

BEFORE THE HONORABLE ANDREW M. CUOMO
GOVERNOR OF THE STATE OF NEW YORK

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IN THE MATTER OF CHARGES AGAINST :
DEBORAH REYNOLDS, COMPTROLLER OF :
THE CITY OF MOUNT VERNON :
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CHARGES AGAINST DEBORAH REYNOLDS,
COMPTROLLER OF THE CITY OF MOUNT VERNON

NOW COMES the City of Mount Vernon (“Petitioner”) by and through counsel, Meyer, Suozzi, English & Klein, P.C., and, pursuant to Section 26 of the Charter of the City of Mount Vernon and Section 33 of the New York State Public Officers Law, for the reasons set forth below, and for other reasons to be adduced, hereby moves the Honorable Andrew M. Cuomo, Governor of the State of New York, for an Order (a) removing from office Deborah Reynolds, the elected Comptroller of the City of Mount Vernon, and (b) temporarily suspending her from office pending investigation of these charges.

INTRODUCTION

1. Under Section 13 of the Charter of the City of Mount Vernon, New York (the “Charter”), the City of Mount Vernon (“Mount Vernon” or the “City”) has an elected Comptroller.

2. Deborah Reynolds is the incumbent Mount Vernon Comptroller. She was elected in 2017 and took office January 1, 2018. She holds office now.

3. Charter Section 91 states that “the Comptroller shall superintend the financial affairs of the City and manage the same pursuant to law and ordinances of the City Council.”

4. Charter Section 91 states that “no money shall be drawn from a City depository except on check or draft signed by the Comptroller or the Deputy Comptroller and made payable to the person entitled to receive the same.”

5. It is thus the obligation of the Comptroller to oversee the financial affairs of the City of Mount Vernon and to pay the City’s bills. Her performance of these duties in a competent and timely fashion is critical to the City’s operation. Mount Vernon depends upon a constant flow of goods and services in order to serve its residents. If the Comptroller does not pay the City’s bills, vendors who provide goods and services will cut the City off.

6. Because the Comptroller has, as we describe below, refused to pay vendors who supply Mount Vernon with goods and services, the City’s operations are on the verge of breakdown.

7. Mount Vernon also has certain financial reporting obligations. If the Comptroller fails to meet these obligations, this jeopardizes City funding and puts it at risk of non-compliance with the law.

8. Because the Comptroller has, as we describe below, failed to meet certain financial filing requirements, she has jeopardized certain funding opportunities and raised the possibility that Mount Vernon is not in compliance with mandated legal reporting obligations.

9. As we describe below, the Comptroller's bizarre and inexplicable refusal to perform her duties puts the health and safety of the citizens of Mount Vernon at risk, it puts the City of Mount Vernon in legal jeopardy, jeopardizes state funding, and makes it difficult for Mount Vernon employees to continue to work.

10. The City of Mount Vernon hereby request the extraordinary remedy of removing the Comptroller from office because her refusal to perform her duties endangers its residents, and makes it impossible for the City of Mount Vernon to function and to provide basic services to its citizenry.

I. **PURSUANT TO THE CHARTER AND THE PUBLIC OFFICERS
LAW, THE GOVERNOR HAS THE POWER TO SUSPEND AND
REMOVE THE COMPTROLLER**

11. Under Article 26 of the Charter, "the . . . Comptroller may be removed by the Governor in the same manner as a Sheriff."

12. Public Officers Law Section 33(2) ("Section 33(2)") gives the Governor the power to remove the "chief executive officer of the police force by whatever title he may be designated, of every city." Thus, read together, Section 33(2) and Charter Article 26 give the Governor the power to remove the Mount Vernon Comptroller.

13. Charter Article 26 gives the Governor the power to suspend the Comptroller for up to 60 days "pending the investigation" of removal charges.

14. Under Section 33(2), the Governor must provide "such officer a copy of the charges against him and an opportunity to be heard in his defense." Petitioner has served a copy of these charges on the Comptroller by e-mail, by registered mail, and is serving her by hand.

