

**STATE OF RHODE ISLAND
BEFORE THE RHODE ISLAND ETHICS COMMISSION**

**In re: David Patten
Respondent**

Complaint No. 2023-6

ORDER

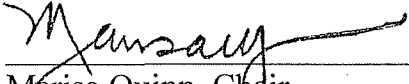
This matter having been heard before the Ethics Commission on March 26, 2024, pursuant to 520-RICR-00-00-3.16 Informal Disposition (1011), and the Ethics Commission having considered the Complaint herein, the arguments of the parties, and the proposed Informal Resolution and Settlement, it is hereby:

ORDERED, ADJUDGED, AND DECREED

1. The Commission approves the proposed Informal Resolution and Settlement;
2. The Respondent, while Director of the Division of Capital Asset Management and Maintenance (DCAMM), violated 520-RICR-00-00-1.4.2 of the Code of Ethics by soliciting and accepting the gift of a free private lunch having a fair market value in excess of \$25 from a state vendor that had a direct financial interest in decisions that the Respondent was authorized to participate in the making of as part of his official duties. For this violation, the Respondent is ordered to pay a civil penalty in the amount of \$3,000;
3. The Respondent, while a procurement official for the Department of Administration (DOA) and DCAMM, violated R.I. Gen. Laws § 36-14.1-2(b) by soliciting and accepting free goods or services (coffee, croissant, and a private lunch) valued at over \$100, for his personal use, from a state vendor who had sold services to DCAMM and the DOA during the preceding 24 months, and who the Respondent had reason to know would be making a proposal for the sale of services to DCAMM and the DOA in the succeeding 24 months. For this violation the Respondent is ordered to pay a civil penalty in the amount of \$2,000;
4. In mitigation of the above, the Respondent represents that during the period of the above-described conduct on March 10, 2023, he was suffering from a medical event;
5. By agreement of the parties, the Investigative Report in this matter prepared by the Chief Prosecutor shall be considered a public document; and

6. All other counts and/or allegations referenced in the instant Complaint and/or the Investigative Report are dismissed with prejudice.

ENTERED as an Order of the Rhode Island Ethics Commission,

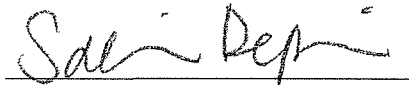


Marisa Quinn, Chair

3/29/2024
Date

CERTIFICATE OF SERVICE

I, Sabrina Depina, hereby certify that on the 29th day of March 2024, I caused a true copy of the Order to be forwarded by first class mail, postage prepaid, to Michael P. Lynch, Esq., 117 High Street, Westerly, RI 02891.


Signature

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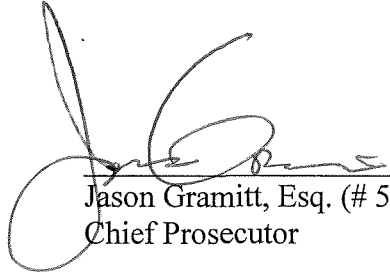
INFORMAL RESOLUTION AND SETTLEMENT

The Ethics Commission Chief Prosecutor, representing the People of the State of Rhode Island, and the Respondent, David Patten, hereby agree to a resolution of the above-referenced matter as follows, subject to the review and approval of the Rhode Island Ethics Commission:


The Ethics Commission shall enter an Order and Judgment as follows:

1. The Respondent, while Director of the Division of Capital Asset Management and Maintenance (DCAMM), violated 520-RICR-00-00-1.4.2 of the Code of Ethics by soliciting and accepting the gift of a free private lunch having a fair market value in excess of \$25 from a state vendor that had a direct financial interest in decisions that the Respondent was authorized to participate in the making of as part of his official duties. For this violation the Ethics Commission shall impose, and the Respondent agrees to pay, a civil penalty in the amount of \$3,000;
2. The Respondent, while a procurement official for the Department of Administration (DOA) and DCAMM, violated R.I. Gen. Laws § 36-14.1-2(b) by soliciting and accepting free goods or services (coffee, croissant, and a private lunch) valued at over \$100, for his personal use, from a state vendor who had sold services to DCAMM and the DOA during the preceding 24 months, and who the Respondent had reason to know would be making a proposal for the sale of services to DCAMM and the DOA in the succeeding 24 months. For this violation the Ethics Commission shall impose, and the Respondent agrees to pay, a civil penalty in the amount of \$2,000;
3. In mitigation of the above, the Respondent represents that during the period of the above-described conduct on March 10, 2023, he was suffering from a medical event.
4. The parties agree that the Investigative Report in this matter, prepared by the Chief Prosecutor, shall become a public document upon the Ethics Commission's approval of this Informal Resolution and Settlement;
5. All other counts and/or allegations referenced in the instant Complaint and/or the Investigative Report shall be dismissed with prejudice;


6. The above terms represent the full and complete Informal Resolution and Settlement for Complaint No. 2023-6.



Jason Gramitt, Esq. (# 5636) Date 3/26/2024
Chief Prosecutor

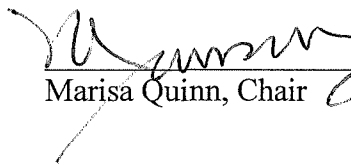


David Patten Date 3/26/2024
Respondent



Michael P. Lynch, Esq. Date
Attorney for Respondent (#3451)

APPROVED by vote of the
Rhode Island Ethics Commission
on March 26, 2024:



Marisa Quinn, Chair Date

STATE OF RHODE ISLAND
BEFORE THE RHODE ISLAND ETHICS COMMISSION

In re: David Patten
Respondent

Complaint No. 2023-6

INVESTIGATIVE REPORT

I. INTRODUCTION AND TRAVEL OF THE CASE

The instant Complaint was filed on June 12, 2023, by Kevin Santurri, in his capacity as Deputy Chief Investigator of the Rhode Island Ethics Commission, against David Patten, the former Director of the Division of Capital Asset Management and Maintenance (DCAMM) within the Rhode Island Department of Administration (DOA).¹ Attached to the Complaint is a copy of a March 12, 2023 email written by Lindsey Scannapieco and Everett Abitbol, who are principals of a Philadelphia-based company known as Scout Ltd. (Scout).

