

IN THE COURT OF COMMON PLEAS
OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

GARY HEINKE,
Plaintiff

vs.

COUNTY OF LANCASTER,
RICHARD SHELLINGER,
HOWARD "PETE" SHAUB and
MOLLY HENDERSON,
Defendants

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No.: CI- 07-08948

JURY TRIAL DEMANDED

ENTERED AND FILED
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PROthonotary's OFFICE
LANCASTER, PA.

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you or a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**Lancaster Bar Association
28 East Orange Street
Lancaster, PA 17602
Telephone No.: (717)393-0737**

LAW OFFICES OF JEFFREY PHILIP PAUL

Dated: 8/8/07

By: _____


Jeffrey Philip Paul, Esquire
Attorney for Plaintiff -

Gary Heinke

124 East Chestnut Street
Lancaster, PA 17602
Telephone No.: (717) 735-7545
Attorney I.D. No.: 10182

**IN THE COURT OF COMMON PLEAS
OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW**

GARY HEINKE,	:	No.: CI- 07-089 48
Plaintiff	:	
vs.	:	
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COUNTY OF LANCASTER,	:	
RICHARD SHELLENBERGER,	:	
HOWARD "PETE" SHAUB and	:	
MOLLY HENDERSON,	:	
Defendants	:	JURY TRIAL DEMANDED

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PROCTOR & KURTZ'S OFFICE
LANCASTER, PA

COMPLAINT

1. Plaintiff - Gary Heinke is an adult individual, currently residing at 2030 Rockvale Road, Lancaster, PA 17602.
2. The County of Lancaster is a third class county within the Commonwealth of Pennsylvania, with its principal office located at 50 North Duke Street, Lancaster, Pennsylvania 17608.
3. Co-Defendant - Richard Shellenberger ("Shellenberger") is an adult individual who maintains an office at the Lancaster County Courthouse, 50 North Duke Street, Lancaster, PA 17602.
4. Co-Defendant - Howard "Pete" Shaub ("Shaub") is an adult individual currently residing at 317 Owl Bridge Road, Millersville, PA 17551.
5. Co-Defendant - Molly Henderson ("Henderson") is an adult individual who maintains an office at the Lancaster County Courthouse, 50 North Duke Street, Lancaster, PA 17602.

6. At all time relevant hereto Co-Defendants - Shellenberger, Shaub and Henderson were members of the Lancaster County Board of Commissioners (hereinafter "the Board").

7. At all times relevant hereto, Co-Defendant - Lancaster County acted or failed to act through its agents, servants or employees, who acted for Lancaster County's benefit, under Lancaster County's control and within the course and scope of their authority and employment.

8. Lancaster County's agents are, and at all times mentioned here were, employed by the County of Lancaster and were authorized and empowered by Lancaster County to act as its agents, and each and all of the things alleged to have been done by them were done in the capacity of, and as agents for Lancaster County and were within the scope of their authority and employment.

9. Co-Defendant - Shellenberger was, at all times material hereto, a County Commissioner, making, enforcing, and administering policies, practices and procedures within Lancaster County. At all times material Defendant - Shellenberger acted within the course and scope of his duties as a County Commissioner, and as the officer, agent and/or employee of Defendant - Lancaster County. Defendant - Shellenberger is being sued both individually and in his official capacity as agent for Lancaster County.

10. Co-Defendant - Shaub was, at all times material hereto, a County Commissioner, making, enforcing, and administering policies, practices and procedures within Lancaster County. At all times material Defendant - Shaub acted within the course and scope of his duties as a County Commissioner, and as the officer, agent

and/or employee of Defendant - Lancaster County. Defendant - Shaub is being sued both individually and in his official capacity as agent for Lancaster County.

11. Co-Defendant - Henderson was, at all times material hereto, a County Commissioner, making, enforcing, and administering policies, practices and procedures within Lancaster County. At all times material Defendant - Henderson acted within the course and scope of her duties as a County Commissioner, and as the officer, agent and/or employee of Defendant - Lancaster County. Defendant - Henderson is being sued both individually and in her official capacity as agent for Lancaster County.

12. On March 24, 2004 Plaintiff was hired by the Defendants as the Chief Services Officer (CSO) of Lancaster County.

13. Plaintiff originally knew Shellenberger, when he was regional manager for Marketplace Ministries (MMI), in Lancaster, PA. MMI was an employee assistance program, and MMI had a contract with Krieder Farms, which Shellenberger was general manager of.

14. Plaintiff met Shellenberger in or about 1997, and Shellenberger and Plaintiff became friends and kept in regular contact.

15. In 2001 Plaintiff resigned his position with MMI, and he returned to Minneapolis, Minnesota, where he was from and where he had a job offer in Central Minnesota, as a Consultant.

16. The aforementioned job did not materialize,, and thereafter, Plaintiff did some consulting work, and later obtained a job with "HART" as Executive Director. However, when that position ended Plaintiff obtained employment with Pillager School District, near Brainerd, Minnesota as a substitute teacher.

17. Plaintiff thereafter applied for a position with the Saint Cloud State University, and he was accepted in January, 2003 as a full time graduate student, in the Educational Administration and Leadership Program, pursuing certifications as a Principal or Superintendent.

18. On January 1, 2004 Plaintiff graduated and he received a post-graduate certificate.

19. At all times relevant to the instant matter Shellenberger knew that Plaintiff had been a substitute teacher, student and intern, and that in January of 2004 Plaintiff had graduated with a certificate as a Principal and Superintendent, K thru 12.

20. In or about May of 2003 Shellenberger contacted Plaintiff, following Shellenberger's victory in the primary for Commissioner of Lancaster County. Shellenberger advised Plaintiff that he and Shaub were looking at changing the structure of the Lancaster County Government, and Shellenberger asked Plaintiff to send him a generic resume for his personal use, in the event that a position opened within the government or community.

21. In or about September of 2003 Plaintiff was in Lancaster County for a hospital visit, at which time he was invited by Shellenberger to stop by at Shellenberger's restaurant to meet some people.

22. When Plaintiff arrived at the restaurant he was introduced to John Esbenshade, Esquire ("Esbenshade"), and Plaintiff was advised that they were waiting for Shaub, who was then a County Commissioner.

23. Although Plaintiff originally thought that this was to be a social meeting, it became apparent that it was a preliminary screening or profiling for a potential job.

24. During the course of this meeting Esbenshade and Shellenberger discussed Plaintiff's experience and local politics.

25. When Shaub arrived very late he began to lecture Plaintiff as to what Shaub was looking for in a county "employee".

26. During the course of this meeting no promises were made, nor was any agreement entered into regarding Plaintiff's possible employment within the county.

27. Thereafter Plaintiff heard from Shellenberger on a regular basis by e-mail and telephone calls, during which they discussed the Commissioner's race and Shellenberger updated him on local Lancaster events.

28. Thereafter, after Shellenberger was elected Commissioner, he contacted Plaintiff, indicating that he and Shaub were putting together a position for Human Services. Shellenberger advised Plaintiff that he was more than qualified for this job, and that he "wanted him" there.

29. Plaintiff replied that he was seeking a position in education. However, Shellenberger encouraged Plaintiff to apply for the County job once it was posted. Plaintiff trusted Shellenberger, since they were friends, and Plaintiff did apply for the job once it was posted. Pursuant thereto Plaintiff searched the county website for the job description of the CSO.

30. In reviewing the website position description Plaintiff noted that they were looking for:

a) An individual with seven (7) years or more experience in Human Services (Plaintiff had twenty years);

b) A person with a Master's Degree, (Plaintiff had two Master's

degrees, plus a Master's Certificate and a Post Graduate Certificate, a Bachelor of Science degree, a Master of Divinity degree, and a Master of Theology degree. Additionally, he had a Post-Master's Graduate Certificate in Educational Administration and Leadership.)

31. In reviewing other requirements Plaintiff determined that he was qualified for the position and that he met or exceeded all of the requirements for the job as originally posted.

32. Thereafter Plaintiff applied for the position of CSO.

33. Following subsequent conversations with Shellenberger Plaintiff learned that there were one hundred (100) applicants for the position. He was also advised that his resume was in the "B" pile, rather than the "A" pile. As a result thereof, Shellenberger went to Human Resources and had Plaintiff's resume placed in the "A" pile to be interviewed, which was Shellenberger's prerogative, as Commissioner, since there was no policy against it. Shellenberger also provided Plaintiff with additional information in order to assist him in obtaining employment with the county. Shellenberger gave Plaintiff the names and telephone numbers of Department heads, including the heads of:

- a) Children and Youth
- b) Mental Health/Mental Retardation
- c) The Office of Aging
- d) Drug and Alcohol.

Shellenberger advised Plaintiff that he had met with the Department Heads and that they were expecting his call. Plaintiff contacted the Department Heads in order to

obtain information about department functions.

34. Prior to Plaintiff's interview for the position Shellenberger provided him by telephone with the questions which he would be asked at his interview, which was in response to Plaintiff's inquiry as to whether he had to bring anything with him to the interview.

35. In early March of 2004 Plaintiff was interviewed for the position of CSO by Shaub, Shellenberger and Henderson, along with Bonnie Ashworth ("Ashworth"), who was the County Human Resource Specialist who prepared, posted, accepted and reviewed applications for the position. The questions which were asked of Plaintiff were the ones which had been provided to him by Shellenberger during a previous telephone call. However, none of the questions by the Board of Commissioners dealt with Plaintiff's resume or qualifications for the position.

36. Thereafter by a unanimous vote of the Board of Commissioners on Wednesday, March 24, 2004, Plaintiff was hired, and he started in his new position on March 29, 2004.

37. In order to accept the position of CSO and to begin work as quickly as possible, as requested by the Commissioners, Plaintiff was required to relocate from his home in Brainerd, MN, and he incurred the following expenses incident thereto:

a. Settlement Charges-Sale of Minnesota home.....	\$14,982.87
b. Moving Expenses.....	\$5,918.23
c. Purchase of Pennsylvania Home.....	\$13,033.34
Total.....	\$33,934.44

38. In order to take the position which was offered Plaintiff withdrew from

final consideration for positions at five (5) schools, three (3) in North Carolina, one (1) in Virginia, and a school in New Jersey, with salaries ranging from Fifty-Five Thousand Dollars (\$55,000) to Seventy-Five Thousand Dollar (\$75,000).

39. During the course of the negotiations and interviews Plaintiff was advised by Shellenberger that he was going to be paid the same as the new County Administrator.

