Knight requested permission from Tim to work virtually, indicating that Mr. Kuruzovich made her feel uneasy. (Time believes there should be text message or email verification of this assertion).
- Tim shared all the above information with HR's Lisa Mortenson, who supported ending his employment that morning as opposed to Mr. Kuruzovich's request for two weeks. Ms. Mortenson asked Tim to request that Mr. Kuruzovich report to HR, where Ms. Mortenson walked Mr. Kuruzovich out of the building.
- Tim shared information about the morning's events with his supervisor Dr. McGregory and why the decision was made to walk Mr. Kuruzovich out that morning, including the fact that Mr. Kuruzovich made some female employees feel uneasy.

- Days after Mr. Kuruzovich's departure, Amy Knight informed Tim that she had dismantled part of Mr. Kuruzovich's cubicle area, because she found walking by it was "triggering" for her. Ms. Knight's comment validated Tim's concerns about how Mr. Kuruzovich was making female staff feel.
- Witnesses who can verify Tim's assertions include: Amy Knight, Jodi Fiedler, Richard Gregory and Lisa Mortenson.

Allegation:

- c. Despite being encouraged to work with HR and within the District's established systems, when he did not receive the answers he wanted and/or when the systems interfered with his goals/objectives, Tim would disregard or undermine the efforts of HR and the District's established systems.

Response:

- This allegation is so vague Tim is not able to respond to it. It is possible that there are a small number of situations where Tim took matters into his own hands. However, Tim was not alone among department heads in engaging in self-help. There were severe staff shortages in HR, and much turnover. Tim, like many department heads, struggled for months to obtain support from HR, as indicated by dozens of emails from Tim to several different HR representatives requesting guidance.

Allegation:

Tim also assigned Brad Mackey to staff the reception desk at the District's office, which is something Mr. Mackey had not previously been assigned to do. Mr. Mackey had also filed a complaint against Tim.

Response:

As explained above, this was at the directive of Tim's supervisor, Dr. Richard Gregory.

Allegation:

- 4) While Tim led the District's Communications Department, the Communications Department employees experienced significant challenges as a result of Tim's leadership style. They struggled to understand their role and to work collaboratively and efficiently as a result of Tim's refusal to utilize a set structure, organizational chart, job descriptions, or other methods of assigning responsibilities to employees to avoid overlaps and gaps. The facts supporting this conclusion include, but are not limited to:
 - a. Nearly all the Communications Department employees confirmed that their job duties often changed based on Tim's directives (some reactive and some proactive).

Response:

- Over the last few years, especially during the time of the pandemic and with staff shortages in the communications department, team members were often asked to work outside their normal roles to get essential work or special, high-profile projects completed. These duties fell within the job description category, "other duties as assigned" as set-forth in all Communication Department job descriptions.
- Examples of special projects include but are not limited to:
 - Two Superintendent searches included a very high volume of communications support, listening sessions, media events and outreach projects.
 - A very high volume of communications surrounding pandemic responses.
 - Website redesign.

- Events such as the State of the District, Signing Day, land acknowledgment events, graduation, and dozens of similar projects.
- In sum, Tim was faced with a Herculean task of completing vital projects during the closing phases of a pandemic and an unprecedented labor shortage. He used his team as best he could, and as well as anyone else would have under the circumstances.

Allegation:

- b. Periodically, the Communications Department employees would find out from others about a new rule or responsibility or that someone else had been assigned their tasks. Many of the Communications Department employees expressed displeasure and dissatisfaction with this approach to leadership.

Response:

- Tim incorporated more of a communications generalist model which is an effective modern-day public relations methodology. In this kind of work model, staff have areas of emphasis aligned with their skills and with varying degrees of responsibility and authority. However, this model also encourages team members to learn and perform all components of communications. This model is best suited for smaller departments with a very high volume of work that requires cross functionality among team members to achieve their goals and objectives.

Allegation:

- c. When Tim had shared his philosophy of making all Communications Department employees generalists with Dr. McGregory, Dr. McGregory cautioned Tim about using a structure with too much flexibility. Dr. McGregory encouraged Tim to work closely with HR to help him navigate the District's structure and procedures. Tim did not engage in any meaningful discussions with HR about his philosophy or his resulting plans for the Communications Department employees.

Response:

- Tim has great respect for Dr. McGregory's expertise and takes his advice and encouragement to heart. It is important to note, Dr. McGregory's encouragement was during a time when Tim was struggling to obtain support from HR on other high priority issues such as hiring vacant comms positions and addressing pay rates to retain current staff. Very understandably, HR was struggling with extremely high workloads and significant staff shortages in the same way communications and many other departments were. At the time, Tim understood Dr. McGregory's comments to be encouragement and not an immediate directive, and although he wholeheartedly agreed with Dr. McGregory, it was out of absolute necessity that Tim prioritized the support he was able to obtain from HR to fill vacant comms positions so his department could effectively meet the high demand for its services, meet highly important deadlines and achieve project completion at the level quality administrators depended on. It was and still remains Tim's intent to follow up on Dr. McGregory's encouragement and to connect with HR to obtain their very important guidance and expertise on how to better navigate structure and procedures when the comms department was closer to being fully staffed, and HR staff shortages and workload had stabilized.