The Complaint alleges that Patten and his supervisor, former DOA Director James Thorsen, traveled to Philadelphia in March 2023 in order to tour a former school building that had been repurposed and redeveloped by Scout, a current vendor of the State of Rhode Island pursuant to a Predevelopment Agreement signed by Patten on behalf of DCAMM and the DOA. Scout had also proposed a longer term, \$56 million Master Lease and Agreement with the state to redevelop and operate the state-owned Cranston Street Armory

¹ Patten submitted a letter of resignation from his position as DCAMM Director on June 15, 2023, effective June 30, 2023, but was Director of DCAMM at all times relevant to the Complaint.

(Armory). Relying on an email authored by Scout's principals recounting allegations of inappropriate and unprofessional conduct by Patten and Thorsen during their visit to Philadelphia, the Complaint alleges that Patten sought and received gifts from Scout and its tenants, including the gift of a private lunch at a restaurant. The Complaint alleges that Patten's conduct described in Scout's email may have violated:

1. R.I. Gen. Laws § 36-14-5(g), which prohibits a public official from soliciting or accepting any gift or reward based on any understanding that the official action or judgment of the public official would be influenced thereby;
2. 520-RICR-00-00-1.4.2 Gifts (36-14-5009), which prohibits any person subject to the Code of Ethics from accepting or receiving a gift or other thing having either a fair market value or actual cost greater than \$25, from a person or business, or a representative of a person or business, that has a direct financial interest in a decision that the person subject to the Code of Ethics is authorized to make, or to participate in the making of, as part of their official duties;
3. R.I. Gen. Laws § 36-14-5(d), which prohibits a public official from using, in any way, their public office to obtain financial gain, other than that provided by law; and
4. R.I. Gen. Laws § 36-14.1-2(b), which prohibits a procurement official of a state agency from accepting goods or services for his personal use for less than fair market value from a state vendor who has either sold goods or services to his agency in the last twenty-four months, or who is expected to submit a bid or proposal for the sale of goods or services to the agency in the next twenty-four months.²

Pursuant to R.I. Gen. Laws § 36-14-12(c)(2), and 520-RICR-00-00-3.8 Initial Determination of Complaint (1003), the Ethics Commission made an initial determination on June 27, 2023, that the Complaint alleged facts sufficient to constitute a violation of the

² Although this statute is not within the Code of Ethics, it expressly authorizes the Ethics Commission to investigate and adjudicate violations of its provisions and, upon a finding of violation, to issue an order requiring the violator to pay a civil penalty of not more than \$2,000 per offense. See R.I. Gen. Laws § 36-14.1-4(a).

provisions of the Code of Ethics. Thereafter, an investigation into the allegations of the Complaint was commenced.

This Investigative Report has been prepared in advance of the probable cause hearing and details relevant evidence from the investigation for the purpose of informing the Ethics Commission's probable cause determination.

II. PROBABLE CAUSE STANDARD

At this stage of the complaint process, the Ethics Commission determines whether probable cause exists to support the allegations of the Complaint. See R.I. Gen. Laws § 36-14-12(c). The Commission must objectively assess whether, under the totality of the circumstances, the facts supported by reasonably trustworthy information are sufficient to cause a reasonable person to believe that the Respondent committed a knowing and willful violation of the Code of Ethics.

The test for probable cause involves an objective assessment in which the examining court determines, under the totality of the circumstances, whether “the facts and circumstances within their . . . knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a reasonable man of reasonable caution in the belief that’ an offense has been or is being committed.”

State v. Flores, 996 A.2d 156, 161 (R.I. 2010)(quoting Maryland v. Pringle, 540 U.S. 366, 372 n.2 (2003)(quoting Brinegar v. United States, 338 U.S. 160, 175-76 (1949))).

“Probable cause ‘does not demand any showing that such a belief be correct or more likely true than false.’” Flores, 996 A.2d at 161 (quoting Texas v. Brown, 460 U.S. 730, 742 (1983)). However, probable cause lies somewhere beyond “bare suspicion.” Id. (citing United States v. Prandy-Binett, 995 F.2d 1069, 1070 (D.C. Cir. 1993).

III. RESULTS OF THE INVESTIGATION

A. The Executive Branch, the Department of Administration (DOA), and its Division of Capital Asset Management and Maintenance (DCAMM)

Pursuant to Rhode Island's Constitution, the Governor is vested with the chief executive power of the state. R.I. Const. art. IX, sec. 1. The Governor has the authority to appoint all officers of the state whose appointment is not constitutionally otherwise provided for and all members of any board, commission, or other state or quasi-public entity which exercises executive power under the laws of this state. R.I. Const. art. IX, sec. 5. The Governor is also responsible for the preparation of an annual operating and capital improvement state budget, which is presented to the General Assembly for amendment and/or approval. R.I. Const. art. IX, sec. 15.

Among the appointments made by the Governor are the heads of all of the executive branch departments, including the Department of Administration (DOA), the Director of which is appointed by, and serves at the pleasure of, the Governor. R.I. Gen. Laws § 42-11-1. Among the statutory powers of the DOA are the preparation of a budget for state departments and agencies, subject to the direction and supervision of the Governor; the purchasing and contracting for services needed by state departments and agencies; the supervision and control over advertising for bids and awards for state purchases; and the maintenance and repair of state-owned buildings. R.I. Gen. Laws § 42-11-2.

The DCAMM is a division of the DOA, the purpose of which is to manage and maintain state property and state-owned facilities, and which exercises express authority to oversee all "rehabilitation projects on state property." R.I. Gen. Laws § 42-11-2.9(b) and

(c). By statute, the Director of DCAMM is appointed by the Director of the DOA. § 42-11-2.9(a). At all times relevant to the conduct described in the Complaint, the Respondent, David Patten, was the DCAMM Director and James Thorsen was the DOA Director, together responsible for the management of state properties and for overseeing all rehabilitation and redevelopment projects thereon, subject only to the direction and authority of the Governor.