40. The salary for CSO which was posted on the website was between Seventy Thousand (\$70,000) and Eighty-Five Thousand (\$85,000), and Plaintiff was hired at a salary of Eighty Thousand Dollars (\$80,000).

41. Shellenberger advised Plaintiff when he arrived that he would receive the same salary as the new County Administrator because he would have equal responsibilities as the County Administrator, equal access to the Board of Commissioners, and that the County Administrator's job would be "split in half".

42. After Plaintiff arrived and the new County Administrator was hired Plaintiff discovered that the new County Administrator was to be paid One Hundred Five Thousand Dollars (\$105,000.00), although he had less employees and less budgetary responsibilities than the Plaintiff.

43. After Plaintiff learned of the disparity in pay he formally protested to the Human Resources Department, which was sympathetic, and to Shellenberger, who was not.

44. As part of the agreement between Heinke and the Defendants, whereby the Defendants offered Heinke a position with the county, and Plaintiff accepting the position, Heinke gave additional consideration to the county other than the services for

which he was hired; to wit:

a) Heinke, who was not a resident of the Commonwealth of Pennsylvania at the time, was forced to sell his home in Brainerd, Minnesota and to incur significant, inordinate expenses relative thereto, including the expenses of selling the Minnesota home, purchasing a new home in Lancaster, and relocating in Lancaster.

b) Plaintiff came to the employment relationship with the county with bargaining strength greater than that of the usual employee; i.e., significant experience, including multiple degrees;

c) Plaintiff underwent a significant, substantial hardship in moving himself from his home in Minnesota to Pennsylvania to take his new position with the county;

d) Plaintiff afforded the county a substantial benefit other than the services which Plaintiff was hired to perform, and Plaintiff underwent a substantial hardship performing the additional services he was required to perform;

e) The ultimate termination of the relationship between Plaintiff and the county resulted in a greater hardship and loss to Plaintiff than the county; and,

f) The significant losses which Plaintiff incurred created a significant financial hardship, by relocating to Pennsylvania, including his significant out of pocket expenses in order to relocate.

45. Thereafter, when Heinke accepted his position, he discovered that he had been "lied to", and that the position was not that which had been represented to him, or that the conditions and responsibilities of the position of CSO were part of the job description on the website, nor were they mentioned to Plaintiff during the interview

process.

46. When Plaintiff assumed the position of CSO he was shocked to discover that the duties and responsibilities which had been represented to him in the posted position and by Shaub and Shellenberger were not the same as he was expected to perform, nor had any of the aforementioned conditions and responsibilities which were ultimately given to Plaintiff mentioned to Plaintiff during the interview process; to wit,

a) It had previously been represented to Plaintiff that he would be working with five (5) Lancaster County Agencies, including Children and Youth, MH/MR, the Office of Aging, Drug and Alcohol and Youth Intervention, and that he would be managing the effective delivery of services by each of them, and their budgetary goals. The responsibilities were fully articulated in a posting on the Lancaster County website, of January 13, 2004, a copy of which is attached hereto and marked Exhibit "A."

b) Thereafter when Plaintiff assumed his position as CSO and he sat down with Shaub, who was Chairman of the Board of Commissioners, Shaub provided Plaintiff with an additional long list of responsibilities and special projects which totally deviated from the original job responsibilities which had been represented to him. **The additional job responsibilities and special projects are contained in Appraisal Forms of the County of Lancaster which are attached hereto, and collectively marked Exhibit "B."**

47. Thereafter, Plaintiff completed his probationary period, although he

could not realistically cover all of the responsibilities which had been imposed on him. Additionally, in 2004 and 2005 Shaub made his life miserable by routinely verbally abusing him and threatening him with termination if he did not comply with all that had been requested of him. For example:

- a. Shaub demeaned and humiliated Plaintiff at public meetings;
- b. Shaub harassed Plaintiff by telephone, day and night, including weekends;
- c. Shaub blackmailed Plaintiff on his annual evaluation;
- d. Shaub threatened Plaintiff physically;
- e. Shaub constantly piled more work and more projects onto Plaintiff, and shortened Plaintiff's deadlines;
- f. Shaub demanded that Plaintiff illegally assist him in getting re-elected; and,
- g. Shaub demanded that Plaintiff assist him in undermining Shellenberger by organizing a campaign against Shellenberger in order to ultimately force Shellenberger to relinquish the chairmanship of the Board so that Shaub could reassume that position. And, when Plaintiff repeatedly refused to engage in what Plaintiff considered to be unethical conduct Shaub harassed and verbally abused Plaintiff, accusing Plaintiff of betraying him and of being disloyal and of being his "enemy", asserting that Plaintiff was the only friend he had, and threatening to find a way to "get rid of" Plaintiff.

48. Although Shaub would constantly abuse Plaintiff the other County Commissioners failed to provide Plaintiff with any relief or the necessary tools so

that he could successfully perform all of his responsibilities as CSO, nor did the other commissioners come to his defense; to wit:

a. Plaintiff protested the expansion of his duties and responsibilities to Shellenberger and the HR Department, to no avail;

b. Henderson avoided and shunned Plaintiff during all of 2004, although she eventually admitted to Plaintiff that "this was a mistake", and although Plaintiff complained to Henderson in 2005 Henderson ignored Plaintiff's pleas;

c. Neither Henderson nor Shellenberger did anything either to relieve the hostile environment, or the stress which was destroying Plaintiff, although Plaintiff met with Shellenberger on a weekly basis, and Henderson on a regular basis, at which time he requested that action be taken in order to improve his working environment. This produced a tremendous amount of frustration and stress, since Shellenberger and Henderson refused to take any action or to address the acrimonious work environment between the Board of Commissioners and its staff.

49. Both the change in responsibilities and the abuse negatively impacted Plaintiff's ability to perform his duties, and created extreme frustration. In particular, Plaintiff received no administrative support, his job responsibilities more than doubled, Plaintiff was forced to travel to ten separate satellite offices for meetings and to supervise staff.

50. On October 12, 2005 Plaintiff was to meet with the Board of Commissioners regarding the sale of Conestoga View Nursing Home. Prior to the other commissioners being present Shaub became extremely confrontational and abusive,

screaming that Plaintiff should "answer" his "fricken" questions. However, Plaintiff made it clear that he could not do so until the remaining commissioners were present. Shaub continued to abuse Plaintiff and he became out of control, and Shaub physically threatened Plaintiff, stating: "If I have to come across the table I will". Shaub assumed a fighting stance. In response thereto Plaintiff stated loudly that Shaub was out of line, but Shaub continued to scream and he moved towards Plaintiff. Plaintiff again shouted "Commissioner, you are out of line." As Plaintiff headed towards the door Shaub screamed: "Get back here. I'm not done with you yet." And, he threatened to embarrass Plaintiff at the Commissioner's meeting which was to be held immediately following this confrontation. Plaintiff left, shocked and shaken, and he immediately reported what had occurred to Shellenberger and Henderson. However, no action was taken by either commissioner, and although Plaintiff requested that he not have to attend the Commissioners' meeting, they insisted he do so.

51. Thereafter Shaub continued his verbal abuse of Plaintiff, routinely acting in a bizarre fashion, often calling Plaintiff at all hours of the day and night, along with weekends, in order to harass him.

52. On October 24 and October 25, 2005 the Lancaster Newspapers published accusations against Plaintiff regarding his resume and qualifications, and his alleged role in selling the Conestoga View Nursing Home. The accusations were absolutely false, since Plaintiff played no role whatsoever in the sale of the nursing home since it was the Board which orchestrated the sale and which was the only entity that had the power to authorize the sale .

53. Plaintiff formally requested an executive session with Shaub,

Shellenberger and Henderson, in order to specifically discuss the false accusations which had been leveled against him in the newspapers, and the allegations concerning his qualifications, resume, etc. However, at the convened meeting Shaub stood up, took control, and declared that the Board was not going to meet or speak with Plaintiff. Shaub stated that a formal investigation of Plaintiff was going to begin within the HR Director in Charge, and this decision was made in the presence of Henderson and Shellenberger, who acquiesced and concurred with Shaub. After Henderson and Shellenberger left the meeting, Shaub stated: "I am going to get you out the door."

54. Eventually Plaintiff was forced to resign his position with the county on October 28, 2005, effective two weeks later:

a. Under protest- because of the acrimonious and hostile work environment;

b. In protest-due to the fact that the Commissioners lied about his role in the Conestoga View Nursing Home scandal, in order to make him the scapegoat; and,

c. Self-preservation- in order to protect himself and his health, since he was not receiving any support from Human Resources or the Commissioners, who did not come to his defense to fight the false allegations which had been lodged against him in the newspapers regarding his resume and qualifications, or to take action to stop Shaub's abuse.

55. Plaintiff resigned because of the fact that he was lied to regarding the duties and responsibilities of a CSO, because of the constant verbal abuse and harassment by Shaub, and Shaub's threats of physical violence, and the intolerable work

environment, and the complacency of the two other Commissioners to take any action, and because he was becoming significantly depressed, and having difficulty sleeping, and he was becoming edgy and irritable. Plaintiff's health deteriorated significantly, and as weeks and months went by it had become clear to Plaintiff that he was alienated from his staff, due to the conduct of the Board. Additionally, Plaintiff had been made the "scapegoat" for the Conestoga View matter, although he played no role whatsoever in the sale of Conestoga View, and although Plaintiff was portrayed in the press as the mastermind and chief architect of the project, this was not true, although the Board did nothing in order to rectify the situation. The Board refused and failed to come to Plaintiff's defense when the newspapers falsely impugned his reputation and called for his resignation, and it was the work environment and abuse which caused Plaintiff to involuntarily resign his position.

56. Although the accusations which had been made against Plaintiff regarding his resume, qualifications and his role in Conestoga View were false, and the Defendants blatantly refused to come to his defense and to protect him, the Lancaster County Investigating Grand Jury exonerated him. Not only did the Grand Jury find that Plaintiff had not lied about his resume or his role in Conestoga View, but he passed a polygraph test and fully cooperated with officials to that fact. Additionally, the Human Resources Department and all three (3) County Commissioners were aware of the "discrepancy" of the school internship before Plaintiff's interview and found it to be of no weight during the hiring process. **See the County Investigating Report (Exhibit " "), and the newspaper article of November 11, 2005 (Exhibit " ")**

57. Plaintiff was forced to resign his position with the county because of the

aforementioned misrepresentations, and in light of the fact that the working conditions became so intolerable that the was forced to resign his position.

58. In forcing Plaintiff to resign by misrepresenting his duties and abusing him, the county and all Defendants engaged in the constructive discharge of Plaintiff.

