To commence the 30 day statutory time period for appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER
--X
In the Matter of the Application of

TARGET # 1954,

Petitioners,

- against -

BOARD OF ASSESSORS AND/OR THE ASSESSOR OF THE TOWN OF MOUNT KISCO, AND THE BOARD OF ASSESSMENT REVIEW

Respondents.

For a Review Under Article 7 of the RPTL.
--X

DECISION/ ORDER/JUDGMENT

Index Nos:

20180/08
23587/09
23155/10

LaCAVA, J.

The trial of this Tax Certiorari, Real Property Tax Law (RPTL) Article 7 proceeding, challenging the valuation by the Town/Village of Mt. Kisco (Town or Respondent) of the real property owned by Target and designated by them as Store # 1954 (Target or Petitioner), took place before the Court on March 29 and 30, 2011. The following papers numbered 1 to 5 were considered in connection with the trial of this matter:

PAPERS	NUMBERED
PETITIONER'S POST TRIAL MEMORANDUM	1
RESPONDENT'S POST TRIAL MEMORANDUM	2
RESPONDENT'S PROPOSED FINDINGS OF FACT	3
PETITIONER'S POST TRIAL REPLY MEMORANDUM	4
RESPONDENT'S REPLY MEMORANDUM	5

Based upon the credible evidence adduced at the trial, and upon consideration of the arguments of respective counsel and the post trial submissions, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

The instant parcel in this matter is located within a commercial condominium, commonly known as the Mount Kisco Commons Shopping Center, which condominium is located on the northwest corner of North Bedford Road and Preston Way in the Town/Village of Mount Kisco, Westchester County, State of New York. It is also identified on the Mount Kisco Town and Village tax maps as Section 69.58, Block 2, Lot 1.1. The Target property, Unit 1 of the condominium, consists of approximately 8.795 acres of land which is improved with a 117,512 square foot single tenant retail store which was constructed in 2005 and which is currently occupied by the corporate owner, The Target Corporation. Unit 2 of the premises contains an A & P Supermarket of approximately 52,000 square feet, which is immediately adjacent to the Target store, as well as a multi-tenant store building of just over 15,000 square feet, and a free standing restaurant of approximately 5,411 square feet. The lot as a whole comprises an additional approximately 7.497 acres; thus the Target store comprises just over 54% of the common area in the premises, and is occupied under a 30-year ground lease signed in September of 2003. Ground rent under the lease is $1,500,000 per year with adjustments every five years for inflation.

The Testimony

The sole witness called by the petitioner was their appraiser, Robert Sterling. Sterling, in discussing his methodology for valuing the subject, noted that the lack of retail companies who would occupy a parcel as large as the subject (actually, only two stores, Target itself and Wal-Mart, regularly do so) makes selection of true comparable properties a special challenge. Further, most of the properties used by those two retail companies are owner-occupied or on leased land; there are, therefore, few leases by retailers of a space the size of the subject in the marketplace. Looking to suburban New York (specifically, Westchester, Rockland, Orange, Putnam and Dutchess Counties) for comparable stores, Sterling examined many leases of store parcels that were of a similar size, excluding smaller parcels (20,000 to 25,000 square feet). Companies using parcels of that size, such as Michael's, generally pay more rent on a per square foot basis, since there are more stores in that size range competing for space of that size, thus driving up the rental prices for such space.

Sterling chose to employ three comparables, a Wal-Mart store in downtown White Plains, a Burlington Coat Factory in the same building as the Wal-Mart, and a Gander Mountain Store in Middletown in Orange County. He shared the former two properties with respondent's appraiser. The Wal-Mart, located on Main Street in White Plains, was a triple net lease (commencing in October 2004) of 175,340 square feet on the 1st floor and basement level. Sterling found an indicated base rent of $10.65 per square foot, and added $3.90 per square foot for real estate taxes and $2.13 per square foot for a parking license (which permits Wal-Mart customers free parking privileges in an adjacent parking garage), for an adjusted rent of $16.48 per square foot. Sterling then made a 4.5% downward adjustment for conditions of rental (reflecting lease provisions which included landlord payments of leasing commissions and a grant of nine months rent-free occupancy to the tenant).