B. The Cranston Street Armory Project

The Cranston Street Armory (Armory) is a historic building located in Providence with more than 165,000 square feet of space that was built in 1907 for the use of the Rhode Island National Guard. In 1996, the National Guard vacated the Armory and it was taken over by the State of Rhode Island. Since then, while the Armory has been used sporadically for various purposes, it has remained generally vacant while still requiring substantial upkeep and repair annually.

The operation, maintenance, and upkeep of the Armory is the responsibility of the DOA through its subsidiary, DCAMM. In 2020, under the administration of then-Governor Raimondo, the DOA, on behalf of DCAMM, issued a Request for Proposals (RFP) from private developers to partner with the state for the redevelopment and reuse of the Armory. At the time that the RFP issued, and proposals were received, Brett Smiley was Governor Raimondo's Director of the DOA, and Carole Cornelison was the Director of DCAMM.

Two entities responded to the RFP, and the highest scoring proposal came from Scout, a Philadelphia-based company with experience redeveloping and operating a large former

public building in downtown Philadelphia. Scout's representatives for the Armory proposal were its Managing Director, Lindsey Scannapieco, and its Director of Development, Everett Abitbol.

Raimondo resigned as Governor effective March 2, 2021, and was replaced by McKee pending the next gubernatorial election scheduled for November 8, 2022. Raimondo's DOA Director, Smiley, also resigned effective March 2, 2021, and was replaced by Thorsen.³ The DCAMM Director under Raimondo, Carole Cornelison, passed away in September 2021, and that position remained vacant until March of 2022 when Thorsen appointed Patten to serve as the DCAMM's Director. The "General Statement of Duties" contained in the Job Bulletin Posting for the DCAMM Division Director position that Patten filled included: "To be responsible for assisting the Director of Administration with improving and integrating the management of state capital assets by identifying innovative solutions in the delivery of a strategic capital assets management program."

Shortly after being hired, Patten met with Thorsen and Antonio Afonso, who was at the time Governor McKee's Senior Deputy Chief of Staff, and they instructed Patten to get the Armory project back on track. Patten reached out to Scout's Scannapieco and Abitbol to reengage and confirm the timeline and scope of work for a predevelopment contract. On June 30, 2022, the DOA and DCAMM entered into an Agreement for Predevelopment Services (Predevelopment Agreement) with Scout, whereby Scout would serve as Master

³ Thorsen had been serving as the Director of the Rhode Island Department of Revenue when, in February of 2021, he was nominated by outgoing Governor Raimondo, at the request of incoming Governor McKee, to become the Director of Administration. Thorsen began serving as Acting Director of Administration on March 2, 2021, the same day McKee was sworn in as Governor, and he received Senate confirmation of his appointment on June 8, 2021. After McKee's election as Governor in November 2022, he renominated Thorsen to serve as DOA Director.

Developer for the Armory project and would be paid \$400,000, plus expenses, over four months until November 2022. Then, Scout would issue a reuse plan detailing a proposed master lease and rehabilitation agreement (Master Agreement) with the state, whereby Scout would lease and operate the Armory. The Predevelopment Agreement also specified that during any delay in executing a Master Agreement after the November expiration of the Predevelopment Agreement, Scout would be paid a \$25,000 per month holding fee unless the state chose to terminate the project. Patten, in his capacity as DCAMM Director, signed the Predevelopment Agreement on behalf of both the DOA and DCAMM. Scannapieco signed the Predevelopment Agreement on behalf of Scout.

Thereafter, Scout's invoices for payment were forwarded to Patten for review and authorization to pay. Patten served as project manager and was Scout's primary contact with the state, having weekly meetings with Scout's Scannapieco and Abitbol. Patten, in turn, reported to DOA Director Thorsen, who Scout's principals understood to be the key decision-maker as to the Armory project. Thorsen, as a department director and member of McKee's cabinet, reported to Governor McKee and his Chief of Staff, Antonio Afonso. A "Senior Advisor" in the Governor's Office, Christopher Farrell, was also kept apprised of matters relating to the Armory.

McKee won election as Governor on November 8, 2022. Approximately one week later, with the expiration of its initial four-month Predevelopment Agreement, Scout presented the DOA and DCAMM with its Armory reuse plan and proposal for a Master Agreement. Attending this presentation for Scout were Scannapieco and Abitbol, and for

the state were Patten, DOA Director Thorsen (via Zoom) and his Chief of Staff, Libby Kimzey.

Scout's Armory redevelopment plan called for a \$56 million project, including a \$36 million investment from the state's capital fund combined with surplus funds, tax credits, and other investment sources, to redevelop and reuse the Armory as state offices, a small business hub, cultural center, workforce development center, maker space, and indoor soccer/recreation fields. In order to fund Scout's redevelopment plan, Scout expected the state's contribution to be included in the Governor's proposed FY2024 State Budget that would be unveiled in January 2023. Regarding achieving funding in the budget, Patten assured Scout, "Leave that to me." Feedback from Thorsen at the November meeting discussing Scout's redevelopment plan was that this needed to be more of a State of Rhode Island project than a City of Providence project, with benefits to the entire state rather than only to the Armory's immediate Providence neighborhood. Thorsen also assured Scout that the project was a priority.

Weeks after releasing its proposed redevelopment plan, on November 28, 2022, Scout announced that the Armory would be opened up to the public in mid-December to host "watch parties" for the World Cup soccer tournament. However, shortly after making this public announcement, and notwithstanding that Scout had been planning the event since September, Scout learned that the Governor's office was preparing to announce its own plans to use the Armory as a temporary warming station and homeless shelter starting in December. Scout, after consulting with state officials, felt that it would be inappropriate to

hold parties at the Armory while it was being used as a homeless shelter, and it canceled the World Cup watch party event.

Concerned by growing communication issues among Scout, the DOA, and the Governor's office, including difficulties in agreeing on press release language explaining the World Cup event's cancelation, Scout retained the services of a local political consultant/lobbyist, Jeffrey Britt. With Britt's intervention and help, which included telephone calls with McKee's Chief of Staff, Antonio Afonso, a press release was issued to Scout's satisfaction.