59. The aforementioned misrepresentations which were made to Plaintiff regarding his duties and responsibilities placed a real and substantial pressure on Plaintiff to resign his position as CSO, and his resignation was with cause of a necessary and compelling nature.

60. Since resigning his position Plaintiff has not been able to obtain suitable, replacement employment. As of August, 2007 he has applied for fifty-seven specific positions, and, with regards to seventeen of those positions, Plaintiff discovered that he was not offered the position specifically because of the conduct of Lancaster County and its constructively discharging him, and the defendants' allowing lies to be printed about him. **A copy of the list of the seventeen positions in that category are attached hereto and marked Exhibit "7".**

Count I

Gary Heinke vs. County of Lancaster, Richard Shellenberger, Howard "Pete" Shaub and Molly Henderson
Wrongful Discharge

61. Paragraphs 1 thru 60 are incorporated herein by reference as those set forth in full.

62. By the described actions, the county effectively terminated Plaintiff's

employment.

63. The agreement which Plaintiff entered into with the county provided that he would have certain duties and responsibilities. However, once Plaintiff assumed his responsibilities with the county he discovered that the duties and responsibilities were much greater than that which had been represented to him.

64. By reason of their wrongful discharge by the Defendants, Plaintiff has been damaged in that:

a. Plaintiff suffered injuries which are or may be permanent and serious, including, but not limited to, severe anxiety, depression, post-traumatic stress syndrome, difficulty in swallowing, trouble concentrating, problems sleeping, severe anxiety and shortness of breath, and panic attacks;

b. The expense of purchasing medicine and for seeking medical attention and care in order to treat and help cure the injuries which resulted from the conduct of the defendants;

c. The inability to attend to his usual and daily duties and employment, to his financial detriment and loss;

d. Severe mental anguish, humiliation and loss of life's pleasures, which he may continue to suffer for an indefinite time in the future; and,

f. A severe loss of his earnings and an impairment of his earning power, which such loss of income and impairment of earning power may continue into the future.

WHEREFORE, for the foregoing reasons, Plaintiff-Gary Heinke requests that your Honorable Court enter judgment in his favor and against Defendants-County of

Lancaster, Richard Shellenberger, Howard "Pete" Shaub, and Molly Henderson in an amount in excess of the jurisdictional amount requiring arbitration referral by the Local Rules of Lancaster County, PA, and in addition to an amount of lieu of interest as allowed by law, attorney's fees, and the costs of this action.

Count II

Gary Heinke vs. County of Lancaster, Richard Shellenberger, Howard "Pete" Shaub and Molly Henderson **Solicitation of Employee by Misrepresentations**

65. Paragraphs 1-64, inclusive, are incorporated herein by reference as though set forth in full.

66. The Defendants falsely and fraudulently and with the intent to induce Plaintiff to enter into the contract of employment with the county, made the previously described representations to Plaintiff regarding the duties and responsibilities which he would be assuming once he became employed by the Defendants.

67. The representations made by the Defendants were in fact untrue when made, and were then known by the Defendants to be untrue, or the Defendants should have known of their falsity or the representations were made under circumstances not warranted by the knowledge of the Defendants.

68. Plaintiff believed and relied on the representations made by the Defendants to him and he was induced to move to Lancaster, PA, and to accept a position with the County of Lancaster.

69. As a direct and proximate result of his reliance on the County's representations, and by reason of their solicitation of employment by misrepresentation, Plaintiff has been damaged in that:

a. Plaintiff suffered injuries which are or may be permanent serious, including, but not limited to, severe anxiety, depression, post-traumatic stress syndrome, difficulty in swallowing, trouble concentrating, problems sleeping, severe anxiety and shortness of breath, and panic attacks;

b. The expense of purchasing medicine and for seeking medical attention and care in order to treat and help cure the injuries which resulted from the conduct of the defendants;

c. The inability to attend to his usual and daily duties and employment, to his financial detriment and loss;

d. Severe mental anguish, humiliation and loss of life's pleasures, which he may continue to suffer for an indefinite time in the future;

e. A severe loss of his earnings and an impairment of his earning power, which such loss of income and impairment of earning power may continue into the future; and,

f. Relocation costs in order to move to the Commonwealth of Pennsylvania, including significant out-of-pocket expenses incident thereto.

WHEREFORE, for the foregoing reasons, Plaintiff-Gary Heinke requests that your Honorable Court enter judgment in his favor and against Defendants-County of Lancaster, Richard Shellenberger, Howard "Pete" Shaub, and Molly Henderson in an amount in excess of the jurisdictional amount requiring arbitration referral by the Local Rules of Lancaster County, PA, and in addition to an amount of lieu of interest as allowed by law, attorney's fees, and the costs of this action.

COUNT III

Gary Heinke vs. County of Lancaster, Richard Shellenberger, Howard "Pete" Shaub and Molly Henderson
Fraudulent Inducement to Enter Into A Contract of Employment

70. Paragraphs 1-69 are incorporated herein by reference as though set forth in full.

71. Prior to his accepting employment with the Defendants, Plaintiff was interviewed at the Defendant's principal place of business, and Plaintiff reviewed the job description for a CSO and the official county website.

72. During the course of his various interviews the Defendants made the representations to Plaintiff concerning the proposed employment as previously described, as did the job description on the official county website.

73. The representations which were made to Plaintiff were false, as previously described.

74. The Defendants made the representations knowing them to be false or with reckless disregard as to their truth or falsity, with the intent to fraudulently induce Plaintiff to rely on them by accepting the proposed employment.

75. The Defendants representations were material to Plaintiff's decision to accept the proposed employment.

76. Plaintiff reasonably relied on the Defendants' representations in deciding to accept employment with the County. Plaintiff did not know that the representations were false and had no reasonable independent means of ascertaining their truth or falsity.

77. As a direct and proximate result of his reliance on the County's

representations, by reason of their fraudulent inducement to enter into a contract of employment, Plaintiff has been damaged in that:

a. Plaintiff suffered injuries which are or may be permanent serious, including, but not limited to, severe anxiety, depression, post-traumatic stress syndrome, difficulty in swallowing, trouble concentrating, problems sleeping, severe anxiety and shortness of breath, and panic attacks;

b. The expense of purchasing medicine and for seeking medical attention and care in order to treat and help cure the injuries which resulted from the conduct of the defendants;

c. The inability to attend to his usual and daily duties and employment, to his financial detriment and loss;

d. Severe mental anguish, humiliation and loss of life's pleasures, which he may continue to suffer for an indefinite time in the future;

e. A severe loss of his earnings and an impairment of his earning power, which such loss of income and impairment of earning power may continue into the future; and,

f. Relocation costs in order to move to the Commonwealth of Pennsylvania, including significant out-of-pocket expenses incident thereto.

WHEREFORE, for the foregoing reasons, Plaintiff-Gary Heinke requests that your Honorable Court enter judgment in his favor and against Defendants-County of Lancaster, Richard Shellenberger, Howard "Pete" Shaub, and Molly Henderson in an amount in excess of the jurisdictional amount requiring arbitration referral by the Local Rules of Lancaster County, PA, and in addition to an amount of lieu of interest as

allowed by law, attorney's fees, and the costs of this action.

COUNT IV

Gary Heinke vs. County of Lancaster, Richard Shellenberger, Howard "Pete" Shaub and Molly Henderson
Wrongful Discharge

78. Paragraphs 1-77 are incorporated herein by reference as though set forth in full.

79. Because of their actions in abusing Plaintiff and failing to provide Plaintiff any relief and allowing and/or contributing to false fraudulent information being disseminated to the press and public, and their use of Plaintiff in order to cover their own inadequacies, misconduct and malfeasance, the Defendant's effectively terminated Plaintiff's employment.

80. By reason of the their wrongful discharge by the Defendants, Plaintiff has been damaged in that:

a. Plaintiff suffered injuries which are or may be permanent serious, including, but not limited to, severe anxiety, depression, post-traumatic stress syndrome, difficulty in swallowing, trouble concentrating, problems sleeping, severe anxiety and shortness of breath, and panic attacks;

b. The expense of purchasing medicine and for seeking medical attention and care in order to treat and help cure the injuries which resulted from the conduct of the defendants;

c. The inability to attend to his usual and daily duties and employment, to his financial detriment and loss;

d. Severe mental anguish, humiliation and loss of life's pleasures, which he may continue to suffer for an indefinite time in the future; and,

e. A severe loss of his earnings and an impairment of his earning power, which such loss of income and impairment of earning power may continue into the future.

WHEREFORE, Plaintiff - Gary Heinke requests that your Honorable Court enter judgment in his favor and against Defendants - County of Lancaster, Richard Shellenberger, Howard "Pete" Shaub and Molly Henderson in an amount in excess of the jurisdictional amount requiring arbitration referral by the Local Rules of Lancaster County, Pennsylvania, and in addition to an amount in lieu of interest as allowed by law, attorney's fees and costs of this action.

Respectfully submitted,

LAW OFFICES OF JEFFREY PHILIP PAUL

Dated: 8/8/07

By: 

Jeffrey Philip Paul, Esquire
Attorney for Plaintiffs
124 East Chestnut Street
Lancaster, PA 17602
Telephone No.: (717) 735-7545
Attorney I.D. No.: 10182

EXHIBIT
A

Lancaster County Website

Jobs

Chief Services Officer

The County is accepting applications for a Chief Services Officer to manage the effective delivery of a variety of social services offered by the County, including Children & Youth, MH/MR, Office of Aging, Drug & Alcohol, and Youth Intervention. This position identifies service levels and budgetary goals and plays a key role in assuring the County human services are efficient, effective, and customer friendly and will also partner with the Housing and Redevelopment Authority to administer the Human Services Development Fund (HSDF). Essential functions include, but are not limited to, serving as major policy advisor for human services programs, projects, and initiatives while building relationships with government regulators, service providers, advocacy groups, and private sector business; advising on operational matters, funding regulations and in conjunction with the County Administrator, addresses budget matters, and alternative funding opportunities and requirements; actively monitoring and assessing social service trends and changes in state and federal regulations; providing direct supervision to County human service directors; developing public information plans, practices, and strategies and a results based measurement system for program evaluation and funding; coordinating the planning and evaluation of human service delivery system and recommending strategies that improve client services and prevents or eliminates duplication; facilitating the plans of the Simply Better Coalition; and actively seeks opportunities to augment County services while coordinating state and federal funding to enhance the program goals established by the County. Individuals with a Masters Degree in human service, business administration, or related field or knowledge and skills typically acquired through a Masters Degree with seven or more years experience in related management or human service field with the ability to successfully complete the interview process are encouraged to apply. Starting Salary: \$70,000 to \$85,000 in a pay band with a range maximum of \$105,123. Deadline for application: February 23, 2004.