Sterling also made a 15% adjustment for market conditions, based on his opinion of market value increases between October 2004 to 2008. This yielded an adjusted rent of $18.32. Finally, he made a negative adjustment, - 10%, for what he judged to be the superior location in downtown White Plains; a 5% upward adjustment for building space (the Wal-Mart space is an older, multi-level store); and a 5% adjustment for the substantially larger size of the Mt. Kisco Target. This yielded an adjusted rent of the same amount, $18.32 per square foot.

The Burlington Coat Factory store, located together with the Wal-Mart on Main Street in White Plains, was a comparable which Sterling also shared with respondent's appraiser. The Burlington lease, of 82,020 square feet, commenced in February of 2008 with a base rent of $13.50, to which Sterling added $3.55 per square foot for real estate taxes, giving an adjusted rent of $17.05 per square foot. Sterling also noted that the lease contained a Wal-Mart exclusion (a sub-leasing restriction to parties who do not compete directly with Wal-Mart) and a substantial construction allowance, which together reduced the value of the contract, a reduction reflected in his adjustment for rental conditions of -10%. As with the Wal-Mart lease, Sterling assessed a - 10% adjustment for location and a 5% adjustment for the age of the building; he also employed a - 5% adjustment for the smaller size of size the Burlington store, and a 10% adjustment to reflect the lack (unlike the Wal-Mart lease) of parking considerations for Burlington customers. This resulted in an adjusted rent of $15.35.

Sterling also, as set forth above, used a third comparable, in Middletown, NY. It was similarly sized to the subject at 122,962 square feet, with a base rent per square foot of $7.00. Sterling adjusted this amount for real estate taxes ($4.75), and for market conditions (15%), which gave an adjusted rent of $13.51. The sole other adjustment by Sterling was 25% for location (to reflect the substantially superior location of the subject), which yielded an adjusted rent of $16.89. He derived an average of the three comparables, which was $16.85, which he the rounded to $17.00 for 6/1/2008; $16.00 for 6/1/2009; and $17.00 for 6/1/2010. To arrive at an effective gross income, Sterling took this annual market rent, multiplied it by the size of the subject (117,512 square feet), to get annual potential gross income for each year of $1,997,704 (2008); $1,842,588 (2009); and $1,957,750 (2010). Subtraction of a vacancy and collection loss, in his opinion 2% per year, then yielded annual effective gross incomes of $1,957,750 for 2008, $1,842,588 for 2009, and $1,957,750 for 2010.

Sterling next calculated expenses, made somewhat simpler by the triple-net character of the subject lease. Thus, Sterling only deducted management fees of 2%, leasing commissions of 3.5%, and a replacement reserve of $.35 per square foot. This gave annual expenses of $156,305 for 2008, $149,972 for 2009, and $156,305 for 2010 yielding a net income before taxes of $1,801,445 for 2008, $1,692,616 for 2009, and $1,801,445 for 2010. Having arrived at a net income, Sterling described a dual calculation of a capitalization rate for the subject, which he opined was part of the national net lease market. First, Sterling noted that the cash flow of the ground lease was sold to a national investor in November 2007 at a capitalization rate of 6.4%. However, he noted that there was a larger transaction involved, with additional considerations, so he believed that the 6.4% rate might merely be a minimum of return for the property. Sterling also was aware that the subject tenant (Target) was generally located in a power center, although the sole other large tenant at the subject premises was a supermarket, which is not a typical power center tenant. He also reflected on the timing of the transaction, occurring as it did before a recession, and thus likely embodying unrealistically optimistic returns.

Consulting the Korpacz investor survey for capitalization rates, he found average rates in the National Net Lease Market of 7.60% for late-2007; 7.63% for mid-2008; 8.83% for mid-2009, and 8.98% for late 2010. For National Power Center Markets, Sterling also found slightly-lower average rates of 7.13% for late-2007; 7.17% for mid-2008; 8.04% for mid-2009, and 8.70% for late 2010.

Sterling then considered the subject location, which he considered a bit more characteristic of the Power Center market than the Net Lease market. However, Sterling also detected additional risk, including that the property was improved, and that the subject shares space with a single other large tenant, an A & P supermarket, which was currently in bankruptcy. Sterling concluded that the capitalization rate should be higher than the ground lease purchase by 125 basis points, and derived rates of 7.50% for 2008; 8.50% for 2009, and 8.75% for 2010.