With the expiration of the Predevelopment Agreement's initial four-month period, but with no master lease and agreement in place, on December 1, 2022, Scout submitted its first invoice for the \$25,000/month holding fee established in the Predevelopment Agreement signed by Patten, and it would continue to submit such monthly invoices going forward. The state's payment of these monthly invoices was sporadic and often in arrears.

In the final Days of December 2022, with the imminent release of the Governor's proposed FY2024 State Budget, Scout representatives were asked to put together a presentation on Friday, December 30, 2022, to the DOA and Governor's office about the Armory redevelopment plan. Patten clarified in an email to Scannapieco and Abitbol that the goal of the meeting was to get the state to commit to capital investment in the project. Scannapieco attended via Zoom as she was traveling out of the country, while Abitbol attended in person. Also attending were Governor McKee's Special Advisor, Christopher Farrell; Thorsen's Chief of Staff at the DOA, Libby Kimzey; and Patten. At the

presentation, Scout requested \$36.6 million in capital investment, along with an additional \$20 million in either surplus or American Rescue Plan Act (ARPA) funds.

On January 19, 2023, the Governor released his proposed FY2024 State Budget, which did not include any funding for Scout's Armory redevelopment plan. Scout was continuing to invoice the state a \$25,000 per month holding fee under the Predevelopment Agreement, and Patten advised Scout that there was enough funding in the DOA/DCAMM budget to extend those monthly payments for an additional six months. Patten assured Scout that the Rhode Island budget process continued until the General Assembly enacted the budget in June, and that the Governor would be able to amend his budget submission prior to then to include capital investment in the project.

Notwithstanding Patten's assurances, Scout continued to utilize the services of political consultant/lobbyist Britt to advocate on Scout's behalf with the Governor's office. In this advocacy, Britt communicated primarily with McKee's Chief of Staff Antonio Afonso and McKee's Special Advisor, Christopher Farrell. Britt also arranged for Scannapieco and Abitbol to meet with Speaker of the House, K. Joseph Shekarchi, in order to "socialize" the project, and its need for a budget amendment, in the General Assembly.

Additionally, Britt arranged for Scannapieco and Abitbol to attend a private fundraising lunch with McKee at the Capital Grille restaurant in Providence. During the lunch, Scannapieco, Abitbol, and McKee discussed the Armory project, and McKee stated that he would like to see other sources of funding, such as from the City of Providence, in addition

to state funding.⁴ McKee told them that they were in good hands with Thorsen and Patten. Britt recounts that the Scout group left the private lunch with McKee believing that the Governor was generally in favor of the Armory project, provided that they could line up a portion of its funding from the City of Providence and/or other non-state sources.

In late January and early February, Patten began setting the wheels in motion to extend Scout's predevelopment contract for an additional six months, at \$25,000 per month. Thorsen received Senate confirmation of his reappointment as DOA Director on February 7, 2023. In a February 9, 2023 email to the state's Deputy Purchasing Agent, Amanda Rivers, Patten wrote: "In consultation with Director Thorsen and the Governor's office, we believe we will make a go/no go decision within the six-month window."

Notwithstanding Patten's initial optimism for a six-month contract extension with Scout pending a budget amendment, by mid-February it was becoming clear that the McKee administration was hesitant to move forward with Scout's Armory redevelopment proposal. Beginning on February 16th, emails among Thorsen, Patten, and other state officials discussed the need to find and hire a consultant to review the financials of Scout's proposal. Then, on February 21, 2023, Patten sent Abitbol a text message noting that the Governor and the Governor's Special Advisor, Farrell, were angry that Scout was still receiving \$25,000 per month under the terms of the Predevelopment Agreement, and Patten suggested it would help if Scout were to waive those payments. Abitbol replied that

⁴ Following this meeting with the Governor, Scout began discussions with the City of Providence and received a verbal commitment to provide some funding for the Armory project.

Scout was still doing a lot of work and that the payments were largely refundable once a Master Agreement was finalized.

The next day, February 24, 2023, Patten informed Scannapieco and Abitbol by email that he had been part of a “great conversation” with the Governor and other leaders that day, that they were going to have a consultant conduct a four to six-week review of Scout’s Armory proposal’s financials, and that Patten anticipated that this process would result in a budget amendment to fund the project. In his email to Scout, Patten noted, “I am driving this effort largely at the direction of Jim Thorsen (echoed by Libby [Kimzey]).” Around this time, state officials began negotiating with Jones Lang LaSalle, Americas Inc. (JLL) to conduct this financial review. Patten drafted the scope of work for the review containing six bullet points.

On March 8, 2023, the Governor’s Special Advisor, Farrell, requested a copy of the JLL scope of work from the DOA’s Division of Purchases. Farrell reacted positively to the initial bullet points and suggested four additions to the scope of work. Upon learning of Farrell’s requested additions, on March 8, 2023, Thorsen emailed Patten to note that “Chris Farrell does not have the authority to specify scope directly to DCAMM. If he has information requests, please respond to him. But you are not to take direction from him. This is a MAJOR problem.” Patten then emailed Farrell, with a copy sent to the DOA’s Division of Purchases, to clarify that Farrell had no authority to alter the scope of work: “With all due respect, I am the project manager for the Cranston Street Armory. Accordingly, I will determine the scope of the financial consultant’s work. I value your opinion, and will take it under advisement. I would ask Purchases to take their direction

from me.” Patten then reported to Thorsen with a one-word email: “Done.” The Division of Purchases emailed to confirm that it had not included Farrell’s bullet points in the scope of work.

In early March, around the same time that JLL’s scope of work was being decided, Patten and Thorsen began discussing taking a trip to Philadelphia to tour a large building that Scout had successfully redeveloped. The 350,000 square foot Bok Building in downtown Philadelphia was built in 1936 as a vocational high school. Scout acquired the building in 2014 and redeveloped it into spaces for local businesses, artists, makers, entrepreneurs, and non-profits. Although Thorsen invited Farrell from the Governor’s office to join them, ultimately only Patten and Thorsen took the trip.