15. Under Public Officers Law Section 34(1), the Governor has the power to “conduct an investigation into the charges.” To do so, he “may take evidence as to the truth of the charges at the hearing for such purpose,” “or . . . may direct that such investigation or hearing, or both, . . . be conducted by a justice of the supreme court of the judicial district, or the county judge of the county, in which the officer proceeded against shall reside.” Section 34(1) also empowers the Governor to appoint a “Commissioner” to conduct any such investigation or hearing, and Public Officers Law Section 34(2) empowers the Governor to “direct . . . the District Attorney of the County in which the officer proceeded against resides, to assist the Governor. . . in the conduct of the investigation . . . and of the hearing into the truth of the charges.” Finally, Section 34(2) and Charter Section 26 empower the Governor to direct the Attorney General to assist him in investigating the charges.

16. In short, the Public Officers Law and the Charter give the Governor broad power to investigate these charges, to hold a hearing on these charges, and to take appropriate action including removal of the City Comptroller from office.

II. THE COMPTROLLER DOESN'T PAY MOUNT VERNON'S BILLS: THE CONSEQUENCES ARE SERIOUS

a. The Comptroller's Failure To Appoint A First Deputy

17. Charter Section 90 provides in relevant part, that the Comptroller “shall appoint, to hold office during his pleasure, except as otherwise provided by law, a First

Deputy Comptroller, who shall be an accountant and shall have had at least three years' experience as a bookkeeper.”

18. Comptroller Reynolds is not an accountant. She is not a CPA.

19. Historically, the Mount Vernon First Deputy Comptroller possessing the required accounting background had taken the day- to-day responsibility for paying City bills when due.

20. Despite the fact that the Charter requires Comptroller Reynolds to appoint a First Deputy Comptroller, she has failed to do so. While she has appointed a Second Deputy Comptroller, that person is not an accountant. Thus, at this point, no one in the Comptroller's office is a CPA.

b. The Fuel Vendor Bills

21. Mount Vernon has many municipal vehicles – police cars, fire trucks, garbage trucks, snow plow trucks, street sweepers, and cars used by municipal employees to perform their jobs. Those vehicles run on diesel fuel or gasoline.

22. Mount Vernon has two fuel vendors: Sprague Fuel Energy supplies it with diesel fuel, and Global Montello Group Corp. supplies it with gasoline.

23. As of October 12, 2018, Global Montello was owed approximately \$86,700 for fuel delivered to Mount Vernon. In an e-mail dated October 11, 2018, Global Montello advised the City of Mount Vernon that, pursuant to its contract with the City of Mount Vernon, it had the option of not supplying the City with fuel, noting that “this location is always past due and we are constantly calling for collections.”

24. As of October 19, 2018, Mount Vernon owes Sprague Diesel \$45,561.85 dollars for diesel fuel actually delivered to the City. These unpaid charges date back to July 20, 2018.

25. If either fuel vendor cuts off Mount Vernon, its ability to provide basic services to the citizens of Mount Vernon will grind to a halt: police cars, fire trucks, sanitation trucks, and other municipal vehicles will sit idle, their fuel tanks dry.

26. In each instance, the past due fuel vendor invoices have been approved by the relevant department head and delivered to the Comptroller's office. In each instance, there was money in the appropriate budget line to pay the past due fuel vendor invoices. In each instance, for no apparent reason, the Comptroller has failed and refused to pay these bills.

c. The Street Light And Traffic Light Repair Vehicles

27. Mount Vernon has traffic lights and street lights. Maintaining these lights is critical to insuring the safety of City residents and those who travel on City streets.

28. Until recently, Mount Vernon had three vehicles which it used to repair and maintain its street lights and traffic lights. Two of the vehicles were assigned to the Department of Public Works ("DPW"): they were used to maintain and repair street lights. One vehicle was assigned to the Traffic Department. It was used to repair and maintain traffic lights.

29. One of the two DPW assigned vehicles was leased. The Comptroller failed and refused to make the required monthly lease payments. For this reason, in or about the summer of 2018, the leasing company terminated the lease and repossessed the vehicle. At

that point, Mount Vernon was left with only two vehicles to repair and maintain its street lights and traffic lights.