In addition, Sterling also derived a capitalization rate via the band of investment method. The calculated rates by this method were 7.86% for 2008; 9.00% for 2009, and 7.59% for 2010. Sterling, in consideration of his opinion that the Korpacz rates were a more reliable indicator of the proper rate due to better focus on the specific market, then concluded final rates of 7.65% for 2008; 8.65% for 2009, and 8.50% for 2010. To this, in application of the assessor's formula, he added the effective tax rates (2.09% for 2008, 2.13% for 2009, and 2.19% for 2010), for a loaded capitalization rate of 9.74% for 2008; 10.78% for 2009, and 10.69% for 2010. These, when applied to the above net incomes before taxes ($1,801,445 for 2008, $1,692,616 for 2009, and $1,801,445 for 2010), yield estimated market value conclusions of $18,495,149 for 2008, $15,705,097 for 2009, and $16,854,504 for 2010, which he rounded to $18,500,000 for 2008, $15,710,000 for 2009, and $16,850,000 for 2010.

Respondents called as their sole witness their appraiser, Sean Millette. Millette utilized seven comparable properties in arriving at a value conclusion, two of which (the above-mentioned Wal-Mart and Burlington stores) were shared with Sterling. These leases also included a BJ's Wholesale Club in Pelham Manor at a base rent of $25.50 per square foot; a Michael's in the same shopping center at a base rent of $28.00 per square foot; an LL Bean store in Ridge Hill in Yonkers at a base rent of $27.00 per square foot; another BJ's Wholesale Club, this one in Canarsie, Brooklyn, at a base rent of $28.56 per square foot; and a Fairway Market, also in Pelham Manor near the previous two comparables, at a base rent of $21.50 per square foot.

The Pelham BJ's was adjusted by Millette for location (-10%) and condition (-15%), yielding an adjusted rent of $19.13, to which taxes of $6.91 were added, for a gross rent per square foot of $26.04. Millette next adjusted the Pelham Michael's for location (-10%), size (-10%) and condition (-15%), yielding an

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Sterling testified at trial to different effective tax rate values than listed in his appraisal report, yielding slight differences from the latter in his trial testimony.

adjusted rent of $18.20, to which taxes of $6.91 were also added, for a gross rent per square foot of $25.11. The Ridge Hill LL Bean was adjusted for location (-10%), size (-10%), and condition (-15%) by Millette, yielding an adjusted rent of $17.55, to which estimated taxes of $5.00 were added, for a gross rent per square foot for this comparable of $22.55. The Brooklyn BJ's was adjusted by Millette for location (-20%), size (5%), and condition (-15%), yielding an adjusted rent of $19.99, to which taxes of $2.18 were added, for a gross rent per square foot of $22.17. Millette then adjusted the Pelham Fairway Market for time (-10%), location (-10%) and condition (15%), yielding an adjusted rent of $20.43, to which taxes of $4.72 were added, for a gross rent per square foot of $25.15.

As noted previously, Millette selected two comparables in common with Sterling. Regarding the Wal-Mart, Millette, for example, derived a base rent that was approximately $3.50 over that calculated by Sterling; his adjusted base rent was approximately $3.00 more; and his final adjusted rent for the Wal-Mart was $4.66 per square foot more, due largely to adjustments by Millette which totaled 40%, in comparison to Sterling's adjustments, which totaled 0%. Similarly, while Sterling also adjusted the Burlington property 0%, Millette's total adjustments were 45%, which led to the latter's total adjusted rent being almost 50% greater (approximately $7.50) than Sterling's figure. Millette's final range of rents was from $22.17 to $26.04 per square foot, with an average and median of $23.83 and $22.98, respectively, from which he determined rents of $25.00 for 2008, $23.00 for 2009, and $22.00 for 2010. At 117,512 square feet, that reflects a potential base rent of $2,937,800; $2,702,776; and $2,585,265 for those three years, respectively.