For more information contact:

Name: J. Thomas Myers
Title: Personnel Director
Firm: Personnel Department
Address: 50 N. Duke St.
Lancaster, PA, 17603
Voice: 717 299-8310
Fax: 717 293-7269

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Lancaster County Chief Services Officer Job Description

General Responsibilities

The position reports to County Commissioners and is responsible for managing the effective delivery of a variety of social services offered by the County. The incumbent will supervise County human services departments, which include for example the Children and Youth Agency, Mental Health/Mental Retardation, Office of Aging, Drug and Alcohol Commission, and Youth Intervention Center and will partner with the Housing and Redevelopment Authority to administer the Human Services Development Fund (HSDF). The position will identify service levels and budgetary goals for these departments and play key role in assuring that the County human services are efficient, effective and customer friendly.

Essential Functions and Tasks

Serves as a major policy advisor for human service programs, projects, and initiatives with the County. Builds relationships with government regulators, service providers, advocacy groups and private sector business to gain feedback on community needs and program performance.

Advises on operational matters, funding regulations and in conjunction with the County Administrator addresses budget matters, and alternative funding opportunities and requirements. Actively monitors and assesses social service trends and changes in state and federal regulations and recommends appropriate changes.

Provides direct supervision to County human service directors and updates Commissioners on program performance, costs and productivity. Monitors program operations to ensure services are efficient and cost effective and meet grant and funding requirements. Develops effective public information plans, practices and strategies that are consistent with County goals.

Coordinates the planning and evaluation of the human service delivery system and recommends strategies that improve client services and prevent or eliminate duplication. Develops results-based measurement system for program evaluation and funding.

Facilitates the plans of the Simply Better Coalition for the integration of common functions such as data collection, information and referral services, and client service planning.

Actively seeks opportunities to augment County services and coordinates federal and state funding to enhance the program goals established by the County.

Required Education, experience and skills

Masters Degree in human service, business administration, or related field or knowledge and skills typically acquired through a Masters Degree with seven or more years experience in related management or human service field.

Leadership skills with proven ability to assemble, lead and motivate a diverse team that effectively and efficiently accomplishes tasks and goals. Ability to simultaneously manage several projects and to formulate policy recommendations.

Strong communications skills, including the ability to write grant applications and to communicate effectively and build bridges with diverse segments of the community.

Demonstrated ability to coordinate and implement both tactical and strategic plans. Ability to persuade and influence others to support change or a project.

Proven ability to evaluate program effectiveness, communicate the results and to look for innovative ways to improve the service or resolve a problem.

**County of Lancaster, Pennsylvania
Vacancy Announcement**

Working Job Title	Department
Chief Services Officer	Commissioners
Role Band	Sub-Band Assignment
Leader	
Min Start Pay	Contact
\$70,000 to \$85,000 on a pay band with a range maximum of \$105,123.	J. Thomas Myers, Personnel Director
Posting Period	Work Location/Hours
1/13/04 to 2/23/04	

Summary Statement

Manages the effective delivery of a variety of social services offered by the County, including Children & Youth, MH/MR, Office of Aging, Drug & Alcohol, and Youth Intervention, to identify service levels and budgetary goals and play a key role in assuring the County human services are efficient, effective, and customer friendly. Also will partner with the Housing and Redevelopment Authority to administer the Human Services Development Fund (HSDF).

Essential Functions

1. Serves as major policy advisor for human service programs, projects, and initiatives while building relationships with government regulators, service providers, advocacy groups, and private sector business to gain feedback on community needs and program performance.
2. Advises on operational matters, funding regulations and in conjunction with the County Administrator, addresses budget matters, and alternative funding opportunities and requirements.
3. Actively monitors and assesses social service trends and changes in state and federal regulations and recommends appropriate changes.
4. Provides direct supervision to County human service directors and updates Commissioners on program performance, costs, and productivity; monitors operations to insure services are efficient and cost effective and meet grant funding requirements.
5. Develops public information plans, practices, and strategies and results based measurement system for program evaluation and funding.
6. Coordinates the planning and evaluation of human service delivery system and recommends strategies that improve client services and prevents or eliminates duplication.
7. Facilitates the plans of the Simply Better Coalition for the integration of common functions such as data collection, information and referral services, and client service planning.
8. Actively seeks opportunities to augment County services and coordinates federal and state funding to enhance the program goals established by the County.

Education and Experience

Masters Degree in human service, business administration, or related field or knowledge and skills typically acquired through a Masters Degree with seven or more years experience in related management or human service field with ability to successfully complete the interview process.

Expected Competency Areas

Role Band Competencies

Leadership skills with proven ability to assemble, lead, and motivate a diverse team that effectively and efficiently accomplishes tasks and goals. Ability to simultaneously manage several projects and to formulate policy recommendations.

Strong communications skills, including the ability to write grant applications and to communicate effectively and build bridges with diverse segments of the community.

Demonstrated ability to coordinate and implement both tactical and strategic plans. Ability to persuade and influence others to support change or a project.

Proven ability to evaluate program effectiveness, communicate the results and to look for innovative ways to improve the service or resolve a problem.

EXHIBIT
B

APPRAISAL FORM
COUNTY OF LANCASTER

Name: Gary D. Heinke
Department: Commissioners' Office

Position Title: Chief of Human Services
Rating Period: 3/29/04 - 3/29/05*

1. **Project or Job Responsibility: Organizational Development**

Performance meets goals for the rating period and expectations for the classification when core service and/or organizational reviews have been initiated and interim/final results and recommendations reported.

Results Achieved:

A. Youth Intervention Center:

15 months of leadership for YIC Core Services Review: Programs; personnel; facilities; budget analysis/finances; Board of Manager project; YIC Citizens Advisory Board; County Service agreements; media relations; staff turnover/ratios; DPW compliance; liabilities addressing Hines/Segnor/IRs/DPW/Director/Genders. Three phase project/results: 1. Budget/TANF/positions: Phase I - Six positions eliminated/consolidated. *Savings to County* - ~\$350,000 2. YIC Director - Appraisal/probation: Phase II - Resolution of YIC Director appraisal/probation. 3. Staffing, policy, procedures, safety, admin, accountability, Budget, public relations, implement efficiency and effectiveness measures. Phase III - Anticipate additional \$300,000 savings. 2005 Goal Achieved (GA): 85%

B. Conestoga View Nursing Home:

14 months of coordination to Conestoga View Nursing Home Core Services Review project: Team meetings; legal counsel/County code and industry comparisons; appraisals; survey of property; real estate configurations and zoning; fiscal/budget data; personnel/labor issues; county budget cost analysis; Human Services resident's care/quality; CV Board assignments; media/public relations plan; complete health care proposal, review, due diligence (95% completion for efficient delivery time) and final product.

Summary: Package ready for BOC decision.

Reduce County Government by 25%.

Fiscal savings to County \$2.0M/year

Gain in revenue (potential) ~\$8.5M for 2005. 2005 GA: 100%

C. Space utilization and Staffing Project

1. Children/Youth move to two empty pods: 18 ee staffing gain.
2. *Savings to County:* \$9.6M (\$960,000/yr for 10 years.)
3. Initial *savings* - over \$1M funding gain from state for staff positions/amortization schedule. 2005 GA: initiated/current

Rating Level EE

2. Project or Job Responsibility: Resource Development (Financial/Budget)

Performance meets goals for the rating period and expectation for the classification when a review of all service provider contracts, including a report of recommendations and human service department budgets have been completed, outcome based measure criteria employed, and recommendations for appropriate changes in response to social service trends and changes in state and federal regulations and funding.

Results Achieved:

- A. Regular review of 527 contacts for 453 provider organizations; Human Service and categorical department budget reviews and submissions six months prior to county budget; work session preparation; performance based funding, county matches; State/Fed leverages/ratios.
* (55% of County Budget).
- B. Key issue areas within departments monitored, addressed, and briefed to BOC and public; e.g., Response to over \$6M human service funding cuts.
- C. Lancaster County Legislative liaison and delegation briefing for purpose of education, awareness and action items regarding state funding levels for Human Services;
- D. HS Staffing deficiencies at MH/MR, CYA, CV, Aging, D&A and YIC
* (57% of all County Employees).
- E. TANF backfill project to 7 service organizations after 100% loss - able to reallocate resources to 5 agencies restoring 40% funding (\$320,000);
- F. HSDF allocation panel/process; review; target areas; categorical program retention. Strategy for targeted funding, community fiscal collaboration.
- G. Worked to leverage over \$3.6M for Community Action Program; Weed/Seed, Safety Coalition, Transition to Community and United Way agencies.

2005 GA: 100%

Rating Level EE

3. Project or Job Responsibility: Professional Development

Performance meets goals for the rating period and expectations for the classification when group processes/individuals are managed to improve interactions and influence outcomes while demonstrating knowledge of (1) infrastructure processes and organizational efficiencies and (2) operational service delivery systems that demonstrates the ability to foster an environment challenging staff to continuously create new strategies for effectiveness.

Results Achieved

- A. Regular CORE 4 meetings with categorical agencies - fiscal/budget; current issue; special projects; personnel; policy/procedures; strategic planning; core service review; outcome measures; facilities/ resource utilization.

- B. Human Service Management Team: Professional development; fiscal/budget; county policy/procedures; county issues; and master calendar planning.
- C. Monthly Department Head Meetings: One/one meetings for professional enhancement; issue areas; appraisals/performance.
- D. Chiefs Meeting: Forward weekly agenda; direction and strategy for county operations; BOC issues; special projects; decision making process input.
- E. PACHSA: Direct role in 3rd class county representation; lead county on 1) Legislative strategy/liaisons, executive committee; 2) Re-entry Management (also NaCo); and, 3) CCAP attendance/networking.

2005 GA: 100%

Rating Level EE

4. Project or Job Responsibility: Provider Development

Performance meets goals for the rating period and expectations for the classification when relationships with service providers, advocacy groups, and private sector business and governmental agencies results in a successful human service strategy for the County; formation of collaborative and coalitions; and professional contributions which places County on the cutting edge with regards to services, programs, and operations and reputation.