30. Mount Vernon uses Altec Inc. (“Altec”) to repair these vehicles. During early October, 2018, as both of the two remaining vehicles needed to be repaired, they were brought to Altec. The staff at Altec advised Mount Vernon that it would not do the repair work because Mount Vernon owed it money, and that Altec could not work on these vehicles until outstanding bills were resolved.

31. For several days during early October, after the first vehicle broke down but before the second one did, Mount Vernon officials scrambled to continue to maintain and repair City traffic lights and the street lights. They did so by using the single remaining vehicle to fix traffic lights during the day, between 7:00 a.m. and 3:00 p.m., and to fix street lights at night, between 3:00 p.m. and 11:00 p.m.

32. This was not usual. Normally, street lights and traffic lights are fixed and maintained during the daylight hours. This is done for safety reasons – because traffic often needs to be diverted when these repair trucks are making repairs, it is safer for drivers, pedestrians, and those working to repair street lights and traffic lights if repair work is done during daylight hours.

33. Repairing street lights between 3:00 p.m. and 11:00p p.m. also caused danger to drivers and pedestrians because the repairs were done during peak rush hour.

34. Each of the past due lease payments had been approved by the relevant department head and delivered to the Comptroller’s office. There was money in the

appropriate budget line to pay for each past due lease payment. In each instance, for no apparent reason, the Comptroller has failed and refused to pay those bills.

35. In each instance, the past due Altec invoices had been approved by the relevant department head and delivered to the Comptroller's office. In each instance, there was money in the appropriate budget line to pay the past due Altec invoices. In each instance, for no apparent reason, the Comptroller has failed and refused to pay these bills.

d. The Comptroller Refuses To Pay The City's Hardware Vendors

36. Mount Vernon has a number of municipal buildings. Those buildings include a City Hall, a police building, a courthouse, an armory, a DPW garage, and parking structures.

37. The Mount Vernon DPW maintains those buildings. DPW employees do maintenance and repairs on electrical systems, plumbing systems, and other building systems.

38. To do maintenance and repairs, DPW employees often need to buy parts. Historically, the DPW has relied on hardware stores and suppliers to provide it with those parts.

39. Since taking office, the Comptroller has failed and refused to pay outstanding bills from these vendors.

40. One such vendor is Champion Wholesale Electrical Distributors, Inc. ("Champion"). It supplies the City with electrical parts. Because the City has not paid its outstanding bills, Champion has cut the City off, and will not supply it with any more parts. For this reason, the City has no ability to make basic electrical repairs because it can't buy

electric parts. It can't buy electric parts solely because the Comptroller won't pay Champion what it is owed. In each instance, there is money in the budget to pay these bills. In each instance, the relevant department approved of the bills and submitted them to the Comptroller. And in each instance, for no apparent reason, the Comptroller has failed, and refused, to pay the Champion bills.

41. The City of Mount Vernon relies on two hardware stores – Vernon Hardware & Supply Co. and Gramatan Paint & Hardware Inc. – to supply it with basic hardware such as nuts, bolts, door knobs, and other simple hardware items. The City of Mount Vernon uses these types of supplies to do all manner of repairs and maintenance on municipal buildings.

42. Both of these vendors have cut the City of Mount Vernon off because Mount Vernon has not paid their bills. In each instance, there is money in the proper budget line to pay these bills. In each instance, the relevant department head has signed off on these bills. In each instance, the bills have been submitted to the Comptroller who, for no apparent reasons, has failed, and refused, to pay them.

e. The Comptroller Won't Pay The Company That Clears Blocked Sewer Lines

43. Mount Vernon has a sewer system. At times, sewer lines become blocked.

44. Mount Vernon contracts with National Water Main Cleaning Co. to clear blocked sewer lines.

45. Because it is owed approximately \$34,000 in unpaid invoices, National Water Main Cleaning now refuses to do business with Mount Vernon. As a result, if a

Mount Vernon sewer line becomes blocked, the City won't be able to rely on National Water Main Service.