To those amounts, Millette added certain expense recovery items, giving a potential gross income for each year of $3,290,336 ($28.00 per square foot); $3,055,312 ($26.00 per square foot); and $2,937,800 ($25.00 per square foot). Subtracting a Vacancy and Collection loss of 3% then yielded an effective gross income of $3,191,626 ($27.16 per square foot for 2008); $2,963,653 ($25.22 per square foot for 2009); and $2,849,666 ($24.25 per square foot for 2010). Millette then calculated operating expenses (Real Estate Taxes, Insurance, Common Area Maintenance, replacement Reserves, and Management Fee) to be $416,369 ($3.54 per square foot); $411,809 ($3.50 per square foot); and $409,529 ($3.49 per square foot) for those years, which gave a Net Operating Income of $2,775,257 ($23.62 per square foot) for 2008; $2,551,844 ($21.72 per square foot) for 2009; and $2,440,137 ($20.77 per square foot) for 2010.

To arrive at a capitalization rate, Millette examined rates as reported by Korpacz and the Real Estate Research Corporation (RERC), as well as Real Capital Analytics (RCA) rates for big-box stores. Finally, he assessed the rate associated with the November 2007 sale of the subject, as well as two recent sales, one in nearby Bedford and one in Carmel (Putnam County), and concluded rates of 6.75% for 2008, 7.75% for 2009, and 8.0% for 2010. To those rates he added the effective tax rates (2.10%; 2.17%; and 2.22%) for those years, and loaded capitalization rates of 8.85% for 2008, 9.92% for 2009, and 10.22% for 2010. Applying these rates to the above-mentioned Net Operating Income figures of $2,775,257 for 2008; $2,551,844 for 2009; and $2,440,137 for 2010, Millette concluded market values of $31,358,841 for 2008, $25,724,230 for 2009, and $23,876,093 for 2010, which he rounded to $31,400,000 for 2008, $25,700,000 for 2009, and $23,900,000 for 2010.

CONCLUSIONS OF LAW

THE PRESUMPTION OF VALIDITY

The Respondents argue that the Petitioner's valuation evidence failed to rebut the presumption of validity of the assessments, in that the Petitioner's Appraisal was not based upon standard and accepted appraisal techniques and, therefore, did not meet the substantial evidence standard. A party seeking to overturn an assessment must first overcome this presumption of validity through the submission of substantial evidence (*See, e.g., Matter of FMC Corp. [Per Oxygen Chemicals Div.] v. Unmack*, 92 N.Y.2d 179, 187 (1998)["In the context of tax assessment cases, the 'substantial evidence' standard merely requires that petitioner demonstrate the existence of a valid and credible dispute regarding valuation. The ultimate strength, credibility and persuasiveness are not germane during this threshold inquiry ... a court should simply determine whether the documentary and testimonial evidence proffered by petitioner is based on 'sound theory and objective data'"]; *see also, Matter of Niagara Mohawk Power Corp. v Assessor of the Town of Geddes*, 92 N.Y.2d 192, 196, [1998--"In the context of a proceeding to challenge a tax assessment, substantial evidence proof requires a detailed, competent appraisal based on standard, accepted appraisal techniques and prepared by a qualified appraiser "]; 22 N.Y.C.R.R. 202.59 [g]2 [appraisal reports utilized in tax assessment review proceedings "shall contain a statement of the method of appraisal relied on and the conclusions as to value reached by the expert, together with the facts, figures and calculations by which the conclusions were reached"]).

A VALID DISPUTE EXISTS

This Court finds that, through petitioner's expert, a recognized appraisal expert who has testified before this Court on many occasions, and whose value conclusions have been accepted by this Court, the Petitioner has submitted substantial evidence based upon "sound theory and objective data" consisting of an appraisal and the testimony of appraiser Sterling, and has demonstrated the existence of a valid dispute concerning the propriety of the assessments during the tax years at issue herein.

CEILING & FLOOR ANALYSIS

The Court has found it useful in determining the true value of real property in tax certiorari and eminent domain proceedings to establish a valuation floor and/or ceiling below which and/or above which this Court may not go, based upon certain well accepted principles.

The Ceiling and the Floor

This Court finds that the Ceiling, based on the actual assessments set by the Respondent Assessor, and the corresponding market values as disclosed by the respondent's appraisal, based on the conceded equalization rates, is as follows:

TOWN

Tax Year	Respondent's Assessment	NYS Equalization Rate	Respondent's Indicated Full Value	Respondent's Appraisal Values
2008	$3,975,000	17.39	**$22,857,964**	$31,400,000
2009	$3,975,000	17.68	**$22,483,032**	$25,700,000
2010	$3,975,000	18.05	**$22,022,161**	$23,900,000

2 While not necessary to the Burden of Proof analysis, the Court notes also that, to the extent the assessed values differ from respondent's appraised valuations, the respondent concedes that a valid dispute exists as to the proper valuation of the subject parcel.