On March 8, 2023, Patten informed Scannapieco that he and Thorsen were coming to Philadelphia two days later, on Friday, March 10th at 9:00 a.m., and would tour the building and then return to Rhode Island in the afternoon. Patten mentioned that they would like to have lunch at Irwin’s, a highly rated restaurant located in the Bok building. Scannapieco, who has an ownership interest in Irwin’s, informed Patten that the restaurant did not open for lunch. Patten reiterated that he really wanted to eat there, and that he was sure she could make a call to get the restaurant opened for them. Regarding this conversation, Scannapieco states that Patten told her, “Well you can call in a favor if you want \$55M in funding.” Scannapieco agreed she would try, and she met with her team to hastily arrange an itinerary for Patten’s and Thorsen’s visit.

The next afternoon, March 9, 2023, Scout emailed Patten and Thorsen with itineraries for the day, which included a tour of tenant spaces from 9:00 a.m. to 11:00 a.m., followed

by lunch at Irwin's with Head Chef Michael Ferreri. In preparation for the lunch, Scout inquired if either of them suffered from food allergies. Thorsen responded that he was allergic to calamari.

On the evening of March 9th, one day prior to their scheduled trip to Philadelphia, Thorsen and Patten testified before the House Finance Committee and then they, along with other DOA employees including Thorsen's Chief of Staff Libby Kimzey, went to dinner at Ladder 133 restaurant in Providence. Some DOA employees attending the dinner who were more junior than Thorsen and Patten became uncomfortable with Patten's behavior and comments, which they deemed to be unprofessional and offensive. At 9:56 p.m. that evening, after the group had left Ladder 133, Kimzey texted Thorsen to advise that Patten may be having a "manic episode," and she asked him to call her in the morning. The next day at work, the state employees who attended the Ladder 133 dinner complained to Kimzey and their supervisor about Patten's behavior the prior evening, and they followed up with a detailed email to their supervisor that he shared with the state's human resources department.

Approximately two hours after leaving Ladder 133, at 12:01 a.m. on Friday, March 10th, Patten texted Scannapieco and Abitbol to say:

Please have fresh coffee (with milk and sugar) and the best croissant in Philadelphia ready for me upon arrival. Director Thorsen likes Diet Coke. Have a cold six-pack waiting on the table in your conference room. You have three hours to convince us to give you \$55M.

Three minutes later, at 12:04 a.m., Patten sent the previously discussed email to Farrell of the Governor's Office, regarding Farrell's suggested additions to JLL's scope of work and

Patten's status as the project manager for the Armory. Patten's "Done" email to Thorsen was sent at 12:10 a.m. Finally, at 12:53 a.m., Patten emailed Thorsen and the entire group of DOA employees that had met at Ladder 133 earlier in the evening to apologize ". . . if I was obnoxious earlier. It has been a long time since I really laughed with my colleagues." He also wrote, "Director Thorsen: Cold Diet Coke awaits you in Philly, and lunch is on me!! You shouldn't have paid the tab last night, but much appreciated." Thorsen and Patten's flight to Philadelphia was scheduled to board at Rhode Island T. F. Green International Airport less than five hours later.

Patten and Thorsen took a 6:05 a.m. flight from Providence to Philadelphia and they arrived at the downtown Bok building at 8:30 a.m. As requested, Scout had purchased a box of croissants from its bakery tenant and had them available in a conference room. Abitbol and Scannapieco brought Patten and Thorsen to another tenant's coffee shop and purchased them beverages. Neither Thorsen nor Patten paid for the croissants or beverages. During this time, Patten commented on Scannapieco's appearance and, upon hearing that her husband was on a trip to Australia, remarked that if he had known her husband was out of town he would have flown in last night.

Scannapieco and Abitbol then led Patten and Thorsen on the tour they had put together in order to meet some of the building's tenants, including: the Jefferson Wyss Wellness Center, which provides primary wellness support for the immigrant and refugee community in Philadelphia; Diadora US, an Italian shoe company with its United States headquarters in the Bok building; Bandit Cheese, which runs a vegan cheese-making

operation; Remark Glass, a manufacturer of artisan blown glass; and Irwin's, a well-regarded Sicilian restaurant. At 10:01 a.m., during the tour, Thorsen's Chief of Staff Kimzey texted Thorsen to alert him to the fact that state employees were raising concerns over Patten's behavior the previous evening at Ladder 133.

Scannapieco and Abitbol have recounted that Patten behaved inappropriately at each stop of the tour. At Jefferson Wyss Wellness Center, they claim that Patten made offensive comments to the Center's clinical director regarding his race and/or ethnicity. At Diadora's headquarters, Patten requested and received a free pair of shoes as a gift and made culturally insensitive comments to an employee. At Bandit Cheese and Remark Glass, respectively, they assert that Patten requested and received gifts of free cheese and hand-blown glass, while continuing to make rude and inappropriate comments to the workers at each location. Thorsen was aware that Patten was soliciting and receiving these gifts, and on at least one occasion noted that the gifts were "de minimis" and therefore not reportable. After Patten made several inappropriate comments to Scout's tenants, Abitbol pulled Thorsen aside and asked him to get Patten under control. Thorsen suggested to Patten that he should speak less to the tenants in order to make it through the entire tour in the time they had, but did not chastise him for his inappropriate comments or solicitations of gifts.

The tour ended as scheduled at Irwin's restaurant for the lunch specifically requested by Patten. Attending the lunch were Thorsen, Patten, Scannapieco, and Abitbol, and they were the only diners in the restaurant. Scannapieco, who has an ownership interest in the restaurant, arranged to have its head chef and some kitchen staff available to prepare and

serve them lunch as a family style tasting menu. Because the restaurant was not normally open for lunch and there were no servers or other front of the house employees working, the head chef personally prepared and served the group's food. The restaurant's point of sale (POS) system was not utilized to place the lunch order since there were no front of house staff working, and no bill was created, offered, or requested by Thorsen or Patten at any time during the meal or before they departed for the airport.

