

**INVESTIGATION REPORT**

TO: Conshohocken Borough Council  
FROM: Lamb McErlane PC  
DATE: June 28, 2018  
SUBJECT: Investigation of appointment of Borough's insurance broker

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**Introduction**

Conshohocken Borough Council retained Lamb McErlane PC to conduct an investigation into whether any Borough Council Members and/or employees violated any laws or ethics rules in relation to the appointment of Cohen Partners as the Borough's insurance broker. After a lengthy examination, we have found no evidence that any laws or ethics rules have been violated.

**Background**

The Borough of Conshohocken, Montgomery County, Pennsylvania (the "Borough"), is governed by the Borough Council ("Council"), which is comprised of seven (7) members that are elected by ward for terms of four (4) years. The current Council Members are Karen Tutino, James Griffin, Tina Sokolowki, Anita Barton, Jane Flanagan, Robert Stokley, and Colleen Leonard. All current Council Members have been in office since at least January of 2016. Council also appoints a Borough Solicitor. Currently the Solicitor is Michael E. Peters, Esquire, of Eastburn and Gray, P.C. The previous Solicitor was Michael Savona, Esquire, also of Eastburn and Gray, P.C.

In addition to Council, the Borough has an elected Mayor. Yaniv Aronson was sworn in as Mayor in January of 2018. Prior to Mayor Aronson's election, the position was held by Robert Frost.

The Borough Manager acts as Chief Administrative Officer for the Borough and handles the Borough's day-to-day operations. The Manager's responsibilities include supervising Borough staff, preparing and submitting budgets to Council, preparing agendas for Council meetings, and any other tasks assigned by Council. The current Manager is Stephanie Cecco. The previous Manager was Richard Manfredi, who began in 2014 and resigned from the position in April of 2017.

Jason Salus is the elected Treasurer of Montgomery County and a former Conshohocken Borough Council Member. He is also the "Area Leader" of the Democratic Committee for Conshohocken Borough and Plymouth and Whitemarsh Townships and the Executive Vice Chair & County Treasurer for the Montgomery County Democratic Committee. In addition,

Salus is a sales executive with Cohen Partners LLC, an insurance brokerage based in Philadelphia, Pennsylvania.

### **Insurance Brokerage**

In 2016, the Borough switched its insurance broker. Specifically, at the March 16, 2016, Council Meeting, the Consent Agenda<sup>1</sup> contained an item to “authorize the Borough Manager to bind property liability and workers compensation insurance for the April 1 renewal.” There was a motion made and seconded to approve the consent agenda and no discussion occurred.

The Borough’s insurance broker for the 2015-2016 term was Brown & Brown of Lehigh Valley LP. The Borough Manager at the time, Richard Manfredi, switched the Borough’s broker from Brown & Brown to Cohen Partners LLC and bound the Borough’s insurance with Travelers on March 31, 2016.

At its meeting on March 15, 2017, Borough Council voted to renew its contracts with Cohen Partners and Travelers. Although this topic was not listed on the agenda, Mr. Manfredi asked Council to take action during the Unfinished Business portion of the meeting. The minutes reflect that Mr. Manfredi asked Counsel for authorization to bind the Borough for insurance for the 2017-2018 term through Cohen Partners at a rate of \$608,307, with commissions to the broker not to exceed \$31,507.80.

On July 18, 2017, a local journalist submitted a Right-to-Know Law Request to the Borough seeking records related to the Borough’s insurance brokerage and policies from 2007 to present, including “responses and/or bids submitted in response to any solicitation for bid to supply municipal insurance” and any “written and electronic communications between any municipal employee, contractor and/or elected official and any employee of any insurance company supplying insurance to the municipality.”

On September 13, 2017, a local news web site featured an article raising questions about the Council’s procedures in appointing Cohen Partners as the Borough’s insurance broker. Specifically, the article’s author noted the Borough contracted with Cohen Partners without soliciting other bids, and that one of Cohen Partners’ employees, Jason Salus, is a “former member of Conshohocken’s Borough Council, currently the elected Montgomery County Treasurer, and the Area Leader for the Democratic Party for Conshohocken, Plymouth Township and Whitemarsh Township.” The article suggested that because Council is comprised of six (6) Democrats and one (1) Republican, Mr. Salus’ position as Area Leader is the equivalent to a “local party boss,” and, therefore, Council “voted to award their party boss’ employer a no-bid contract worth a \$31,507.80 commission.” Subsequent articles expanded on this theory.

In response to growing public pressure and multiple Right-to-Know Law requests for documents related to the Cohen Partners appointment, Council appointed Lamb McErlane PC as special

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<sup>1</sup> The “Consent Agenda” is an agenda item that groups routine business and reports into one agenda item that can be approved in one action, rather approving each item with its own motion. Any Council Member may remove an item from the Consent Agenda for consideration as an individual agenda item.

counsel to assist in responding to the Right-to-Know requests and investigate to determine whether any laws were broken.

### **Investigation**

Lamb McErlane has devoted significant effort to investigate this matter. Through our investigation, we have reviewed thousands of emails from the Borough's servers, various records relating to the Borough's insurance broker and policies, many meeting agendas, minutes, and video recordings, among other materials.