VILLAGE

Tax Year	Respondent's assessment	NYS Equalization Rate	Respondent's Indicated Full Value	Respondent's Appraisal Value
2008	$2,240,000	8.52	**$26,291,080**	$31,400,000
2009	$2,240,000	8.69	$25,776,755	**$25,700,000**
2010	$2,240,000	8.73	$25,658,648	**$23,900,000**

(Ceiling noted in boldface above. In each case, the values indicated by the lower of the assessments or the appraised values are taken as a declaration against interest, on the issue of value, against the respondent [*See, Orange and Rockland Utilities v Southern Energy Bowline et al.*, Supreme Court, Rockland County, Dickerson, J., May 2, 2005]. Based on the below analysis, the Court need not decide the issue of whether the Town's indicated full values may be taken as a declaration against interest with respect to the co-terminus Village's assessments and/or appraised values).

This Court also finds that the Floor, based on the petitioner's appraisal and the appraiser's trial testimony, and the corresponding market values, based on the conceded equalization rates, is as follows:

Assessment Year	Petitioner's Appraisal Values
2008	**$18,500,000.00**
2009	**$15,710,000.00**
2010	**$16,850,000.00**

(Floor in boldface above.)

PETITIONER'S BURDEN OF PROOF

Having met its initial burden, the Petitioner must prove, through a preponderance of the evidence, that the assessments are excessive. As indicated above, the Court has considered and evaluated the weight and credibility of the evidence, the arguments of respective counsel, and the submissions of the parties to determine whether the Petitioner has proven that the assessments are in fact excessive.

METHODOLOGIES, COMPARABLES, VALUATIONS, AND REBUTTALS

Both parties concur that, where property such as the subject parcel is leased for the operation of a commercial concern, the Income Capitalization Method is the proper technique for determining valuation. The appraisers have also used many comparable leases in their analyses, attempting to adjust for differences between the subject and those comparables. As the Court has noted elsewhere, while Sterling only minimally adjusted his comparable leases, Millette chose to extensively adjust for conditions, so that, excluding the Pelham Fairway Market property, his adjustments range from - 35% to 45%. Such a range of adjustments calls into question whether the comparable properties are indeed "comparable." In addition, on several occasions his methodological reasoning for some adjustments, such as the functional utility of the two shared comparable properties, failed to apply to other, similarly-situated properties. Furthermore, it is clear from Millette's testimony that, on more than one occasion, he failed to consult all of the leases for the properties which were the basis of his analysis. And, finally, as petitioner points out, his analysis of the two properties which they had in common, was vastly different from Sterling's, particularly by the above-mentioned extensive adjustments to value contributing substantially to the higher values he derived. Consequently, the Court elects to place greater reliance on the methodology employed by Sterling on behalf of petitioner, modified as the Court deems appropriate.

Due to the similarity of Sterling's first two comparables to the subject, the Court also elects to place great reliance on them in its value conclusions, and agrees with Sterling's methodology on the Wal-Mart parcel as it applies to base rents, expense adjustments, and non-physical adjustments. From the adjusted rent of $18.32, he made a negative adjustment, - 10%, for what he judged to be the superior location in downtown White Plains; a 5% upward adjustment for building space (the Wal-Mart space is an older, multi-level store); and a 5% adjustment for the substantially larger size of the subject, all adjustments in which the Court concurs. However, the Court agrees with Millette's argument on the better functional utility of the subject, due to the ease of parking and single sales level, and elects, where Sterling made no adjustment, to adjust the White Plains Wal-Mart 10% in this regard. This would yield a Court adjusted rent of $20.20. The Court accepts the same Sterling adjustments with respect to the Burlington Coat Factory store except, again, and for the same reasons, with regard to functional utility (relating not only to parking but also to the need to enter the store via escalator up from the ground level). The Court adjusts this category by 20%, resulting in an adjusted rent of $17.05 for the Burlington store.