Results Achieved:

- A. Liaison/network with all major human service organizations: United Way Community Impact Task Force; Executive Committee for Homelessness; Interagency Council for Homeless; Affordable Housing Group; State and Federal Weed and Seed Program; Community Action Program - Board of Directors; Family Services programs; Mental Health organizations.
- B. Re-Entry Management - innovative leadership to pre/post release program: Transition to Community (pre and post release); Courts Systems Review/reform; Prison Board population subgroup and data research; Short term/long range prison facility/logistics; prevention programs; State Department of Corrections Re-Entry Management Center strategy committee; County-wide Re-entry Fall concept summit (~over 60 local providers/agencies)
- C. Strategies/processing for:
 1. HSDF targeted funding; HRDA executive committee
 2. Legislative delegation network/action items for Human Service funding; tracking.
 3. Affordable housing continuum; Homeless task force.
 4. Service provider and faith based funding collaborative (State/Fed)

2005 GA: 50%

Rating Level EE

5. Project or Job Responsibility: Project Development

Performance meets goals for the rating period and expectations for the classification when assigned special projects have been initiated, tracked, continually monitored and/or recommendations forwarded and decision made and implemented.

Projects (consumers of time)

1. North/Shantz RFP - (7months)
2. Character First (3 months)
3. Chief Clerk position/advertise/51 apps setup/interviews (3 months)
4. Space utilization plan 5th floor
5. Admin meetings format/time/structure/paperwork
6. Leadership team meetings format/agenda/logistics/calendar
7. Public relations/PIO resolution
8. FSSR project SDL/Columbia (1 year)
9. Commission web page structure/update
10. Initiated interim appraisals 11 departments
11. YIC Personnel Report (Harper/media)
12. Review of all contracted services 527 contracts
13. Develop Provider relationships 453 org.
14. VMGS - Andi Murphy ((5 months)
15. Crime Commission - Safety Coalition - Media
16. Weed and Seed - State site/fed
17. Drug Court CJAB/D+A
18. Housing Project - Affordable/homelessness
19. Re-Entry management continuum
20. Library - meetings, research, strategy, prep - referendum
21. Deputy Chief or Administrative Assistant
22. Health Department
23. CYA Space plan - lease/YIC/build 5-10 yr planning
24. Prison Board - subgroup (recidivism options)
25. United Way - Task Force (Impact) and Homelessness (Exec. Committee)
26. HSDF/CDBG Allocation Process
 - providers
 - target areas
 - workshops
 - emergency funding
 - 3C Grants (50-50)
27. YIC Board of Managers/Citizens Advisory Board
28. Review all Service Agreements (one year later)
29. Legislative liaison
 - Part I: Contacts/Committees
 - Part II: Network/Visits
 - Part III: Briefing (annual)
 - Part IV: Special Interests i.e., Foster Parent/MH/CYA/HSDF

Overall Performance Rating: EE

Level of Performance Rating:*

- GEE: Greatly exceeds expectations for the classification and rating period.
- EE: Consistently exceeds expectations for the classification and rating period.
- ME: Meets expectations for classification and rating period.
- FME: Fails to meet expectations for the classification.

Signatures:

Dick Shellenberger	<u><i>Dick Shellenberger</i></u>	Date: <u>6/29/05</u>
Molly Henderson	<u><i>Molly Henderson</i></u>	Date: <u>6-29-05</u>
Howard "Pete" Shaub	<u><i>Howard "Pete" Shaub</i></u>	Date: _____
Gary Heinke	<u><i>Gary Heinke</i></u>	Date: <u>6/29/05</u>

~~Review retroactive to 4/1/05~~

The employees signature indicates that the employee has had an opportunity to read and discuss the report with their supervisor. The employee's signature does not necessarily signify agreement.

EXHIBIT
C

Apr. 11 - Aug 2

TO CAO, CSO & Chief Clerk

FROM: Commissioner Shaub

Attached please find my Preliminary Action Ideas for the CAO, CSO & Chief Clerk.

Please schedule a time to see me to gain a clear understanding of what I am hoping to accomplish with these action ideas.

I would then ask you to prioritize these ideas into an action schedule with start and completion dates. This will then be reviewed with the entire Board of Commissioners.

Please establish a reporting and updating process.

Please incorporate this into your performance criteria.

Thank you for your assistance.

Before I leave for vacation can we please discuss my expectations with them. Then work into your action plans

Thanks

"DRAFT"

April 1, 2004

Chief Services Officer – Preliminary Action Ideas

- CAO Public Information/Relations – Structure, Responsibility, Training
- ✓ Establish Vision, Mission – Guiding Principles *Launched 10/04*
 - ✓ Faith Based – Social Service Providers - What we want to do, how do we get there?
 - ✓ Quality of Life - United Way, School District of Lancaster, Major funding sources; County, Faith based – Are we working collaboratively, non-duplicating manner? Are we meeting needs in an efficient and effective manner. Set up kick off meeting.
 - ✓ Conestoga View - Is it a Core Service?
 - ✓ Crime Commission – Weed & Seed - Where do we go from here?
Esprit de Corps – What do we want, how do we get there?
 - ✓ – Team building – Executive Team, Leadership Team – What do we want? How do we get there? DISC
 - ✓ Training & Leadership – Proactive – Preventive – Culture Change – Urgency, Accountability -Business Practices – 7 Habits – Trust – Share Ideas - Ownership
 - ✓ Human Service Development Block Grant – Community Development Block Grants - Prioritize to meet the Commissioners' goals
Consistency – Effective – Example: Monthly Department Head Report & Work Session Form
 - Legislative Liaison – With Department Heads – Next Step
 - ~~Water – quality and quantity – what is next?~~

Dress Code – Revisit, Enforcement

County Crier – Is it being utilized as an effective tool?

Message on Paychecks – It is being utilized as an effective tool?

Job Description – Performance Criteria – For CAO, CSO and Chief Clerk

- Department Heads / Commission vol.

CAO

EXHIBIT
D

Position History Summary

The Chief Services Officer (CSO) position was initially created in May 2001 as a Deputy Director of Human Service. While the job was posted and several applicants were interviewed by the previous Board of Commissioners (Thibault, Shaub, Ford), the position was never filled. Funding for the position was included in the 2004 budget at the request of the incoming Board of Commissioners (Shaub, Shellenberger, Henderson). 1

The Commissioners reviewed and approved an updated CSO job description and the County's Human Resources (HR) department posted the vacancy on January 13, 2004. The posted description made the position accountable for the County's CYA, MH/MR, Office of Aging, Drug and Alcohol and YIC departments. In 2003 these 5 departments had a combined staff of approximately 475 and total budgets near \$92 million. Additionally, the CSO was responsible for partnering with the Housing and Redevelopment Authority to administer the Human Services Development Fund (HSDF). The posted salary range was \$70,000 to \$105,000. 2

Advertisements were placed in area newspapers, web based job posting sites and PA and national County newsletters resulting in over 100 applications. 3

Gary Heinke (GH) was selected from the 3 candidates that were interviewed. He was hired with an unanimous vote by the Board of Commissioners on Wednesday, March 24, 2004. His starting salary of \$80,000 was approved by Salary Board on March 8, 2004. 4

Conestoga View, the Prison, Human Relations Commission, LETA, Veterans Services and Public Defender's Office were removed from the Chief Administrative Officer's (CAO) oversight to the CSO's shortly after GH was hired. The change made the CSO responsible for 11 departments with a combined office staff near 1450 (200% increase) and budgets totaling over \$145 million (58% increase). Oversight of the Public Defender was returned to the CAO in 2005. 5

On April 14, 2004, I¹ cautioned the Board about changing the scope of the job so soon after filling the position. I was concerned that the change could affect the HSDF funding for the position and could give potential applicants with experience in health care or prison settings who had not applied for the CSO position grounds to file legal complaints. The Board kept CV, the Prison and the other departments under the direction of the CSO. 6

Heinke resigned in October 2005. 7

Position description review

In Nov/Dec 2003, I met with Shellenberger, Shaub and HR staff from Armstrong Industries to discuss the CAO and CSO positions. The Armstrong corporate staff was already familiar with the County's organizational structure and re-organization that Shellenberger and Shaub 8

¹ Throughout the document "I" refers to Tom Myers, County Human Resource Director and "we" refers to Joe Hofmann, attorney with Stevens and Lee, and Tom Myers.

were considering. At the meeting, I reviewed the County's typical recruitment and posting procedures. I agreed to update the County Administrator's (CAO) and Deputy Director of Human Services (CSO) job descriptions to reflect the reorganization Shaub and Shellenberger discussed. We also talked about methods to recruit experienced business administrators to the County. It was clear to me from these discussions that Shellenberger anticipated active involvement with the CSO and Shaub with the CAO.

The updated CSO job description was reviewed by the Commissioners (Shaub, Shellenberger, Henderson) and on January 13, 2004 the position was posted in-house. Deadline for applying was February 23, 2004.

Recruitment activities for the CSO position

Bonnie Ashworth (BLA), Personnel Specialist in the County's Human Resources (HR) department, was assigned to coordinate the recruitment, selection, hiring and background checking process. She was to follow procedures typically used to fill County vacancies although the position was advertised more extensively than normal. Announcements appeared in surrounding newspapers, three national job search websites, the PA CareerLink, and in the NACo County News.

The County received Mr. Heinke's resume and cover letter dated January 13, 2004 the morning of January 16, 2004. In total the HR department received over 100 applications before the February 23, 2004 deadline.

Interview process

HR did not recommend GH for an interview. Ms. Ashworth sorted the applicants based on the information submitted by the applicants into three categories: "A"- highly qualified, potential interview candidates, "B" – qualified, but with limited recent or related experience, interview if limited success with "A" applicants and "C" – marginally or not qualified. A total of 20 candidates were rated "A", 15 as "B" and 70 as "C". I also reviewed the "A" and "B" applicants and concurred with her ratings. Mr. Heinke was rated "B" because HR believed his most recent experiences, an intern with the Pillager SD and self-employed consultant, were not at a level to be considered relevant experience for the CSO position.

Information on the twenty (20) category "A" applicants was given to the three (3) Commissioners on February 24, 2004. Commissioner Shellenberger requested and was given all the applications. Subsequently, Commissioner Shellenberger requested that GH be considered for an interview (to be moved to the "A" category) and information on GH was distributed to Commissioner Shaub and Henderson.

The Commissioners individually chose their top candidates and met on Feb. 27, 2004 to determine who would be interviewed. At least 6 different candidates were identified by the Board. GH was initially picked by 2 Commissioners (Shaub and Shellenberger) and was one of the four selected for interviews. While BLA provided support at the meeting she did not vote.

Summary of the education and work background of the other 3 candidates

Candidate A B.A. in Philosophy – Mt. St. Mary's College
M.A. in Public Health – University of Pittsburgh
M.A. in History/Theology – Mt. St. Mary's College
Doctoral candidate, Medical Ethics - Duquesne University.