Immediately following the lunch, Thorsen and Patten left for the airport and their return flight to Rhode Island, leaving at 2:05 p.m. and arriving at 3:17 p.m. That same afternoon, one of the DOA employees who attended the dinner at Ladder 133 the prior evening forwarded an email to a DOA supervisor detailing Patten's inappropriate and erratic behavior that evening.

The day after the Philadelphia trip, Saturday, March 11, 2023, Farrell from the Governor's office texted Thorsen to inquire how the trip went. Thorsen responded positively with photos of spaces in and around the Bok building and stated that it "checked all the boxes." There was no discussion of Patten's strange behavior while in Philadelphia.

Meanwhile, Scannapieco and Abitbol had been fielding complaints from their tenants regarding the tour and Patten's inappropriate comments and behavior. Scannapieco and Abitbol spoke with Scout's Rhode Island consultant, Britt, who advised them to memorialize the events of the day in writing and Britt would forward their complaints to an appropriate person in the McKee administration. On Sunday, March 12, 2023, Abitbol emailed Britt a detailed account of Patten's behavior relative to arranging the trip, touring the Bok building, his inappropriate comments directed at Scannapieco and several Bok

tenants, and the special request for lunch at Irwin's. Britt made a phone call to Governor McKee's Chief of Staff, Antonio Afonso, and forwarded Afonso a copy of Abitbol's email. Britt's impression was that Afonso had been completely unaware of any issues surrounding the Philadelphia trip or Patten's behavior.

By that evening, Sunday March 12th, Thorsen had been made aware of Scout's email concerning the Bok tour and lunch at Irwin's, which came directly on the heels of the reports from DOA employees recounting Patten's inappropriate behavior at Ladder 133. The following morning, Monday, March 13th at 9:04 a.m., Thorsen emailed Scout's Abitbol to thank them for the lunch at Irwin's, "but can you please arrange to forward a bill?" To comply with this request, Scannapieco asked Irwin's general manager to create a bill based on the food that was served. The \$524.60 bill, which Scannapieco emailed to Thorsen on March 22, 2023, along with copies of unpaid invoices from Scout to the state totaling more than \$155,000, included \$230 for food and beverages, a \$200 "Private Space Hire" charge, an \$8.60 (2%) "Health in Hospitality" service charge, and an \$86 tip. The bill noted that the "Per Person Charge" was \$131.15. In April, Scout received a reimbursement check from Thorsen in the amount of \$262.30, which covered half of the entire bill or twice the per person charge.

That same morning, Thorsen met with Patten who declared that he would immediately return the shoes he solicited from Diadora. Later that day, Patten went out of work on medical leave for an undetermined amount of time.

On March 15, 2023, JLL submitted a formal proposal to perform the financial review of Scout's Armory proposal, and the state issued a letter of intent to hire JLL for the

review. On March 24, 2023, the Governor's office announced that Thorsen would be leaving state service on April 28th, and that he had submitted his resignation letter back in February. On March 27, 2023, Thorsen emailed Scout to inform them that he was leaving state service and that Patten had been on medical leave since returning from Philadelphia. Scout responded to note that it was still owed over \$100,000 in unpaid fees and asked for information regarding their new point of contact with the state. On March 29th, Libby Kimzey emailed Scout to announce that she would be Scout's point of contact upon Thorsen's departure.

On April 3, 2023, a reporter contacted the Governor's office to request a copy of the Scout email recounting Patten and Thorsen's trip to Philadelphia that Britt had forwarded to McKee's Chief of Staff. The Governor's office refused to release the email, contending that it was a nonpublic document under the Access to Public Records Act. After WPRI and the Providence Journal filed complaints with the Attorney General concerning this nondisclosure, and following the Attorney General's June 7, 2023, decision that the email was, in fact, a public document, on June 8, 2023, the email was publicly released on June 8, 2023.

Ethics complaints were filed against Patten and Thorsen on June 12, 2023, alleging that their receipt of gifts during the Philadelphia trip violated provisions of the Code of Ethics and a statute relating to gifts to state procurement officials. On June 15, 2023, Patten submitted a letter resigning as DCAMM Director effective June 30, 2023. On July 17, 2023, Governor McKee released JLL's analysis of Scout's Armory proposal and simultaneously announced that the state was terminating its Predevelopment Agreement

with Scout. McKee also announced that the state was in discussions with the City of Providence to transfer ownership of the Armory to the City.

IV. DISCUSSION

As DCAMM Director, the Respondent was at all relevant times a state employee subject to the Rhode Island Code of Ethics. R.I. Gen. Laws § 36-14-4(3). The instant Complaint alleges that the Respondent may have violated the following provisions of the Code of Ethics, as well as a separate state law applicable to state procurement officials:

A. Violation of Code of Ethics – Section 36-14-5(g)

Pursuant to section 36-14-5(g), no person subject to the Code of Ethics “shall solicit or accept any gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the person would be influenced thereby.” This provision of the Code of Ethics prohibits the classic *quid pro quo* arrangement whereby a public official ties their judgment or the performance of their duties to their receipt of a gift, reward, or favor. Here, Scout’s Scannapieco and Abitbol have recounted two instances in which Patten solicited gifts or favors from them in the context of reminding Scout of his role in the state’s decision-making process regarding the funding of Scout’s multimillion-dollar Armory development project.

First, in their email to Britt recounting Patten and Thorsen’s behavior leading up to and during their trip to Philadelphia, Scannapieco and Abitbol recounted that Patten asked Scannapieco to arrange for a lunch at Irving’s restaurant, even though Irving’s did not open for lunch. The email recounts that Patten said to Scannapieco, “well you can call in a favor if you want \$55M in funding (emphasis added).” Patten’s choice of words here

tracks the language of section 36-14-5(g), which prohibits a public official from soliciting a “favor” or “gift” with the understanding that the favor or gift would influence the official’s judgment.

Moreover, in that same email to Britt, Scannapieco and Abitbol provided a copy of a text Patten sent to them at 12:01 a.m. on the morning of their trip to Philadelphia that read:

Please have fresh coffee (with milk and sugar) and the best croissant in Philadelphia ready for me upon arrival. Director Thorsen likes Diet Coke. Have a cold six-pack waiting on the table in your conference room. **You have three hours to convince us to give you \$55M** (emphasis added).