Accepting Sterling's third comparable as is, with an adjusted rent of $16.89, the Court's average of the three comparables, as adjusted, would be $ 18.04, which is rounded to $18.00 for 6/1/2008; $17.00 for 6/1/2009; and $18.00 for 6/1/2010. To arrive at an effective gross income, Sterling took this annual market rent, multiplied it by the size of the subject (117,512 square feet); using the Court's rents, the annual potential gross income for each year is $2,115,216 (2008); $1,997,704 (2009); and $2,115,216 (2010). Subtraction of a vacancy and collection loss, accepting Sterling's opinion of 2% per year, would yield, under the Court's analysis, annual effective gross incomes of $2,072,912 for 2008, $1,957,750 for 2009, and $2,072,912 for 2010. Sterling next calculated expenses and while the Court accepts generally his methodology and calculations, respondent properly points out that leasing commissions of 3.5% in a fully rented mall complex may be too high. The Court therefore elects instead to use 2% for that figure, yielding annual expenses of $126,939 for 2008, $122,333 for 2009, and $126,939 for 2010. The Court thus calculates a net income before taxes of $1,945,973 for 2008, $1,835,417 for 2009, and $1,945,973 for 2010.

As noted above, Sterling calculated capitalization rates for the subject with regard to Target's normal status as a Power Center, conditioned by the fact that the other large tenant at the subject premises was a supermarket, atypical for Power Center tenants. From Korpacz, he derived National Power Center rates, on average, of 7.17% for mid-2008; 8.04% for mid-2009, and 8.70% for late 2010. Modified by his opinion that the subject location did pose additional risk, particularly that the A & P Supermarket chain was in bankruptcy, he thus calculated rates of 7.50% for 2008; 8.50% for 2009, and 8.75% for 2010. However, he also derived capitalization rates, via the band of investment method, of 7.86% for 2008; 9.00% for 2009, and 7.59% for 2010, and from these two sources concluded rates of 7.65% for 2008; 8.65% for 2009, and 8.50% for 2010. Millette, on the other hand, using Korpacz and other published sources, and recent transactions, found slightly lower rates of 6.75%, 7.75%, and 8.0% for the three years. Based on the narrowness of the spread between the parties (less that 1.0%), and in particular Sterling's appreciation of both the potential risk of the subject lease and the economic slow-down which occurred during late 2007 and early 2008, the Court concludes that the capitalization rate should be that calculated by Sterling, namely 7.65% for 2008; 8.65% for 2009, and 8.5% for 2010, and accepts those rates as appropriate.

To these rates, the Court, applying the assessor's formula, must add the effective tax rates (generally agreed to be 2.09% for 2008, 2.13% for 2009, and 2.19% for 2010), to arrive at a loaded capitalization rate. Having accepted Sterling's calculations on the capitalization rate thus far, the Court therefore accepts his loaded cap rate conclusion of 9.74% for 2008; 10.78% for 2009, and 10.69% for 2010. These, when applied to the net incomes before taxes calculated above ($1,945,973 for 2008, $1,835,417 for 2009, and $1,945,973 for 2010), yields the Court's estimated market value conclusions of $19,979,189 for 2008, $17,026,132 for 2009, and $18,203,676 for 2010, which are rounded to $20,000,000 for 2008, $17,000,000 for 2009, and $18,200,000 for 2010.

FINAL MARKET VALUES

These calculations, derived by the Court from the above alterations to Sterling's appraisal, yield in sum the following Market Values for those years, for the subject parcel:

Assessment Year	Court's Indicated Market Values
2008	$20,000,000
2009	$17,000,000
2010	$18,200,000

which values are well within the range of testimony *(See, Rose v. State,* 24 N.Y2d 80 [1969]).

CONCLUSION

The Petitions, with costs [R.P.T.L. § 722[1]], are sustained to the extent indicated above, the assessment rolls are to be corrected accordingly by the assessor utilizing the aforesaid final Indicated Market Values and the agreed-upon equalization rates as set forth above, and any overpayments of taxes are to be refunded with interest.

The foregoing constitutes the Opinion, Decision, and Order of the Court.

Submit Judgment on notice.

Dated: White Plains, New York
November 19, 2012

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HON. JOHN R. LaCAVA, J.S.C.

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