18 yr in director or manager level positions in marketing, business development and customer outreach in various business

2 yr as supervisor in program for the Aging
2 yr as associate pastor

Candidate B B.S. with major in Sociology – Univ. of Wisconsin-Oshkosh
Master of Social Work – Univ. of Minnesota-Duluth

6 yr as director of a WI County agency that coordinated co-operated/contracted services for MH developmental disability and chemical dependency service, including a 65 bed inpatient facility.

25 yr in executive level experience with various employers in human and social service agencies

Candidate C B.S. with major in Psychology – York College
Masters in Governmental Administration – Univ. of Pennsylvania
Doctor of Education - Temple

10 yr with executive level positions (publicly traded) for-profit company providing alternative education, community-based corrections, rehabilitation and treatment of youth and adults.

8 yr as Executive Director of a PA county youth center

BLA contacted the selected candidates and scheduled interviews for March 1 and 2, 2004. GH was scheduled for the second day. All agreed to interview, but one applicant (Candidate "C") withdrew shortly before the scheduled interview and was not interviewed.

An initial set of interview questions was developed by BLA using her knowledge of the CSO position and the human services departments. Her familiarity with discrimination law and interviewing techniques taught in the County's successful supervisor training was helpful.

The Commissioners reviewed, revised and suggested several questions prior to the interviews. A packet that included a brief summary of the applicant's work history and education, information supplied by the applicant and the updated interview questions was

prepared by BLA and distributed to the Commissioners several days before the scheduled interviews.

The interviews were conducted in the Commissioners' conference room. BLA reminded the Board to avoid discriminatory or non-job related inquiries of the applicants. Prior to bringing each applicant into the room, BLA spent a few minutes reviewing with the Board the applicant's background. BLA was familiar with GH's inconsistent use of job titles describing his activities at the Fillager School District. She pointed out prior to the interview that GH's last position was an internship.

BLA led the actual interviews by asking each applicant the agreed to questions. The Board then asked follow-up questions. Each interview lasted about an hour. The Board was encouraged to take notes during the interview. The interview notes were retained by the Commissioners. Comm. Shaub kept his notes. Comm. Henderson's and Shellenberger's are no longer available.

Selection process

After the last interview the board briefly discussed the candidates and agreed to meet the following day to determine if any of the candidates would be offered the position. The Board decided not to interview other applicants. According to BLA there was general agreement that GH interviewed the best. He was well prepared and answered all the questions thoroughly and articulately. This was noticeably different from others who were unsettled by a question or two. It was apparent that he had done an extensive review of Lanc. County government and this position. He mentioned during the interview he had talked with several of the department heads that the CSO would supervise.

Initially, Commissioners Shaub and Shellenberger rated GH as their top candidate; Commissioner Henderson rated him second. However, the Board agreed unanimously to offer the position to Heinke.

Unstated involvement with Heinke

Neither GH nor Shellenberger mentioned that Shellenberger had contacted him about the opening or that he and Shellenberger had a previous relationship. This was when GH worked at Marketplace Ministries, Inc (MMI) and Shellenberger at Kreiders. Neither did Heinke, Shellenberger or Shaub mention they had met and discussed the position before the opening was posted. GH did not mention that he met with and received general information about county government law from Lancaster County solicitor John Espenshade in the summer/fall of 2003.

At no time during the interview or subsequent hiring discussions did Shellenberger or Shaub acknowledge that they were familiar with or had provided GH with information about the position or the County before the position was posted.

HR's first contact with GH was receipt of his letter dated 1/13/04 applying for the CSO posted that same day. Neither Shellenberger nor GH told BLA of their past association. She discerned that GH and Shellenberger may have known each other when his out-of-state resume was one of the first received and Shellenberger asked her to move GH to the "A" group.

On October 26, 2005, Shaub delivered to HR a copy of a cover letter and resume from GH dated May 27, 2003 and addressed to Shellenberger at his home address. The letter was apparently filed in Shaub's personal files in the Comm's office since the summer/fall 2003. The letter and resume are distinctive in that they are printed on the back of a letter from the Shellenberger primary campaign and contain handwritten notes. Phrases that identify skills related to county government are highlighted. Shaub explained that the letter/resume was given to him by Shellenberger and the notes were Shaub's.

The letter was brought to Shaub's attention when he asked staff for information concerning GH. The May 27, 2003 cover letter included highlights of GH's background and indicates his interest in the Director of Human Services or the County Administrator position. The context of the letter suggests it is a follow-up to earlier discussion(s) or correspondence with Shellenberger about working for the County. The letter included a resume that is different from the one submitted 1/13/04 and used during the hiring process.

The Penn State career service center, like many other resume writing resources identifies the resume as "a brief 'advertisement' of your skills, knowledge, and relevant experience ... It should be specific to each type of job you are seeking". Mr. Heinke undoubtedly understood and utilized this concept when he prepared the resume he submitted in response to the CSO position when it was advertised in January 2004. The resume submitted in response to the advertisement adds details about his experience at Pillager School District, expands his managerial and administrative roles at MMI and in the military, deemphasizes local church involvement and adds several new experiences. The differences are shown in a side-by-side comparison accompanying the report.

As a result of receiving a copy of the May 27, 2003 cover letter and resume, Joe Hofmann, attorney with Stevens and Lee, and I questioned each Commissioner during the week of Oct 31, 2005 to understand their involvement with or awareness of GH before he interviewed with the Board.

- Henderson information

Commissioner Henderson stated she had no prior knowledge of or contact with GH before she saw his resume and participated in the interview with him.

- Shellenberger information

Shellenberger states he initially met GH while he worked at Kreider's and GH worked at MMI. They had a successful working relationship. He learned about GH's military experience through casual conversation. He believed GH would be a good candidate for the

1

why further?

2

3

50?

4

5

New direction

CSO position. He recalls arranging a meeting to introducing GH to Shaub and to John Espenshade, County solicitor, sometime between the 2003 primary and general elections. They met at Shellenberger's restaurant.

Shellenberger recalls receiving a fax or email with the 5/27/03 letter/resume at the restaurant, but does not remember any specifics about the letter or resume. He denies that he counseled GH to make changes that might make the resume more attractive to the County and states that he never compared the two resumes. He was not aware (prior to the newspaper articles) that the 1/13/04 resume was inaccurate or different from the 5/27/03 resume. 2

- Shaub information

Shaub recalls Shellenberger describing GH as a 'first rate' candidate and accepted Shellenberger invitation to meet GH the morning of September 5, 2003 at Shellenberger's restaurant, The Eatery. He believes he faxed GH information about the County and Shaub/Shellenberger's anticipated re-organization in advance of the Sept 5, 2003 meeting.

11011C { Shaub does not recall talking with or providing GH additional information or feedback after the meeting. He later told Shellenberger he thought GH was a good candidate, that the CAO/CSO were important positions and the Board needed to hire the best. GH was the only candidate Shellenberger discussed with Shaub.

At some point between the 2003 primary and general election Shellenberger gave Shaub a copy of the May 27, 2003 letter/resume sent by GH to Shellenberger. Shaub doesn't remember if he wrote the notes on the 5/27/03 documents during his 9/5/03 meeting with GH or at another time. He doesn't recall specifically discussing the information referenced by his notes with Heinke or making any suggestion to Heinke about the resume.

Shaub stated he gave the letter and resume to staff to file and forgot about them until staff gave them to him on October 10, 2005. He did not compare the 1/13/04 and 5/27/03 resumes during the selection process in February and March 2004.

- John Espenshade information

John Espenshade was asked by Shellenberger to meet with GH and did so on September 5, 2003 at The Eatery.² John talked to GH and provided him information about the workings of County government under Pennsylvania law. He later sent GH pamphlets published by the Pennsylvania Department of Community and Economic Development, as well as an outline of the County Code. yes

² Shaub and Shellenberger had asked Espenshade to work with them on transition issues before the general election. Espenshade state he sought and received approval from then-chairman Paul Thibault for these transition meetings. The County was not charged for Espenshade's time for the transition meetings, including the meeting with Heinke on September 5.

After the meeting at The Eatery, GH e-mailed Shellenberger, Shaub, and Espenshade on seven occasions that we were able to determine. He sent e-mails to Espenshade on September 9, September 19, and September 29. He sent e-mails to Shaub, Shellenberger, and Espenshade on October 21, October 27, November 25, and December 17. One of the e-mails sent to Shaub was sent to his county address and the other three were sent to a home e-mail address. All the e-mails to Shellenberger were sent to a home e-mail address. In a September 9, 2003 e-mail to Espenshade, GH asked to be sent reading material "regarding the County Court System and court personnel relationships as well as county insurance information." In a September 19, 2003 e-mail he thanked Espenshade for the materials sent and stated "Any suggestions on my resume from your perspective (other than deleting any finance/budget experience numbers) would be welcome." GH also stated in the September 19 e-mail "I also keep Dick informed via land line." Espenshade responded by telling GH that he would send another package of materials. Espenshade made brief responses to most of the GH e-mails but never responded to or addressed GH's request for suggestions on his resume. The remainder of the e-mails was personal or involved reports by GH of his activities in Minnesota and/or good wishes/congratulations regarding the election campaign.

Neither Shellenberger nor Shaub asked Espenshade for his opinion about GH and nobody asked Espenshade to assist GH with his resume. Espenshade was later asked to provide similar to other officials after they were hired, not before as with GH.

As noted elsewhere, we were unable to determine what, if any responses to GH's e-mails were made by Shellenberger or Shaub because the e-mails sent to Shaub's County address were not archived. Further, we did not have access to the home e-mail addresses mailboxes.

County phone records confirm a fax was sent to GH on 9/2/03 at 1:24 p.m. which was likely the information Shaub sent to GH in advance of their meeting. Additionally, phone records show a short call from the HR department to GH's Minnesota phone on 2/17/04 at 9:21 a.m.. BLA believes she called GH around this date after she received an unsolicited call from GH.

Phone records also list a 32 minute call on 2/27/04 at 11:37 a.m. from the Commissioners' office to GH's MN phone. The call was placed from a line assigned to what was then a vacant office. February 27 was the date the Board selected which applicants would receive an interview. None of the Commissioners or the Commissioners' office staff remember placing this call or contacting GH around this time. BLA states she e-mailed GH on this date to schedule the interview and never contacted GH using a Commissioners' office phone.

County records for land (includes fax) and cell phones show no additional calls to GH's Minn. home phone number between April 2003 and March 2, 2004 (date of his interview). County emails for this same period were apparently not archived and are no longer available on County computers. Several calls were placed after the interview, but before GH started.