46. The unpaid National Water Main Cleaning invoices were approved by the relevant department head and delivered to the Comptroller. There is money in the proper budget line to pay these bills. For no apparent reason, the Comptroller has failed, and refused, to pay these bills.

f. The Comptroller Fails To Pay Department Of Recreation Bills

47. The City of Mount Vernon has a Recreation Department.

48. The Comptroller, without reason or justification, has failed and refused to process and delayed the processing of Recreation Department bills and billing matters.

49. As a result in the Comptroller's delay in processing bills, the Commissioner and Deputy Commissioner of the Recreation Department have been forced to use their personal credit cards to make payments for Recreation Department activities such as children's trips and food for senior citizens programs.

50. The Recreation Department operates two senior centers. Because the Comptroller has not paid outstanding bills to vendors who supply products, including food and toilet paper to the senior centers, a senior center was, as of October 17, 2018, out of toilet papers, and, in or about the first week of October, 2018, a Deputy Commissioner was forced to spend personal money to pay for lunches for seniors at the center. Again, in each instance, there was money in the budget to pay these bills and they had been approved of by the necessary municipal officials.

g. Other Examples Of The Comptroller's Failure To Pay Bills

i The Westlaw Cutoff

51. The City of Mount Vernon has a Law Department. Lawyers in the Law Department represent the City in legal proceedings.

52. Like many other lawyers, those lawyers used Westlaw, a recognized standard computerized research tool. Because the Comptroller failed to pay Westlaw bills due for the period January 31, 2018 through October 1, 2018, on or about October 8, 2018, Westlaw cut off service to the City of Mount Vernon Law Department. There was money in the budget to pay those bills. The bills were approved of by the appropriate department head, as per normal procedure. However, once submitted to the Comptroller, for no apparent reason, they were never paid.

ii The City Has Run Out Of Paper

53. The City of Mount Vernon does mailings. In order to do those mailings, it needs paper to make photocopies. It has a mailroom which makes the necessary photocopies.

54. On September 25, 2018, the municipal employee who runs the mailroom submitted a request to the Comptroller to sign a purchase order in order to enable the mailroom to purchase paper and other copying supplies. Since that time the Comptroller has refused to sign the necessary paperwork, thus making it impossible for the mailroom to obtain the necessary supplies. For this reason, as of October 18, the Mount Vernon mailroom is out of paper and other supplies, and thus had no ability to make photocopies.

III. THE COMPTROLLER DOESN'T MAKE REQUIRED
FILINGS WITH THE STATE

a. The Comptroller's Failure To Make Required State Constitution Tax Limit Filings

55. Under Article VIII (10) of the New York State Constitution, Mount Vernon, like other cities, has a maximum amount of real property tax that it may levy in a fiscal year.

56. If Mount Vernon or any other municipality imposes property taxes that exceed this limit, the State Comptroller must withhold certain assistance payments otherwise due.

57. Like other cities, Mount Vernon must, annually file with the state Comptroller a Constitutional Tax Limit form. This form advises the State Comptroller of information necessary to verify compliance with the tax limit. It must be filed no later than ten days before adoption of a final budget, and the municipality must file a copy of the adopted budget within 30 days of its adoption. The Local Government and School Accountability ("LGSA") office of the State Comptroller monitors Constitutional Tax Limit compliance.

58. As the Chief Fiscal Officer of the City of Mount Vernon, it is the Comptroller's responsibility to properly file the Constitutional Tax Limit form and the adopted budget.

59. Mount Vernon's fiscal year runs from January 1 through December 31. It adopted its 2018 budget in or about late September 2017.

60. In connection with the 2018 budget, the then incumbent Comptroller did not file the required Constitutional Tax Limit form or the adopted budget.

61. Upon assuming office in January 2018, it became Comptroller Reynolds' responsibility to file the Constitutional Tax Limit form and the 2018 budget.

62. Since assuming office, Comptroller Reynolds has failed and refused to file the required Constitutional Tax Limit form or the adopted 2018 budget.