Once again, the language Patten used in this text clearly ties his solicitation of gifts from Scout to Scout’s ability to “convince us to give you \$55M.”

Based on these facts, it is submitted that there is probable cause to believe that Patten solicited and accepted favors and gifts (coffee, croissants, Diet Coke, calling in a favor to open a closed restaurant, and a free lunch) from Scout with the understanding that such favors and gifts would influence Patten’s official judgment as to whether Scout would receive millions of dollars in funding for the Armory redevelopment project, conduct which is in violation of section 36-14-5(g) of the Code of Ethics.

B. Violation of Code of Ethics – Regulation 520-RICR-00-00-1.4.2 Gifts

The Code of Ethics’ gift regulation prohibits public officials from accepting a gift worth more than \$25 from someone that has a financial interest in the public official’s decision-making. It reads:

No person subject to the Code of Ethics, either directly or as the beneficiary of a gift or other thing of value given to a spouse or dependent child, shall accept or receive any gift(s) or other thing(s) having either a fair market value or actual cost greater than twenty-five dollars (\$25), but in no case

having either an aggregate fair market value or aggregate actual cost greater than seventy-five dollars (\$75) in any calendar year including, but not limited to, gifts loans, rewards, promises of future employment, favors or services, gratuities or special discounts, from a single interested person, as defined herein, without the interested person receiving lawful consideration of equal or greater value in return.

520-RICR-00-00-1.4.2(B) Gifts (36-14-5009).

An “interested person,” as defined in the gift regulation, “means a person or a representative of a person or business that has a direct financial interest in a decision that the person subject to the Code of Ethics is authorized to make, or to participate in the making of, as part of his or her official duties.” 520-RICR-00-00-1.4.2(C).

First, it is clear that Scout is an “interested person” as defined in Regulation 1.4.2, because Scout had a direct financial interest in decisions that Patten was authorized to make, or participate in the making of, as part of his official duties as DCAMM Director. Patten was the state official who negotiated Scout’s Predevelopment Agreement with the DOA and was the sole signatory for the state on that document. Patten was responsible for reviewing and approving every Scout invoice submitted to the state pursuant to the Predevelopment Agreement, in amounts that totaled over a half million dollars. Patten was the Armory project’s “project manager” and was Scout’s primary contact with the state, participating in weekly meetings over the course of the Predevelopment Agreement. And, significantly, Patten was a key participant in the state’s decision whether or not to enter into a Master Agreement with Scout and to fund Scout’s ambitious Armory development proposal. As Patten himself described his role in an email to the Governor’s Special Counsel, Christopher Farrell, on the morning of the trip to Philadelphia: “With all due

respect, I am the project manager for the Cranston Street Armory. Accordingly, I will determine the scope of the financial consultants [sic] work. I value your opinion, and will take it under advisement. I would ask Purchases to take their direction from me.”

It is similarly evident that Scout provided Patten, at his request, with gifts valued at more than \$25, and more than \$75 in the aggregate, including coffee and croissants upon arriving at the Bok building and a private lunch at Irving’s restaurant, served by the restaurant’s head chef. Patten solicited Scannapieco to call in a favor for him to cause Irving’s to open for lunch. Scannapieco was a part-owner of Irving’s and she was therefore able to comply with Patten’s solicitation. During lunch, no check was prepared and, following lunch, no check was presented to the table. Patten simply accepted the free lunch and then left to catch his flight back to Rhode Island.

It was not until three days later, after being advised of Scannapieco’s and Abitbol’s scathing email to Britt, that Thorsen requested that they forward him a bill for lunch. At that point, Irving’s created a bill from recall of what was served days earlier. The bill totaled \$524.60 and included a “Per Person Charge” of \$131.15. The total bill included a “Private Space Hire” fee of \$200, meaning that the cost of calling in the “favor” to open Irving’s for lunch, standing alone, had a value of \$200. The food and beverages served, with no other fees or charges included, totaled \$202, or \$50.50 per person. Accordingly, whatever math one might try to apply to the Irving’s bill, the value of the special lunch that Patten solicited and received exceeded the \$25 limit contained in Regulation 1.4.2.

Based on these facts, it is submitted that there is probable cause to believe that Patten received a gift having a fair market value in excess of \$25 from Scout, a business that had

a direct financial interest in decisions that Patten was either authorized to make, or to participate in the making of, as part of his official duties, all in violation of Commission Regulation 520-RICR-00-00-1.4.2(B) of the Code of Ethics.

C. Violation of Code of Ethics – Section 36-14-5(d)

The same conduct that supports Patten’s violation of the Code of Ethics’ gift regulation also implicates the Code of Ethics’ prohibition on using one’s public office for private gain. Section 36-14-5(d) provides:

No person subject to this Code of Ethics shall use in any way his or her public office . . . to obtain financial gain, other than that provided by law, for him or herself or any person within his or her family, any business associate, or any business by which the person is employed or which the person represents.

Here, the facts warrant a finding that Patten used his position as DCAMM Director to solicit, and receive, gifts from Scout and Scout’s tenants at the Bok building. Patten’s three-hour trip to Philadelphia was solely for purposes relating to his public office and duties as DCAMM Director. The trip was official, work-related travel, properly paid for by the State of Rhode Island. Similarly, Patten’s relationship and interactions with Scout’s Scannapieco and Abitbol were solely in relation to Patten’s official role overseeing Scout’s Predevelopment Agreement and participating in the state’s decision-making relative to entering into a Master Agreement for the Armory’s redevelopment. Patten’s requests to Scout for coffee, croissants, and lunch, and his requests from Scout’s tenants for free shoes, cheese, and blown glass, were all made in his capacity as DCAMM Director for the State of Rhode Island during an official tour provided by a state vendor.

