

“Waronker” or the “Superintendent”), should not be permitted to interfere with investigations of him that are ongoing, and I am concerned that the investigation process needs to be insulated from his influence over employees who must step forward and offer evidence about him.

A. The NAI Matter.

4. On June 27, 2017, Waronker caused the District to hire his own company, The New American Initiative (hereinafter, “NAI”), at a cost of \$450,000.00 per annum, and hire four elementary school teachers who, upon information and belief, were his employees at NAI, for \$135,000.00 each per year, or another \$540,000.00 cost to the District annually, which COSTS WERE NOT IN THE BUDGET for the 2017-2018 school year.

5. Repeatedly, I asked for information concerning what budget line items were cut to make room in the budget for such expenses, and routinely, he declined to answer truthfully or in a forthright manner, telling me and other Board members that he used “unallocated funds” in the budget to cover such expenses, even though there is no such thing as “unallocated funds” in a school budget. Every dollar in the budget is allocated to a line item listing a legitimate expense intended to be paid that upcoming year, since there is no line item in the budget that is identified as “slush fund;” or “unallocated funds for future spending that we cannot account for now,” or the like, and since the taxpayers must have the opportunity to review the budget and approve it at the annual meeting, of school board election, held each year in May.

6. I have started to inquire about the budget transfers that the Superintendent has made, but my experience is that staff has been, and continues to be, reluctant to cooperate and provide to me information, especially members within the Superintendent’s cabinet of top administrators, who routinely ask to be “off the record” or who express concerns that he will retaliate against them, because they see how he treated Deborah McPhaul, Tanika Cullum and Patricia Wright, after he worked against Trustee Lamont Johnson, and tried to help have him removed from the BOE. I have more to say about each of them, which has influenced my thinking about placing Waronker on an Administrative Leave of Absence with Pay, pending the conduct of investigations of his conduct and his decision-making.

7. Then, in mid-October, 2017, Waronker endorsed hiring his friend, mentor, and boss at the NAI (filling the seat as Chairman of the Board at the NAI), namely, Varleton McDonald, Ed.D., to become his Deputy Superintendent at the District, for a cost of \$180,000.00 per annum.

8. The Deputy Superintendent position also was NOT IN THE BUDGET for the 2017-2018 school year.

9. Waronker made a recommendation to the Board to hire Dr. McDonald, which at the time had a Board majority that was favorable to whatever he recommended with no questions asked because Waronker helped manufacture that Board majority by helping Board President Touré and Board Vice President Gwendolyn Jackson bring a bad faith removal proceeding against Trustee Lamont Johnson (a Defendant in this Action), who they illegally threw off of the BOE with the help of Fred Brewington, Esq., Waronker's lawyer in this proceeding. That illegal decision was appealed and reversed, with Trustee Lamont Johnson being reinstated to the BOE on November 27, 2017. But, in that interim period, Waronker was pushing for and obtaining approval for employing the staff of his NAI organization, as staff of the District, even though there was no budget for this massive expense imposition on the District's finances.

10. I opposed the appointment of Dr. McDonald, and opposed the 211-(f) waiver for him to be permitted to work for the District while being a retiree under the age of 65, and requested an investigation be conducted by the New York State Education Department (hereinafter, the "NYSED") and/or by Dr. Robert Dillon, the District Superintendent with the Nassau County BOCES (hereinafter, "BOCES"). See, **Exhibit J**, a copy of my letter request, without its internal exhibits, to have the matter investigated by the NYSED and/or BOCES.

11. BOCES agreed to investigate the matter. See, **Exhibit L**, a copy of the email response I received from BOCES confirming an investigation would proceed.

12. As part of the BOCES investigation of the District's contractual relationship with NAI, I was interviewed.

13. One of my concerns was that NAI had two letterhead documents submitted to the District on the day when it submitted its RFP to the District, one of which showed Waronker as being the founder and CEO, and the other, submitted later in the day, that showed him as founder, but added someone else (Lorraine Scorsone) as CEO, seemingly to deflect attention from him on NAI's letterhead. See, **Exhibit G** (without Lorraine Scorsone) and **Exhibit Y** (without Lorraine Scorsone).

14. Upon information and belief, many of the administrators in the District who work under Waronker were interviewed by BOCES.

15. Upon information and belief, many of the Administrators have been intimidated by Waronker's management style, since they have seen what happens when a staff person is deemed

by Waronker to be not loyal to Dr. Waronker personally, or not supportive of Waronker's agenda. One example is Stephen Strachan, the High School Principal, who I understand had a letter of recommendation for tenure in his file from the prior Superintendent, Dr. Atiba Weza, dated June 1, 2017, but then Mr. Strachan was terminated by Waronker on questionable charges of misconduct, for which no credible evidence was produced to support the accusations against Mr. Strachan. Despite repeated requests, which I made both publicly at Board meetings, and privately, Waronker refused to provide such information to me or the full Board.