63. On October 12, 2018, the State Comptrollers' LGSA office notified Mount Vernon that it has not filed the 2018 budget Tax Limit Form or the 2018 budget. The City Comptroller has, to date, failed to correct this.

b. The Failure To Make The Statutory Property Tax Cap Filings

64. In 2011, New York State enacted a statutory property tax cap. This statute sets a limit of 2% on the annual growth of property taxes levied by local governments. It is distinct from and in addition to the Constitutional Tax Limit. Each year, each local government must submit to the State Comptroller a document certifying compliance with the property tax cap and information regarding proposed and adopted budgets.

65. According to the LGSA office of the State Comptroller, Mount Vernon has not filed its 2018 property tax cap form.

66. Comptroller Reynolds became responsible for filing the 2018 property tax cap form once she took office in January 2018. Despite this, she has failed to do so, and to date has failed to do so.

IV. THE COMPTROLLER WON'T COLLECT UNPAID WATER BILLS

67. Mount Vernon has a municipal water system. It is operated by the Board of Water Supply.

68. At a certain point, the City imposes liens on properties with unpaid water bills. It is the Comptroller's responsibility to attach liens to such properties.

69. By letter dated October 12, 2018, Comptroller Reynolds rejected the request of the Commissioner of the Board of Water Supply to attach liens to such properties. In her October 12, 2018 letter, Comptroller Reynolds states: "please be advised that the liens you attached were the responsibility of the previous administration. It is my understanding that the Board of Water Supply has not supplied the City of Mount Vernon with the excess profits for the years 2015, 2016, and 2017 which sum to approximately \$3 million dollars."

70. The Comptroller has no legal basis for refusing to attach liens to properties with outstanding water bills. By refusing to do so, she prejudices the ability of Mount Vernon to collect money it is owed.

V. THE COMPTROLLER'S INTERFERENCE IN BASIC PERSONNEL FUNCTIONS

71. By refusing to process various personnel forms, and by refusing to release budgeted funds, the Comptroller has interfered with the City's ability to function.

72. Mount Vernon has a Civil Service Commission, which administers Civil Service tests, and processes hiring, promotion, and other employment related matters for Mount Vernon employees. (We refer to the Civil Service Commission as the "Civil Service office.")

73. As part of the Mount Vernon budget, the City Council allocates funds to the Civil Service office for it to carry out its duties.

74. Despite this, the Comptroller refuses to transfer those allocated funds to the Civil Service office. Here, we give examples of how this has paralyzed the Civil Service office.

a. The Comptroller Has Made It Impossible To Hire Police Officers

75. As of October 12, 2018, the Civil Service office has no funds in its account. This is despite the fact that monies allocated to the Civil Service Department by the City Council are available: unfortunately, the Comptroller will not release them to the Civil Service Department.

76. On or about October 15, 2018, a representative of the Police Department contacted the Civil Service office and asked it to schedule appointments for medical and psychological screening for police officer candidates who are to be hired for the next police academy class. Because the Comptroller refuses to transfer funds allocated by the City Council to the Civil Service office, the Civil Service office has no funds actually available, so is unable to schedule pre-employment medical and psychological evaluations. The Comptroller has thus made it impossible for Mount Vernon to hire new police officers. The City's inability to hire new public officers will have a profound impact on public safety.

b. The Comptroller Won't Process Overtime Pay

77. Historically, if an employee works overtime, and the head of that employee's department approves of that overtime, payroll sheets reflective of that approved overtime are submitted to the Comptroller's office for processing, and the employee who worked

the overtime is then paid for that overtime work. To date overtime pay requests have not been paid.

78. The current DPW Commissioner is Mark Ederer. As DPW Commissioner, Mr. Ederer has authority to approve overtime work by DPW employees.

79. The prior DPW Commissioner, Mr. Nigro, resigned from employment with Mount Vernon in September 2018. He was replaced at that time by Mr. Ederer.

80. The Comptroller initially refused to process the relevant forms in connection with both Mr. Nigro's termination and Mr. Ederer's appointment as DPW Commissioner.