After GH's resignation, Joe Hofmann requested through GH's attorney, Elvin Kraybill, that GH respond to questions related to communications about his prospective County employment that he had between the 2003 primary election and his interview. The request

was denied. In declining the request on behalf of GH, Mr. Kraybill stated that it appeared to him and GH that the proposed questions were being asked in the context of "larger political issues in the County," directed beyond GH. He further stated, "given the divisive political atmosphere in county government it just does not seem to be in GH's interest to have further dialogue" on these topics.

Heinke's Background and HR's background check

The HR office had GH's cover letter dated 1/13/04, resume, and County application prior to the interview. Since HR did not have the earlier 5/27/03 resume until recently, the hiring process did not involve consideration of this information or the changes between the two resumes.

BLA understood GH's position with the MN school district to be part of an internship and underlined "Post Graduate Administrative Internship" on the resume included in the packet prepared for the interview. Additionally she commented on the internship to the three Commissioners just prior to the GH interview.

After GH accepted the position the department collected and reviewed additional information including his transcripts, a credit check and a criminal background check by the DA's office. BLA was assigned to confirm his relevant educational background and work experience.

She obtained copies of transcripts for each post-high school institution listed on the resume; requested a credit check from the local Credit Bureau, and requested a criminal background check through the DA's office. The credit report and criminal background check revealed no problems.

When BLA received the transcripts on 3/8/04 she recognized the educational information listed on the resume and application as representative of his earned degrees and the major course associated with the degree with one exception. The degrees and major course work in the resume parallel the transcripts, except one. The resume lists his major course work at Bethel Theological Seminary as "Pastoral Ministries, Human Resource Development". Pastoral Ministries is appropriate, but Human Resource Development is a questionable assertion because there does not to be any identified course listed on the transcript that would have included education or training on that topic. GH's employment application lists only "HR Development" as the course of study which is an inaccurate characterization.

While not the more typical resume format, the information, except as noted above, reflected the transcripts and BLA therefore did not bring this to anyone's attention.

When questioned before his resignation by Hofmann/Myers on the structure of the resume, GH stated he listed the general degree level (i.e. Master or Doctorate) followed by a brief description of the major course work. He offered a limited defense of the HR Development description of his Bethel degree. His comments reflect the conclusions that BLA previously made.

Additionally, GH stated that his internship at Pillager was done in conjunction with his course work at St. Cloud State University. He explained that "Asst superintendent" was descriptive of the level and type of work he did while an intern. This was consistent with BLA's understanding at the time of the interview and with the reference provided by the school district superintendent. On his employment application, GH listed "Asst superintendent" without stating it was an internship. This is a misrepresentation of his volunteer (unpaid) activities.

box
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too
confined
1

Also he stated that during the time that he was serving the administrative internship he also was a paid substitute educational aide for the Minnesota Learning Center, Central Minnesota Juvenile Detention Center and the Pillager SD. He told Hofmann and Myers that this work helped him to earn his state administrator license.

ok
2

The Trinity transcript shows that GH obtained a "Doctor of Philosophy on Church Admin." in 2000. It further shows that the college is "Accredited by the National Association of Private Nontraditional Schools and Colleges". The HR department was unaware the NAPNSC's accreditation was not recognized for government-backed loans or scholarships or by the federal civil service at the time of Heinke's application in January 2004.

3

BLA conducted the employment background checks. Around the time of the hiring process, I learned of GH's employment with MMI through discussions with an area employer that purchased MMI services when GH was employed with MMI. The employer was satisfied with MMI and described GH's function similarly to the duties listed on his resume. I passed this information to BLA. Recent contacts with MMI confirmed GH's employment date, title and salary.

4

In March 2004, the Pillager School superintendent (who is no longer at Pillager) confirmed Heinke was an unpaid intern who worked a high level, the nature of which was at the executive level and his performance was exceptional.

5

The department did not contact the employer listed as GDH Consulting as that was GH's consulting business and did not attempt to verify business clients GH listed as having provided independent consultant services. The County typically does not verify business clients unless the applicant's service to the business provides a significant and substantial basis for the experience required for the position at question.

6

The military service was not thoroughly reviewed. This is not County practice.

7

GH's application did not include the Arden Hills, Special Olympics or Tri-County Humane Society experiences listed on the resume.

* 8

BLA also contacted the personal references listed on the employment application. In March 2004, BLA received a response from the Pillager superintendent (see above). She also

received positive comments from two personal references supplied by Heinke.³ HR was recently able to confirm the Pillager reference, but was unable to verify or contact the two (2) personal reference checks. In addition, no reference check was made regarding the employment with Heartland Animal Rescue Team (HART) as that employment was not disclosed on the resume or application.

The department also queried Google, MSNsearch, and Yahoo Search for "Gary Heinke." The search produced no useful information. The Feb/Mar Google, MSN or Yahoo search did not produce hits on Brainerd Dispatch articles related to "HART" hiring GH or to the Pillager School Board furloughing or hiring GH.

The County subsequently located these and other articles on GH involvement with HART and the Pillager school through the Brainerd Dispatch's internal search service. Neither BLA nor I realized that GH's work at HART was not associated with the Tri-County Humane Society listed on the resume. It should be noted that Dispatch articles from the same time period state that HART serves three (3) counties; Crow Wing (includes Brainerd), Morrison and Todd. Also, the Tri-County Community Action program services Brainerd. GH work as an aide at the Pillager was distinct from his unpaid internship.

The activities listed under "Additional Experience" on the resume were not verified by BLA because these experiences had little relevance to the CSO position and were not reviewed or discussed during the interview. This is the County's normal practice. As HR later discovered and confirmed one of the listings was fictional.

Differences between the 2 resumes

The 5/27/03 and 1/13/04 resume contain several noticeable differences. While it is common for an applicant to tailor a resume to individual employers, the nature of the changes appears to shed some light on the feedback GH received while pursuing the position. In general the second resume adds details about his experience at Pillager School District, expands his managerial and administrative roles at MMI and in the military, deemphasizes local church involvement and adds several new experiences.

→ Many are understandable. GH's continued involvement with the Pillager School District in the Summer/Fall of 2003 explains the moving of these activities to a separate heading and the addition of the St. Cloud State University listing under the "Education" heading.

— Replacing his church involvement with secular experiences is sensible when responding to a governmental posting. Replacing them with fabricated experiences is not. It is difficult to determine GH's rationale or what advice or counsel precipitated the change without talking to GH.

³ County telephone records did not include any record of calls being made to the three telephone numbers provided for the personal references. However, as noted, the former Pillager Superintendent did confirm that he received a reference call. Attempted contacts with the other two references to attempt to confirm that they had been contacted either went unanswered or resulted in a recording indicating that the phone number in question did not (currently) accept incoming telephone calls.

Fax was a general letter holding position. RAG/POB

We now know that GH received general information about county government in Pennsylvania from John Espenshade and that a relatively long fax was sent to him from the Commissioners' office on September 2, 2003. Although Commissioner Shaub does not remember sending any fax at that time, it is possible that GH was sent information about the thinking behind the re-structuring the Commissioners Office in advance of the September 5, 2003 meeting at The Eatery. E-mail suggests that GH continued to reach out for additional information after meeting Shaub, Shellenberger, and Espenshade, but all deny providing anything beyond general information (and the Espenshade responses are consistent with this). County phone records show no outbound calls to GH between 9/3/03 and 1/13/04. Unfortunately emails to/from the commissioners' office during this period were not archived and are lost.

1

We were able to uncover only one instance where GH affirmatively sought guidance on tailoring his resume for the position (September 19, 2003 e-mail to Espenshade which did not elicit a response from Espenshade). However, there were a number of differences, both significant and insignificant, between the first and second resume. Nevertheless, we cannot reach any conclusion regarding the extent of assistance or guidance, if any, that GH received from persons involved with the County before he provided the second resume.⁴ We have attached a side-by-side comparison of the two resumes, which is summarized below.

2

• The narrative introduction provided in the first resume which provided information about budget responsibility levels does not appear in the second resume. Coupled with the statement in the September 19, 2003 e-mail to Espenshade, this suggests that GH had somehow determined that it was best not to list the amount of budget responsibility that GH held.

3

• Both resumes use the less traditional style of listing the general degree followed by the course of study. In Heinke's case this style deemphasizes the theological nature of several of his degrees. The second resume includes the St. Cloud State University certification but GH had not completed this at the time of the May resume.

4

• Both resumes inaccurately list Tri-County Human Society as a consulting client. Neither list his unsuccessful stint at HART.

5

• The Pillager School District experience is greatly expanded in the second resume and moved from a sub-entry under GDH Consulting to the "Career Experience" section. Reference to work with Public School District 181 (Brainerd) that appeared in the first resume does not appear in the second resume.

6

• MMI experience – number of employees increased from 150 to 550 and additional responsibilities were added – "administrative" changed to "administration."

7

⁴ Note that the 32-minute phone call made from the Commissioner's office on February 27 occurred after GH submitted his resume.

- Military Experience – overall heading describing position changed from “Human Resource Development” to “Human Services Director.” - 1

- Additional Experience – added (untruthful) claim of service on Arden Hills City Council and deleted reference to church-related volunteer experiences. - 2

→ Many of the changes made between the resumes were unremarkable and normal attempts by an applicant to tailor a description of his experience to his understanding of what his prospective employer is seeking. Some, of course, were misrepresentations or falsehoods. - 3
However, there is nothing in the second resume or elsewhere that provides any grounds for concluding that GH received any inappropriate assistance from County representatives in crafting his second resume.

Commissioner and Salary Board approval

Salary Board approved GH salary at \$80,000 on March 8, 2004.

The Commissioner's officially appointed GH at their public meeting on March 24, 2004.

On January 1, 2005 he received a 1.25% Cost of living increase and a \$10,000 increase in part for the additional responsibilities assigned to him in 2004. He also received a 2.5% merit increase based on his exceptional performance rating during his first year.

His salary was \$97,176 when he resigned.

Recommendations

It should be the expectation of the County to fill all vacancies with the best qualified individual. At times the best applicants are former business associates of elected or appointed officials. At times they are individuals who respond impulsively to a County job ad having no knowledge of Lancaster County. However, no matter how or why they apply, it is important they all are treated fairly. It is HR's responsibility to ensure this fairness. In this case fairness was compromised and HR is deeply concerned that it played a role in eroding the public confidence in the County's hiring procedures.