16. As part of the BOCES investigation, BOCES made document demands upon the District, which the BOE has held confidential and not shared with Waronker, because he has not yet been interviewed by BOCES, and the investigation should not be compromised by the District sharing with him what BOCES' mental impressions are about him steering the work of the District to his organization, namely NAI.

17. As of right now, the Board does not know whether Waronker's business dealings for the District, with his organization, NAI, merely looks terrible and only appears to create a conflict of interest, or if wrongdoing will be established by the BOCES investigation.

18. Until such time as the BOCES investigation is concluded, which will necessarily require Waronker to be interviewed by BOCES, we will not know whether disciplinary action is warranted, or if no disciplinary action is warranted with regard to that matter. We have not pre-determined either the outcome of that investigation, or any of the other open investigation matters concerning Waronker, and we await the investigation findings to see what are the results of this inquiry and the inquiries to be made concerning the other matters addressed in the confidential attachment to the resolution that placed Waronker on an on Administrative Leave of Absence with Pay (hereinafter, an "ALOA-WP").

B. The Plaintiff's Disenrollment Decisions under Investigation

19. In addition to the NAI matter, Waronker was placed on an ALOW-WP, under the District's newly adopted Administrative Leave of Absence with Pay policy, to allow the District to investigate alleged new enrollment/disenrollment violations by the District due to Waronker's unilateral decisions to dis-enroll 294 students, en masse, from the District's High School, allegedly without following the legal protocols and applicable regulations for such a serious undertaking.

20. The District has been advised by its General Counsel, Guercio & Guercio, LLP, to investigate the matter, which recommendation came on January 9, 2017, the night that the BOE voted to place Waronker on an ALOA-WP.

21. Concerning Waronker's decision to dis-enroll students en masse from the High School in or about October or November 2017, I am not aware whether he consulted legal counsel before making that decision, because we, the BOE members, were not informed of that decision in advance, and/or did not know what procedures he was going to employ.

22. Upon information and belief, Waronker was duty bound to work with the District's Enrollment Ombudsman, namely, Robert Rodriguez, and the District's retained General Counsel, namely, Guercio & Guercio, LLP, before taking such action, to make sure he received and would be able to follow their guidance regarding the district's process for disenrollment, and the legal framework established by the NYSED for disenrollment action.

23. Upon information and belief, Waronker disregarded the need for their advice.

24. Upon information and belief, Waronker directed the counselors and attendance staff at the High School to disenroll the 294 students that he unilaterally decided to disenroll, regardless of the process and the legal prerequisite steps that must be followed.

25. Upon information and belief, there are emails and logs to show that Waronker directed the counselors and attendance staff at the High School to disenroll the 294 students, but the investigation of this matter was only recently commenced by General Counsel, and the investigation will allow the district to gather those records, and then interview staff concerning what process was followed and who was consulted beforehand.

26. At this point, the BOE does not know what the ramifications are of this matter, but the BOE does know that this is a very serious matter and calls into question whether good judgment and sound decision making was involved, where, upon information and belief, the input of the District's Enrollment Ombudsman and the District's legal counsel was ignored.

27. We do not know what advice Waronker was relying upon when he directed counselors and attendance staff at the High School to dis-enroll the 294 students en masse, regardless of the process.

28. The BOE is confident that the staff involved will cooperate in being interviewed, and will produce emails and logs to show what was done, to enable the District to assess how and why the District may have deviated from the District's policy that establishes the process to be

followed, and/or the legal requirements that apply, so long as they may participate in the investigation free of intimidation or undue influence, and free of fear of retaliation for doing so.

29. Upon information and belief, some of the 294 students that were disenrolled later tried to return to school, and go to their classes, but were prevented from doing so by the Superintendent's staff, and directed to not go to their classes for having been disenrolled.

30. We do not know which of the 294 students who were disenrolled tried to return to class, but we need to investigate who they were, and if they did not know they had been disenrolled until they arrived at school to pursue obtaining an education from our District.

31. Upon information and belief, some of the 294 students that were disenrolled tried to return to school, and go to their classes, but were prevented from doing so, and then filed complaints with the District and with the NYSED, to challenge their disenrollment. We do not know who they are yet. We need to investigate that and find out what their story is, without any risk of them being influenced not to step forward.

32. On January 9, 2018, the very same day that Waronker was placed on Administrative Leave of Absence with Pay, the District's General Counsel, namely, the law firm of Guercio & Guercio, LLP, both (1) reported that the disenrollment matter had become the subject of a formal complaint against the District with the NYSED and that the NYSED was investigating the matter, and (2) recommended that the District launch its own investigation of this matter.