81. Because the Comptroller refused to acknowledge Mr. Nigro's resignation as DPW Commissioner or Mr. Ederer's appointment as DPW Commissioner, she refused to process payroll and overtime sheets bearing Mr. Ederer's signature. As a result, it became likely that payroll and overtime checks for DPW workers would be delayed.

82. If DPW employees were not paid their full wages due in a timely fashion, it would have violated the Teamsters Union contract and also would have subjected the City to civil liability for unpaid wages. It would also have jeopardized the ability of the City to provide basic services to its residents, as employees who don't receive their full paychecks are less likely to work.

83. To avoid the above the City was forced to change the relevant forms for Nigro to a termination as demanded by the Comptroller. Although this was factually incorrect this was the only way to induce her to process the personnel forms.

c. The Comptroller Fails to Pay Employees On Time

84. At times, the Comptroller's office simply fails to pay employees in a timely fashion. A recent example of this involved a City employee named Jennifer Mastrogiorgio.

85. Ms. Mastrogiorgio started working as a Senior Account Clerk in the DPW on August 27, 2018. Up until that time, she had worked for the City of Mount Vernon as a cashier in its Finance Department.

86. On or about August 14, 2018, the City Council adopted an ordinance allocating money to fund the Senior Account Clerk position into which Ms. Mastrogiorgio was transferring.

87. The relevant Report of Personnel Change ("RPC") form was signed by the then DPW Commissioner and the Human Resources Department. By letter dated August 17, 2018, Ms. Mastrogiorgio advised the Comptroller of the fact that she would be transferring to the position of Senior Account Clerk in the DPW as of August 27, 2018.

88. Despite the fact that the City Council passed an ordinance funding the Senior Account Clerk position, despite the fact that the RPC for that position was properly signed, and despite the fact that Ms. Mastrogiorgio worked in the Senior Account Clerk position for the week of August 27 through August 31, 2018, Ms. Mastrogiorgio did not receive a paycheck for the week of August 31, 2018 in a timely fashion, and was not paid for her final week of work in the Finance Department.

89. It was not until September 20, 2018 that Ms. Mastrogiorgio received her pay for these two weeks. Thus, she was paid nearly three weeks late. This is entirely due to the Comptroller's office delay in processing Ms. Mastrogiorgio's pay.

d. The Comptroller's Refusal To Process RPC Forms

90. On a broader basis, the Comptroller refuses to process RPC forms. RPC forms are filled out whenever there is a change in an employee's status – for instance, an employee termination, resignation, promotion, or hire.

91. Historically, RPC forms are submitted to the Comptroller's office for processing after they have been approved of by the relevant department head and human resources. At that point, historically, the Comptroller's office, in a ministerial function, processed the RPC form. If the form was for a promotion, the Comptroller's office would implement the pay raise associated with the promotion. If the form was for a resignation, the Comptroller's office would end further pay to the resigning employee. The Comptroller's office simply processes personnel decisions which others lawfully had made. It has no human resources function under the Charter and has never exercised any human resources function.

92. Since assuming office, the Comptroller has increasingly refused to process RPC forms. For instance, in the case of an employee out on leave authorized by the applicable supervisory authority, the Comptroller has refused to process the RPC form unless provided with information as to why the individual is out. The Comptroller refuses to process authorized salary increases. The Comptroller does so despite the fact that these RPC forms have been approved by the relevant department head, and despite the fact that the Comptroller's office has no role in human resources decisions.

93. For example, during the first week of October, the Comptroller's office refused to process approximately 25 RPC forms, improperly demanding to meet with the

relevant Commissioner before accepting any of those forms. This was inconsistent with past practice, and delayed the ability of the City to implement personnel changes. In addition, the Comptroller has no duties in connection with personnel, so her demands to receive explanation for the RPC form changes is not within the scope of her duties.