Patten made it clear to Scannapieco and Abitbol that denying his requests could negatively impact his official decision-making. With the respect to his request for coffee and a croissant during the Philadelphia trip, he concluded with: “You have three hours to convince us to give you \$55M.” When Scannapieco pushed back on Patten’s request that he be served lunch at the normally closed-for-lunch Irving’s, Patten responded, “well you can call in a favor if you want \$55M in funding.” At no time before, during, or after the lunch did Patten ever inquire about paying for, or contributing toward the payment of, his meal.

Based on these facts, it is submitted that there is probable cause to believe that Patten used his office as DCAMM Director to obtain financial gain for himself, in the form of free coffee, a croissant, a pair of shoes, vegan cheese, hand-blown glass, and a private lunch at a restaurant that opened specially for him, conduct which is in violation of section 36-14-5(d) of the Code of Ethics.

D. Violation of R.I. Gen. Laws § 36-14.1-1 *et seq.* – State Vendors Providing Goods or Services to Public Officials.

While not a part of the Code of Ethics, state law prohibits the state’s procurement officials from accepting goods or services from state vendors for less than fair market value. Pursuant to § 36-14.1-2(b):

No procurement official of a state agency shall accept goods or services for his or her personal use for less than fair market value from a state vendor who has sold goods or services to the agency during the preceding twenty-four (24) months or who the procurement official knows or has reason to know will be submitting a bid or making a proposal for the sale of goods or services to the agency within the succeeding twenty-four (24) months.

The term “procurement official” is defined to mean:

an elected or appointed state official or employee who has the authority to make decisions concerning the purchase of goods or services for a state agency or who has supervisory authority over the person empowered to make decisions concerning the purchase of goods or services for the state agency.

Section 36-14.1-1(2). This prohibition does not apply to goods or services having a fair market value of less than one hundred dollars (\$100). Section 36-14.1-2(c). The Ethics Commission is expressly empowered to investigate and adjudicate allegations of violations of chapter 36-14.1 and, upon a finding of a knowing and willful violation, may issue an order requiring the violator to pay a civil penalty of up to \$2,000. §§ 36-14.1-3 and -4(a).

As an initial matter, Scout was at all relevant times a “state vendor” as that term is used in chapter 36-14.1., and Scout sold services to the state, through DCAMM and the DOA, relative to the Predevelopment Agreement that was in effect between June 30, 2022, and June 17, 2023. Furthermore, in November 2022, Scout submitted an initial reuse plan to the state to enter into a Master Agreement with Scout whereby Scout would lead the Armory’s \$56 million redevelopment. The precise terms of the Master Agreement were yet to be negotiated and finalized, but Patten assured Scout that funding for the Master Agreement could be realized in 2023.

Patten was at all relevant times a procurement official of the DOA and DCAMM, both state agencies. Patten was a state employee who was authorized to make decisions concerning the purchasing of goods or services for the DOA and DCAMM. With the knowledge and consent of DOA Director Thorsen and Governor McKee’s Chief of Staff, Antonio Afonso, Patten negotiated the Predevelopment Agreement between Scout and the state, and Patten was the state’s sole signatory to the Predevelopment Agreement. Patten’s

signature line on the Predevelopment Agreement notes that he is signing on behalf of:

“State of Rhode Island, Department of Administration & DCAMM, a state agency.”

Patten was forwarded all of Scout’s invoices for review and authorization to pay. In his email to Farrell, copied to the DOA’s Division of Purchases, Patten insisted that he was “the project manager for the Cranston Street Armory” and clarified that the Division of Purchases should “take their direction from me.”

Based on the above, there is probable cause to believe that Patten, a procurement official for DCAMM and the DOA, accepted free goods or services (coffee, croissant, and a private lunch) valued at over \$100 for his personal use from Scout, a state vendor who had sold services to the DOA and DCAMM during the preceding 24 months, and who Patten had reason to know would be making a proposal for the sale of services to the DOA and DCAMM, through the execution of a Master Agreement, during the succeeding 24 months, conduct which is in violation of § 36-14.1-2(b).

V. CONCLUSION

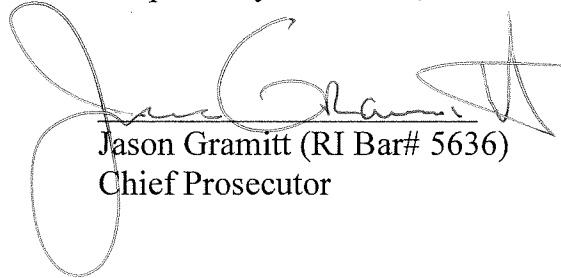
In conclusion, the facts adduced in the investigation support the Ethics Commission’s issuance of an order finding that:

1. There is probable cause to believe that the Respondent violated R.I. Gen. Laws § 36-14-5(g) of the Code of Ethics by soliciting and accepting favors and gifts from Scout with the understanding that such favors and gifts would influence his official judgment as to whether Scout should receive state funding for the Armory redevelopment project;
2. There is probable cause to believe that the Respondent violated 520-RICR-00-00-1.4.2 of the Code of Ethics by receiving a gift having a fair market value in excess of \$25 from Scout, a business that had a direct financial interest in decisions that the Respondent was either authorized to make, or to participate in the making of, as part of his official duties;

3. There is probable cause to believe that the Respondent violated section 36-14-5(d) of the Code of Ethics by using his public office as DCAMM Director to obtain financial gain for himself in the form of free coffee, a croissant, a pair of shoes, vegan cheese, hand-blown glass, and a private lunch at a restaurant that opened specially for him, conduct which is in violation of section 36-14-5(d) of the Code of Ethics; and
4. There is probable cause to believe that the Respondent, a procurement official for the DOA and DCAMM, violated R.I. Gen. Laws § 36-14.1-2(b) by accepting free goods or services (coffee, croissant, and a private lunch), valued at over \$100, for his personal use, from Scout, a state vendor who had sold services to DCAMM and the DOA during the preceding 24 months, and who the Respondent had reason to know would be making a proposal for the sale of services to DCAMM and the DOA through the execution of a Master Agreement, during the succeeding 24 months.

Dated: March 6, 2024

Respectfully submitted,



Jason Gramitt (RI Bar# 5636)
Chief Prosecutor