33. Guercio & Guercio, LLP produced an attorney-client privileged memorandum to the District's BOE outlining the concerns about possible failures to follow the law in the disenrollment process, and recommending an investigation be launched immediately. That advice memo influenced my thinking about placing Waronker on an ALOA-WP.

34. I voted in favor of placing him on leave under the District's newly adopted Administrative leave of Absence with pay policy, to allow the District to investigate the alleged new violations by the District regarding enrollment due to the decisions made by Waronker.

35. The decision to put him on an ALOW-WP was specifically NOT discipline, as the policy itself expressly states; rather, it was a decision not to make any rushed decision as to whether any misconduct took place. The ALOA-WP assignment allows the BOE to have an investigation performed of this, and other matters, free of concerns that the Superintendent's presence in the District, or his actions, might prejudice the investigation's progress and witnesses' willingness to cooperate for fear of retribution.

36. I am aware that allegations have been made that Waronker has shown a willingness to pressure subordinates in the District, including by punishing subordinates who he decides he does not like or who question his program choices (such as, Robert Cialone, the District's former Purchasing Agent, Dr. Ahunna Akoma, the District's Associate Superintendent for Technology, among others).

37. I am aware that allegations have been made that Waronker has shown a willingness to reward staff that are underqualified or under-performing so long as they are loyal to him (I have paperwork to substantiate that issue, but elect not to produce it here, because I do not wish to hurt anyone's professional reputation), but I know that Dr. Akoma can attest to that issue specifically.

38. I have personal knowledge that Waronker enmeshed himself in Board politics and played a personal role in the wrongful removal action undertaken by some Board members against Lamont Johnson, a Trustee on the BOE who was illegally removed by Board President Maribel Touré and Vice President Gwendolyn Jackson, and that he engaged IT staff to spy on other staff members during the proceedings, and that after the proceeding was over, that employees threatened that he sought to terminate their employment or coerce and intimidate them for not being on his team. Specifically, I have received reports that he threatened and bullied the following District employees due to them being witnesses for Lamont Johnson in the wrongful removal case against Trustee Johnson:

- (1) Deborah McPhaul; and
- (2) Tanika Cullum; and
- (3) Patricia Wright.

39. I submit this affidavit out of concern for the staff in the District that Waronker should not be able to use his power and influence to sway whether employees are willing to cooperate against him in the ongoing investigations of him by BOCES, NYSED, the NY OAG and now by the District, concerning his decision-making as Superintendent of Schools.

40. An investigation needs to be conducted to ascertain what happened and why, regarding compliance with the law and compliance with the district's policy, regarding disenrollment, without any interference or obstruction of the investigation by Waronker.

C. The Stephen Strachan Investigation.

41. An investigation needs to be conducted to ascertain what happened and why, regarding the termination of Stephen Strachan.

42. I have been asking for a report from Waronker for months, and he failed and refused to provide one.

43. The District needs to conduct a comprehensive report on how Waronker reached the conclusion he did to terminate Stephen Strachan, with what appears to be an insufficient amount of evidence to support a reprimand, let alone termination, and whether the allegations of contrived evidence and coercion to obtain questionable if not false statements from employees was action undertaken at his direction.

44. I have conferred with labor counsel for the District

45. That investigation of the Strachan termination case needs to be conducted to ascertain what happened and why, without any interference or obstruction of the investigation by Waronker.

46. Again, the decision to put him on an ALOW-WP was specifically NOT discipline, as the policy itself expressly states; rather, it was a decision not to make any rushed decision as to whether any misconduct took place. The ALOA-WP assignment allows the BOE to have an investigation performed of this, and other matters, free of concerns that the Superintendent's presence in the District, or his actions, might prejudice the investigation's progress and witnesses' willingness to cooperate for fear of retribution.

D. The Community School Grant Application

47. The District was awarded a non-competitive grant from the NYSED known as a "Community School Grant" (hereinafter, occasionally, "CSG") for approximately \$5,400,000.00, which was to be used for the 2017-18 school year, and was available on a "use it or lose it basis," so wisdom dictated that it was in the District's best interests to submit an application and obtain approval as early in the school year as possible, so the funds could be used wisely and judiciously throughout the year for the benefit of the students.

48. As of January 3, 2018, no submission had been made by the HUFSD since the November 10, 2017 submission that was rejected, and the fault for that failure needed to be examined and determined. *See, Exhibit Z*, a copy of the January 3, 2018 letter from the NYSED.

49. Upon information and belief, the Superintendent assigned the matter initially to one Administrator, but then took it away from him in late September 2017, even though, upon information and belief, a first draft had been completed already, in order to assign the task to his Master Teachers.