94. On or about September 15, 2018, the Comptroller advised the Mount Vernon Civil Service Commission that she would not allow the Civil Service Commission to deliver RPC forms to the Payroll Department. Instead, the Comptroller directed that all such forms be provided directly to her. This requirement adds to the delay in processing of personnel changes. Indeed, the Comptroller will not allow anyone to accept RPC forms other than herself. At times, when Civil Service Commission employees have delivered RPC forms to others in the Comptroller's office, they have been rejected.

95. At times during the past months, the Comptroller has refused to process RPC forms in instances where employees have submitted letters of resignation. In these instances, the RPC form was properly filled out by the necessary employee, and the employee has resigned. Notwithstanding this, the Comptroller has failed to process the RPC forms, thus maintaining on payroll people who have resigned from their City of Mount Vernon employment and who should no longer be paid.

e. The Comptroller's Non-Compliance With Civil Service Laws

96. The Comptroller takes it upon herself to assign employees to titles and provided them with salary increases without complying with the relevant Civil Service Laws. For instance, on or about September 14, 2018, the Comptroller, without complying with the Civil Service Law, assigned an employee to the title of Chief Accountant and gave

that employee an illegal salary increase. By assigning that employee to that position and increasing that employee's salary, the Comptroller acted in violation of the Civil Service Law.

VI. DIFFICULTIES WHICH THE COMPTROLLER HAS CAUSED THE MOUNT VERNON VETERANS SERVICES AGENCY

97. Mount Vernon has a Veterans Service Agency ("VSA"). The VSA provides services to military veterans who live in Mount Vernon.

98. The Comptroller's refusal to process requests for payment in the ordinary course, and her penchant for bizarre behavior when asked to perform her job is perhaps best illustrated by her interactions with the Director of the Mount Vernon Veterans Service Agency.

99. This agency has a budget allocated to it by the City Council. It has a Director.

100. The Comptroller's tactics vis-à-vis the VSA exemplify her interference in the operation of municipal affairs.

101. The Comptroller's office refuses to supply the VSA with basic accounting information. It refuses to provide the VSA with information regarding the status of checks and account balances. This negatively affected the VSA's ability to make plans and allocate funds. It has had a negative effect on the relationship between the VSA and the New York State Office of General Services, which is the originating source of much of the VSA's funding.

102. Like other City departments, the VSA has experienced delays in the processing of check and payment to vendors. These delays negatively affect VSA's relationship with vendors, and affect the productivity of VSA employees.

103. In the past, before the current Comptroller assumed office, the Director of this agency would e-mail or hand deliver various documents to the Comptroller's office for processing. These documents would need to be processed so that payment of various invoices can be made.

104. Before the current Comptroller assumed office, this process was simple: the agency director would either hand deliver or e-mail the relevant documents to the Comptroller's office, the Comptroller's office would process the documents, and payments would be made.

105. At some point after she assumed office, the current Comptroller changed the process. When the VSA Director hand delivered documents to staff at the Comptroller's office, she was told by the staff members that they could not accept those documents and provide her with time-stamped copies because "the Comptroller reads it first before it can be time-stamped."

106. The Comptroller will not allow the VSA to send vouchers through interoffice mail.

107. The Comptroller's refusal to perform her job is further illustrated by an instance in September 2018 when the VSA Director approached the Customer Service window of the Comptroller's office and the staff refused to acknowledge or serve her.

108. The Comptroller's refusal to perform her job again is illustrated by her refusal to provide the VSA Director with the balance of VSA accounts.

109. The Comptroller's refusal to do her job yet again is illustrated by the fact that she has literally refused to allow the VSA Director into the payroll office.

VII. THERE IS NO OTHER REMEDY WHICH WOULD EFFECTIVELY ADDRESS THE COMPTROLLER'S FAILURE TO DO HER JOB

110. Mount Vernon seeks this extraordinary remedy because there is no other remedy available to it to ensure that the Comptroller performs her job.

111. It is possible in individual instances for the City to bring Article 78 proceedings to compel the Comptroller to pay bills. Indeed, it has done so in a proceeding now pending in Supreme Court, Westchester County, entitled Richard Thomas, as the Mayor of the City of Mount Vernon v. Deborah Reynolds, as the Comptroller of the City of Mount Vernon, Index No. 64764/2018.