We also conducted thorough phone interviews with the following individuals:

- Council Member Karen Tutino
- Council Member James Griffin
- Council Member Tina Sokolowki
- Council Member Anita Barton
- Council Member Jane Flanagan
- Council Member Robert Stokley
- Council Member Colleen Leonard
- Borough Manager Stephanie Cecco
- Former Borough Solicitor Michael Savona<sup>2</sup>
- Conshohocken Resident Joe Ferrigno

We contacted the following individuals but were unable to secure an interview:

- Former Borough Manager Richard Manfredi<sup>3</sup>
- Former Borough Mayor Robert Frost
- Local Journalist Kevin Tierney
- Montgomery County Treasurer Jason Salus

### **Findings and Conclusions**

We have found no evidence of illegal or improper actions by any Council Member or employee of Conshohocken Borough related to the appointment of Cohen Partners as the Borough's insurance broker.

Preliminarily, the Pennsylvania Borough Code provides Council with the authority to purchase insurance for employees, elected officials, buildings, and properties. The Borough Code does not require a borough to obtain price quotations or solicit bids for contracts involving a policy of insurance or for professional services. Therefore, it should be noted that the procedure followed in appointing Cohen Partners as the Borough's insurance broker did not violate the appropriate Borough Code contracting provisions.

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<sup>2</sup> Subsequent to our interview, Mr. Savona was indicted for making false statements to federal investigators in an unrelated matter concerning a different municipality. It should be noted that this did not affect our investigation in any meaningful way.

<sup>3</sup> Mr. Manfredi provided us with a limited email response, but did not participate in a telephonic or in-person interview.

While Jason Salus worked closely with numerous Council Members politically and professionally, and there were several allegations raised in our interviews that other Council Members were aware that Jason Salus was an employee of Cohen Partners prior to switching from Brown & Brown, each member of Council denied having such knowledge. When pressed for evidence to substantiate these allegations, no further proof was provided during our interviews. Therefore, absent evidence to the contrary, we are unable to conclude that any Council Members had prior knowledge of the connection between Jason Salus and Cohen Partners.

It should be stressed, however, that mere knowledge alone by a Council Member or Borough employee of the connection between Jason Salus, a known partisan political figure in Conshohocken Borough, and Cohen Partners, who was appointed as the Borough's insurance broker, does not present grounds for unlawful conduct or a violation of the Pennsylvania Ethics Act. There is no evidence of a *quid pro quo* or a pay-to-play type of scheme here.

Multiple Council Members stated in their interviews that they trusted Richard Manfredi with many routine business decisions and regularly relied on Manfredi's research and recommendations when making decisions for the Borough. As delineated in the Meeting Minutes of March 16, 2016, Manfredi was authorized "to bind property liability and worker's compensation insurance for the April 1 renewal." In reviewing video footage from this meeting, it was found that this authorization occurred without any discussion by Council and, accordingly, the name "Cohen Partners" was never mentioned at the Council meeting. There is no evidence that any individual Council Member had prior knowledge that Manfredi intended to switch the Borough's insurance broker to Cohen Partners.

Moreover, as demonstrated by the table below, there doesn't appear to be a connection between the broker and the amount spent by the Borough on insurance premium or commission rates at the time of the appointment of Cohen Partners, which may indicate some sort of wrongdoing.

| Broker         | Year    | Premium   | Commission | Total     |
|----------------|---------|-----------|------------|-----------|
| Brown & Brown  | 2013/14 | \$451,842 | \$15,744   | \$467,586 |
| Brown & Brown  | 2014/15 | \$596,605 | \$17,139   | \$613,744 |
| Brown & Brown  | 2015/16 | \$547,354 | \$48,008   | \$595,362 |
| Cohen Partners | 2016/17 | \$598,207 | \$31,407   | \$629,614 |
| Cohen Partners | 2017/18 | \$608,307 | \$31,507   | \$639,814 |

Although there was an email sent from a representative of Brown & Brown offering to handle the Borough's insurance for a flat commission rate of \$20,000 for the 2016-17 term, which is less than the rate offered by Cohen Partners, the fact that the Borough ultimately chose Cohen Partners does not violate the law. Various factors go into a decision such as this and the Borough is not legally required to choose the lowest commission rate for its insurance broker.

## **Recommendations**

Although our investigation revealed no evidence of improper or illegal activities by present Borough officials and employees, it should be stressed that, when dealing with public money, transparency is key in order to avoid any appearance of impropriety.

In the future, Council should monitor the businesses with which the Borough contracts and should evaluate whether there are any real or apparent conflicts that should be disclosed prior to making a decision. Under certain circumstances, the mere appearance of a conflict, even if there is no actual conflict, could be detrimental to the Borough.

Ultimately, Council is responsible for the expenditure of public funds and many decisions made by Borough employees. Thus, Council Members should ensure that they are fully informed of all pertinent facts prior to taking any decision-making action. Although a Borough Manager should be able to handle most of the Borough's day-to-day operations, Council should maintain a level of oversight to ensure the Borough Manager is making decisions in accordance with Council's instruction, including receipt and review of reasonable background information and documentation regarding contracting decisions made by the Borough Manager.

In light of the negative publicity surrounding the appointment of Cohen Partners, the Borough solicited bids and conducted public interviews prior to appointing a new insurance broker in 2018. Subject to this process, Borough Council appointed Brown and Brown as the Borough's insurance broker of record on February 7, 2018.<sup>4</sup> Although not required for the appointment of a professional consultant, soliciting bids or requests for proposals provides transparency and ensures that public funds are being used in a proper and cost-efficient manner. This was a good first step to "clear the air" on this issue in such an open and transparent way and should be considered in future appointments by the Borough.

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<sup>4</sup> Subsequent to Brown and Brown's appointment as insurance broker, the Borough was accepted into the Delaware Valley Property & Liability Trust and Delaware Valley Workers' Compensation Trust, which are municipal insurance trusts that offer substantial monetary savings to member municipalities. The Borough officially joined both Trusts on April 4, 2018, eliminating the need for an insurance broker altogether.