50. Upon information and belief, the Superintendent reassigned the Community School Grant application to his Master Teachers, because he initially sold the notion of them working for the District on the premise that their salaries would be funded from Title I grant funds, and not from General Funds, but use of Title I funds to pay for the Master Teachers was disallowed, so he tried to use them to write themselves into the grant, so their salaries could be funded from the CSG grant.

51. Upon information and belief, the Master Teachers submitted a draft on November 10, 2017 to the NYSED, but it was rejected with 43 pages of comments in chart form within one week, and he had guidance from the NYSED what corrections were necessary as of November 17, 2017. See, **Exhibit Z**, a copy of the November 17, 2017 chart from the NYSED.

52. At the November 20, 2017 Regular Board meeting, we had a discussion about the CSG and Waronker claimed that the CSG was at risk of being lost, and that if he had not interceded, and had he not had the Master Teachers working on it, the grant would have been lost. That report turned out to be false. See, **Exhibit Z**, a copy of the December 29, 2017 email from the NYSED appointed Distinguished Educator, Dr. Jack Bierwirth (hereinafter, "Dr. Bierwirth"), confirming the contents of his November 21, 2017 email, correcting the record on that subject.

53. On December 14, 2017, the NYSED inquired about the status of the CSG, since no response had been submitted by Waronker and his Master Teachers, despite promises of a submission on December 4, 2017, which deadline was missed. See, **Exhibit Z**, a copy of the December 14, 2017 email from the NYSED.

54. At a BOE meeting on December 21, 2017, when the Master Teachers were excused, Waronker stated that the CSG grant would be lost due to the excessing of the Master Teachers.

55. It is my belief that Waronker misled the Board when he represented that the CSG would be lost if the Master Teachers were not retained to work on submitting the CSG. See, **Exhibit Z**, a copy of the December 29, 2017 email from Dr. Bierwirth, confirming the contents of his November 21, 2017 email, correcting the record on that subject.

56. At a BOE meeting on January 3, 2017, after the Master Teachers were excused, Waronker stated that the CSG grant would be lost due to the excessing of the Master Teachers. He did not disclose that he received a letter THAT DAY, from the NYSED, complaining that the District (and thus, the Master Teachers) had failed to respond and make a follow up submission, since the NYSED had provided feedback on November 17, 2017. *See, Exhibit Z*, a copy of the January 3, 2018 letter from the NYSED

57. On January 9, 2017, at the BOE meeting, Waronker represented that the grant was submitted and saved by the Master Teachers, but upon examination of the issue, it was revealed that only the FS-10 (a financial disclosure document that had previously not been submitted) was submitted, so that the application was not complete still.

58. Upon information and belief, as of January 7, 2017, the NYSED was requesting that the District make a brand new submission, since the prior drafts had become too cumbersome to work with due to all the changes and resubmissions, and the NYSED dispatched staff to help the District submit it in proper form.

59. Upon information and belief, the grant submittal process under Waronker's leadership was deeply flawed, but who is to be held accountable (for the delayed submittals) needs to be investigated.

60. That investigation of the CSG submittal record needs to be conducted to ascertain what happened and why, without any interference or obstruction of the investigation by Waronker.

61. Again, the decision to put him on an ALOW-WP was specifically NOT discipline, as the policy itself expressly states; rather, it was a decision not to make any rushed decision as to whether any misconduct took place. The ALOA-WP assignment allows the BOE to have an investigation performed of this, and other matters, free of concerns that the Superintendent's presence in the District, or his actions, might prejudice the investigation's progress and witnesses' willingness to cooperate for fear of retribution.

E. Administrative Leave with Full Pay and Benefits is not a Suspension

62. The Administrative Leave of Absence with Pay policy recently adopted by the District, expressly states that such leave is not disciplinary action.

63. Given my experience with Waronker, it seems perfectly reasonable for the District to be concerned that he would try to influence employees under his control concerning whether to

cooperate with the investigation, and possibly apply pressure to them, and intimidate them or coerce them to try to obstruct the investigation of him.

64. Under Administrative Leave of Absence with Pay policy, Waronker is expressly not suspended, and the District is merely conducting an investigation to see whether the concerns that I have expressed, and the suspicions that I have reported, are validated by the facts as may be uncovered by the pending investigation of the disenrollment process that Waronker implemented.

65. Given my experience with Waronker, it seems perfectly reasonable for the District to want to insulate employees from any pressure that Waronker might possibly apply to influence how much employees will cooperate with the District's investigation of his handling of the matters addressed in this affidavit.

66. For the reasons set forth in this Affidavit, this Court should deny the Plaintiff's application for Injunctive relief in this proceeding.



Randy Stith

Subscribed and sworn to before
me on this 22nd day of January 2017


Notary Public