112. However, an Article 78 proceeding can take many months until its completion. During this time, there is a substantial risk that vendors with unpaid bills will simply stop supplying the City with goods and services. And, if the City does not have a reliable supply of goods and services, its ability to provide basic services to its citizens will be jeopardized.

113. Put another way, if the City can't fill the gas tanks of its police cars, the pendency of an Article 78 proceeding to compel the Comptroller to pay the bill to the gasoline vendor will be scant solace to the citizens of Mount Vernon.

CONCLUSION

114. For Mount Vernon to function, the Comptroller has to pay the City's proper bills, make required filings, and process RPC forms. Her office has to interact with others in Mount Vernon government in a smooth fashion.

115. Mount Vernon's Comptroller has failed at these basic functions. She didn't pay the vendors who leased and repaired the City's street light maintenance vehicles, so one vehicle was repossessed and for several days the City had no vehicles with which to repair and maintain traffic lights and street lights. She didn't pay the hardware stores who provide the City with electrical supplies, so the City can no longer buy parts necessary to perform basic maintenance on City buildings. She doesn't process RPC forms, so new employees can't be hired and existing employees are not timely paid. She doesn't make the required state constitutional and statutory tax limit filings, thus placing Mount Vernon at risk of losing state funding.

116. A functioning municipal government is needed to assure the basic safety and security of its citizens. If the City can't put gas in its police cars, if it can't fix its traffic lights, if it can't buy fuses to fix its electrical problems, if it doesn't have paper to make photocopies, it puts the lives, safety, and property of its citizens in jeopardy.

117. Every Mount Vernon citizen is entitled to a functioning municipal government. Because she has failed to perform her basic duties, the Comptroller has put Mount Vernon in a position where it cannot provide its citizens with a functioning municipal government.

118. Both the Mount Vernon Charter and the New York State Public Officers Law give the Governor power to remove the Comptroller. While we recognize that this is an extraordinary remedy, the situation which Mount Vernon faces is equally extraordinary.

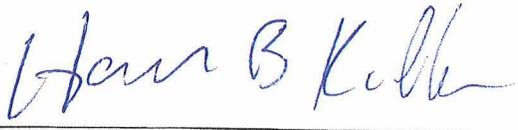
119. Only the Governor has the power to remedy this. On behalf of the City of Mount Vernon and all of its citizens, we respectfully request that the Governor forthwith temporarily suspend the Comptroller pending an investigation of these charges, remove the Comptroller from office upon conclusion of that investigation, and take all other appropriate steps to ensure that the City and citizens of Mount Vernon are provided with a functioning Comptroller.

WHEREAS, THE CITY OF MOUNT VERNON RESPECTFULLY
REQUESTS THE FOLLOWING RELIEF:

1. That the Governor promptly commence an investigation of these charges;
2. That the City of Mount Vernon be permitted to adduce evidence and witnesses in support of and to expand upon these charges;
3. That the Governor promptly schedule a hearing to adjudicate these charges;
4. That the Governor issue an Order temporarily suspending the Comptroller for a period of 60 days pending the investigation of these charges;
5. That upon completion of an investigation and hearing, the Governor remove from office the incumbent City of Mount Vernon Comptroller, Deborah Reynolds; and
6. That the Governor provide the City of Mount Vernon with such other relief as he deems proper, appropriate, and lawful.

Dated: October 22, 2018
Mount Vernon, New York

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

By: 

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CITY OF MOUNT VERNON



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I, Lawrence A. Porcari, an attorney admitted to practice in the courts of this state, being Corporation Counsel of Charging Party City of Mount Vernon, and one of the attorneys of record for the City of Mount Vernon, affirm pursuant to CPLR §3020(d)(2) that I am acquainted with the facts of this claim and that I have read the foregoing charges and know their contents. The matters therein are stated upon information and belief, and I believe them to be true.

A handwritten signature in black ink, appearing to read 'Lawrence A. Porcari', is written over a horizontal line. The signature is somewhat stylized and overlaps the line.

Lawrence A. Porcari