

ORB

At and IAS Part of the Supreme Court of the State of New York Held in and for the County of Westchester, located at 111 Dr. Martin Luther King, Jr. Blvd., White Plains, New York 10601 on the 18<sup>th</sup> day of May, 2007

PRESENT: HON. RICHARD B. LIEBOWITZ *As Duty Judge*  
SUPREME COURT JUSTICE, J.S.C.

----- X  
JAMES E. SWEENEY, F. WARREN BENTON, SAM :  
ORANS, BRIAN PAYNE, RAY MALDONADO, DAN :  
HEUBEL, PAUL J. ABRAHAMASEN, CHRISTOPHER :  
MACDONALD and MICHAEL WEINER, :

Plaintiffs, :

-against- :

ELIZABETH N. FELD, Mayor, MARLENE KOLBERT, :  
Trustee, ANNE McANDREWS, Trustee, JIM :  
MILLSTEIN, Trustee, RICHARD WARD, Trustee, :  
constituting the Village of Larchmont Board of Trustees :  
and RICHARD HEINE, "Chief" of the Fire Department of :  
the Village of Larchmont, :

Defendants. :

X Index No. 9480/07

**ORDER TO SHOW CAUSE**

RECORDED  
INDEXED  
MAY 21 2007  
CLERK OF THE COURT

----- X

Upon reading and filing the affirmation of Katherine Zalantis, Esq. dated May 18, 2007, the affidavit of James Sweeney sworn to on the 18<sup>th</sup> day of May, 2007, the affidavit of F. Warren Benton sworn to on the 18<sup>th</sup> day of May, 2007, the Verified Complaint verified the 18<sup>th</sup> day of May, 2007, Plaintiffs' Memorandum of Law dated the 18<sup>th</sup> day of May, 2007 and all of the proceedings heretofore had herein;

LET the defendants ELIZABETH N. FELD, Mayor, MARLENE KOLBERT, Trustee, ANNE McANDREWS, Trustee, JIM MILLSTEIN, Trustee, RICHARD WARD, Trustee,

constituting the Village of Larchmont Board of Trustees and defendant RICHARD HEINE, who has purportedly been appointed "Chief" of the Fire Department of the Village Larchmont, SHOW CAUSE before the Honorable <sup>*Orazio R. Bellantoni*</sup> \_\_\_\_\_, Justice of the Supreme Court on the 30<sup>TH</sup> day of May, 2007, at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel may be heard, at the County Courthouse, located at 111 Dr. Martin Luther King Jr., Boulevard, White Plains, New York 10601,

WHY an Order should not be made and entered preliminarily restraining and enjoining the defendants, their agents, servants, employees and attorneys from taking any action to implement or carry out the resolutions of the defendants ELIZABETH N. FELD, Mayor, MARLENE KOLBERT, Trustee, ANNE McANDREWS, Trustee, JIM MILLSTEIN, Trustee, RICHARD WARD, Trustee, constituting the Village of Larchmont Board of Trustees ("Village Board") adopted on May 16, 2007, which in sum and substance, purport to appoint defendant Richard Heine the chief of the Fire Department of the Village of Larchmont ("Department") and to appoint him as presiding member of the Department's Fire Council and to grant the Village Board authority to appoint a chief of the Department ("Resolutions"), and restraining and enjoining defendant Richard Heine from taking any action and/or issuing any order or directive in his purported capacity as chief of the Department or in furtherance of the Resolutions. .

SUFFICIENT CAUSE APPEARING THEREFOR, it is hereby

~~ORDERED, that pending a hearing and determination of this application or further order~~  
*R.M.*  
*J.S.C.*  
of this court, the defendants ELIZABETH N. FELD, Mayor, MARLENE KOLBERT, Trustee, ANNE McANDREWS, Trustee, JIM MILLSTEIN, Trustee, RICHARD WARD, Trustee, constituting the Village of Larchmont Board of Trustees and defendant RICHARD HEINE, their

Rm  
J.S.C.

~~agents, employees, and attorneys are hereby directed to refrain from proceeding with any action~~  
that would in any way implement or carryout the Resolutions of the Village Board, and it is  
~~further~~

ORDERED, that all papers in opposition to the within application shall be served upon

Rm  
J.S.C.

Plaintiff's attorneys, Steven Silverberg of Silverberg Zalantis, LLP so as to be received at least  
~~three~~ <sup>two BUSINESS</sup> days prior to the return date of this application, and it is further

ORDERED, that personal service upon defendant RICHARD HEINE, and on the Village  
Clerk of the Village of Larchmont, on behalf of defendants, ELIZABETH N. FELD, Mayor,  
MARLENE KOLBERT, Trustee, ANNE McANDREWS, Trustee, JIM MILLSTEIN, Trustee,  
RICHARD WARD, Trustee, constituting the Village of Larchmont Board of this Order to Show  
Cause with supporting papers by May 18<sup>th</sup>, 2007 shall be deemed good and sufficient service.

ENTER:

*Richard Blumenthal*  
HON. \_\_\_\_\_, J.S.C.  
AS DUTY JUDGE

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

----- x Index No.  
JAMES E. SWEENEY, F. WARREN BENTON, SAM :  
ORANS, BRIAN PAYNE, RAY MALDONADO, DAN :  
HEUBEL, PAUL J. ABRAHAMASEN, CHRISTOPHER :  
MACDONALD and MICHAEL WEINER, :

Plaintiffs, :

-against- :

ELIZABETH N. FELD, Mayor, MARLENE KOLBERT, :  
Trustee, ANNE McANDREWS, Trustee, JIM :  
MILLSTEIN, Trustee, RICHARD WARD, Trustee, :  
constituting the Village of Larchmont Board of Trustees :  
and RICHARD HEINE, "Chief" of the Fire Department of :  
the Village of Larchmont, :

Defendants. :

**CERTIFICATION**

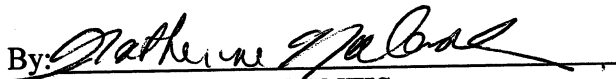
----- x

Katherine Zalantis, an attorney at law admitted to practice in the State of New York, certifies as follows:

To the best of my knowledge, information and belief as formed after an inquiry reasonable under the circumstances, the presentation of this Order to Show Cause is not frivolous as defined in subsection (c) of 22 NYCC 130-1.1.

Dated: White Plains, New York  
May 18, 2007

SILVERBERG ZALANTIS LLP  
Attorneys for Plaintiffs

By:   
KATHERINE ZALANTIS  
3 Barker Avenue  
White Plains, New York 10601  
(914) 682-0707