Federal and state patronage laws were passed because the public demanded access to government jobs and that applicants be treated equally. The state and federal civil service programs were implemented to keep political activities or personal relationships out of the hiring process. HR trusted that the Commissioners' office recognized and embraced these concepts.

In retrospect what happened in the selection and hiring of GH was only a glimpse of what would play out over the next 1½ years. It is clear that information that would have helped insure fairness in filling the CSO position was not disclosed and advantaged GH in ways HR and other commissioners were not aware. Still today, the Board continues to struggle with trust and effective practices that ensure fair dissemination of information. This must end.

A critical element to restoring confidence in the County's hiring procedures is full disclosure by those involved in the hiring process. Shortly after GH was selected it became apparent that prior relationships with GH were not disclosed. Procedures were changed for the process used to select the Chief Administrative Officer. The Board and HR determined that prior to the interviews each commissioner would state any business or personal relationship they had with the applicant. This policy needs to be formalized throughout the County's hiring process. This policy must also require all persons involved in hiring to disclose any communications with applicants about prospective employment with the County that occur prior to the formal application process, even if they do not have a prior business or personal relationship with an applicant.

A second element is to improve detection of non-disclosure and over-zealous job applicants. HR will develop:

- a revised application that requires applicants to list all employment;
- policies that require departments to retain interview notes;
- a standardized form for reference checking and a policy that require the department/HR to retain copies of the forms;
- procedures that will require departments to separate reference checking from the interview process, i.e. have different people perform these two functions. (In smaller departments HR can provide assistance with the second step); and
- procedures for a review of all communications with prospective candidates so that a comparison between earlier statements and those made at time of consideration can be made.

EXHIBIT
E

Report takes county to task over hiring

Says there's plenty of blame to go around

BY P.L. REILLY
Investigative Journal Staff

Gary Heinke communicated with two county commissioners and the county solicitor prior to being hired as the county's chief of human services in 2004.

Tom Myers, the county's director of human resources, said he doesn't have a problem with that.

But he doesn't like the fact that no one disclosed that communication to his office prior to Heinke's interview for the job.

"The best candidate for the job might be Dick Shellenberger's neighbor or Pete Shaub's neighbor," Myers said. "But we should know about that."

Myers released to the public Thursday a 31-page report detailing his investigation into how Heinke was hired and how falsified information on Heinke's résumé escaped detection until former Lancaster city mayor Art Morris raised questions about it last month.

The report is a far-reaching examination of facts other than a document that says "Name."

Alan Thursday, Lancaster County District Attorney Donald Thero said his office is investigating whether Heinke committed a crime by falsifying his résumé.

"We're looking into the matter," he said.

Thero said he won't asked by anyone to investigate the matter. "We can do that without being asked," he said.

If Heinke obtained his job based on false information, he could face penalties under a state statute covering "unsworn falsification to authorities."

Morris Thursday night said he had not fully reviewed the report. He objected to Myers' exclusion of him and former county commissioner Jim Huber from a meeting Thursday afternoon, which

Heinke: County report

Myers called to discuss the report with reporters from three newspapers. "The county's unwillingness to give public input on this matter," Morris said. Myers told Morris and Huber would meet with them separately some other time.

Heinke resigned as the assistant chief of human services Oct. 15, less than a week after Myers brought his questions about Heinke's résumé before the commissioners.

Myers' report indicates Heinke communicated with and received criticism about county government and the chief of human services job from commissioners' staff and Dick Shellenberger, as well as from county solicitor E. Espenbade.

Myers also discovered a misuse phone call placed to him Feb. 28, 2004 — the day three finalists were named to be interviewed for the job — from an unoccupied office within the commissary office.

We were unable to determine who made the call because the line it came from was in an office that was vacant, and no one has set up to it," Myers said. Commissioner Molly Homan, the report states, had no contact with Heinke before his review. She told a reporter she didn't know that any other county jobs had, either.

I was disappointed to learn neither human resources nor I was informed of prior extensive contacts among commissioners and Shellenberger and Mr. Heinke," she said.

According to the report, Heinke one of about 100 people to apply for the chief of human services position early in 2004.

After reviewing all the résumés, Myers said, his office divided a list into three categories — A, B and C — based on qualifications.

Only 20 résumés were selected and forwarded to the commissioners for consideration. Heinke's was not among them, Myers said.

Mr. Heinke was rated "B" by human resources but he believed most recent candidates — "not at a level to be considered for the position," Myers said.

Heinke's résumé, Myers said, listed his academic degrees — a doctorate and three masters — but, allegedly, Heinke misrepresented his academic degrees.

Myers said his office read transcripts of Heinke's work, which matched the résumé of the student Heinke on his résumé.

Myers also said Heinke's claim he worked as an assistant supervisor at a Lancaster school district was false.

For Heinke write "assistant supervisor" on his résumé, Myers said he doesn't believe

Myers' report was misled by Heinke's claim.

"We clearly understood it was an interview," Myers said. "We didn't think he was assistant superintendent in the traditional sense."

When it comes to other claims Heinke made, such as serving as president of City Council in Arden Hills, Minn., which turned out to be false, Myers admitted that information should have been caught by the human resources department.

"Clearly, we should have done a better job of that," he said.

But he said the information Heinke put on his résumé was determined to be false, was considered "misinformation" by human resources.

"It really had nothing to do with whether he was qualified for the job," Myers said.

Still, Myers said all information based on résumés submitted by prospective job applicants in the future will be verified.

Myers said human resources knew nothing about an early version of Heinke's résumé, which he now has and which differs from the official résumé Heinke submitted.

Shellenberger said the early version was sent to him in May 2003.

According to the report, Shellenberger denied the accusation Gary Heinke to make claims that might make his résumé more attractive in the county and stated that he had not compared the two résumés.

After receiving his pack of 20 résumés early in 2004, the report says, Shellenberger asked to see all of the résumés that were submitted.

"Subsequently, Commissioner Shellenberger requested that Gary Heinke be considered for an interview," the report states.

Shellenberger has said he doesn't believe there was anything wrong with that request. Myers also said he didn't think it was inappropriate.

Shaub and Henderson both said they didn't know about Shellenberger's request at the time and would rather have been informed of it.

"If Dick didn't make that request, Gary never would have been hired because we wouldn't have been given his résumé," Shaub said. "If we had been told about the request, we could have asked about it."

Both Shaub and Henderson picked Heinke as a candidate they wanted to interview, Henderson did not.

Three candidates, including Heinke, ultimately were interviewed and both Shaub and Shellenberger later recommended Heinke be hired.

Heinke was Henderson's second choice, she said, but she voted to hire him in the end "in the interest of board unity and to avoid the right message to our department heads."

"There was nothing that should have led to me that there was something wrong with him," Hen-

derson said. "If there had been, I wouldn't have voted for him."

At no time, Myers said, did the human resources department know Shellenberger had a previous professional relationship with Heinke when Heinke worked for Marketplace Ministries Inc. a Kreuzer Farms Family Restaurant, where Shellenberger used to work.

Nor did the department know about the communications between Heinke and Shaub, Shellenberger and Espenbade.

But Myers said he reviewed phone records and e-mails, which show numerous contacts across county officials and Heinke from May 2003 through February 2004, primarily made by Shellenberger.

Shaub stressed in a report Thursday he met Heinke only one time before the hiring — a Shellenberger's request in September 2003 — and that he gave him some information one time after that.

"I think the public knows as much as what went on here, and there are aspects of it that certainly are unacceptable," Shaub said.

Espenbade agreed to work with Shellenberger and Shaub on the transition of the board's commissioners late in 2003, when all three board members were elected, the report states.

The solicitor did not charge the county for the time he spent meeting and communicating with Heinke or other work related to the transition, according to the report.

Through Heinke's attorney, Elvin Kraybill, Myers tried to interview Heinke for the report, but Kraybill declined, the report states.

At the end of the report, Myers makes a series of recommendations he believes will ensure the mistakes made in the hiring of Heinke are not repeated.

Myers recommended:

• A revised application that requires applicants to list all employment. (Currently, applicants are encouraged to list only employment relevant to the open position.)

• Policies that require departments to retain interview notes.

• A standardized form for reference checking and a policy that requires the department/human resources to retain copies of the forms.

• Procedures that will require departments to have different people do reference checks and interviews.

• Procedures for a review of all successful applicants with prospective candidates so that a comparison between earlier statements and those made at the time of interview can be made.

"It is clear that information that would have helped ensure fairness in filling the (chief of human services) position was not disclosed and advantaged Gary Heinke in ways human resources and other commissioners were not aware," the report states. "Still today, the board (of commissioners) continues to struggle with trust and effective practices that ensure fair dissemination of information. This must end."

Shellenberger did not return a reporter's phone call for comment Thursday.

EXHIBIT
F

Positions Applied- Denied due to Lancaster County/Lancaster News Paper

Company	Position	Salary (est.)	Date	Outcome
1. Red Cross (L)-Ops Director		\$73K	12/05	Denied *
2. Masters Advisors Consulting		\$85K	1/06	Denied *
3. Naaman Center Director (L)		\$65K	2/06	Denied *
4. Bridge of Hope (L) Director		\$65K	2/28/06	Denied *
5. University of Phoenix (H)		\$55K	3/8/06	Denied
6. LMA (L)		\$70K	4/26/06	Denied *
7. NHS Human Services (H)		\$65K	5/2/06	Denied
8. Children's Home-Reading		\$55K	5/2/06	Denied
9. Assoc. Social Workers (H)		\$70K	6/22/06	Denied
10. Red Cross (L)-Ops Director		\$73K	11/06	Denied *
11. Learning Sciences (Y)		\$65K	1/9/07	Denied *
12. Summit Christian Academy		\$75K	1/29/07	Denied *
13. Lancaster-Chester School		\$65K	2/12/07	Denied
14. Covenant Academy(H)		\$70K	2/19/07	Denied
15. Portersville Christian School		\$60K	2/19/07	Denied *
16. Knowledge Learning Corp.		\$60K	4/18/07	Denied
17. New Life Academy (MN)		\$80K	4/23/07	Denied*

* = Lancaster County/LNP Responsible-Confirmed

Total Jobs Applied to date - 57

Total Jobs Denied LNP- 17 (30 % of total)

VERIFICATION

I, **Gary Heinke**, certify that the statements made in the foregoing **Complaint** which are within my personal knowledge are true and correct and those which are based on information I have received from others I believe to be true and correct. I understand that if I make any false statements in the foregoing **Complaint** I am subject to the penalties relating to unsworn falsification to the authorities as set forth in the Crimes Code, 18 Pa.C.S.A. § 4904.

8/8/07
Date


Gary Heinke