Allegation:

Based on the above-referenced findings and conclusions, Tim's conduct warrants serious disciplinary action, up to and including termination. The Communications Department has become ineffective and inefficient under Tim's leadership. It is clear that Tim's continued employment in the position of Director of Communications will have a negative impact on retention of the current employees within the

Department of Communications and will likely create an obstacle to attracting candidates to the Department.

Response:

- The notion that the communications department has become ineffective and inefficient under Tim's leadership is not supported by the facts. On the contrary, there is substantial evidence that Tim's leadership during one of the most troubled times in history, in an office with personality conflicts and under the onslaught of a vindictive media trying to boost viewership and drive clicks, was superb. Tim's leadership was perfectly aligned with the goals and objectives of senior leadership staff, including the previous two superintendents. Within only 3.75 years of working with MMSD, Tim met and/or exceeded all expectations of his superiors. This evidence includes:
 - Interim Superintendent Jane Belmore from Public Information Officer promoted Tim to Executive Director of Communications & Public Affairs based solely on his leadership and performance.
 - Superintendent Dr. Carlton Jenkins awarded Tim with a salary increase based solely on his and his team's performance.
 - All of Tim's performance evaluations were excellent and conducted by both former Chief of Staff Mike Hertting and Current Chief of Staff, Dr. Richard Gregory.
 - Superintendent Dr. Carlton Jenkins informed Tim he was contemplating nominating Tim for an award for his work this spring based on his team's performance and Tim's leadership of that team.
 - Superintendent Carlton D. Jenkins, administrators and district leaders regularly provided accolades for the work and services the communications department was providing at senior leadership meetings and other events.
 - Tim was regularly contacted by other school district communications professionals inquiring about MMSD's communications strategy. Most recently, the communications director from the Green Bay School District contacted Tim to compliment Tim on his team's work, to obtain Tim's advice and to share with Tim how they were interested in emulating some of MMSD's communications strategies.
 - Former interim superintendent Jane Belmore referred to Tim as among the best hires she made during her time as superintendent.
- During Tim's 3.75 years with MMSD, he has never experienced a single issue raised by any of his superiors or district leadership regarding his performance, methodology or leadership of his department. In addition, if there were issues or areas of improvement observed, Tim was not made aware of them nor afforded an equal and fair opportunity to make corrections, refinements or adjustments to his strategy as most other department heads are regularly provided.
- Tim's ability to attract highly talented staff is apparent with the improvements realized in the quality of work being provided by MMSD's communications department.

In closing, no employee is perfect. Any employee put through the microscopic scrutiny Tim has experienced would show some areas where he could do better. Moreover, in hindsight, an examination like that MMSD has applied to Tim would show a mistake here or there or uncover a few times when better judgment could have been used. Regardless, even under the intense scrutiny of the district and media, Tim has proven to be an excellent employee who dealt with extra-difficult situations in a professional and competent fashion. As noted above, he has responded to every allegation against him with solid proof that no wrongdoing occurred.

Please also allow me to address the elephant in the room. The media have decided to lead a vendetta against Tim. Trumped-up controversies drive viewership and readership. Tim has, through no fault of his own, been chosen as a "bad guy" by the media, and there is nothing he can do to change that. We realize that the media's unfair obsession with Tim puts MMSD in a difficult position. The media want MMSD to fire him, and as long Tim remains employed by MMSD, MMSD itself has a public relations problem. The simplest thing to do would be to pay the ransom and terminate Tim. Tim and I are hopeful that MMSD will do the right thing (and the lawful thing) and base its decision on facts, not appeasing outside forces. As proven above, Tim has done *nothing* to justify his termination, or even a lesser form of discipline.

Should the District decide to terminate Tim or to impose significant discipline, please let me state the obvious. He will litigate this matter using every legal option available to him. Given the media's unjustified smear campaign, Tim will not be able to work in his field if he is terminated. He has nothing to lose by fighting a termination as vigorously as possible and as long as necessary. Already, the lack of notice of problems that have allegedly existed for a long time implicates denial of due process. But this costly and time-consuming legal fight can be avoided if MMSD does the right thing. It should refrain from terminating Tim or implementing any discipline.

Tim remains willing to provide additional information should you deem it helpful.

Thank you.

Very truly yours,

GINGRAS, THOMSEN & WACHS, LLP

/s/ Paul A. Kinne

Paul A. Kinne

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