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IN THE MATTER OF

BERTRAND LAMITIE

PETITION FOR PARDON

REPORT AND RECOMMENDATION

YOUR EXCELLENCY:

The Advisory Board of Pardons (hereinafter "the Board") respectfully submits this report and recommendation concerning the pardon petition of Bertrand Lamitie. Mr. Lamitie was convicted of Possession with Intent to Distribute a Class B Controlled Substance (Cocaine) on November 6, 2001 in Cambridge District Court, and sentenced to a one-year house of correction sentence, with six months to serve and the balance suspended for one year of probation.

On or about December 30, 2014, Mr. Lamitie submitted a petition for a pardon. (*Attachment A*). In 2016, Mr. Lamitie submitted supplemental materials in support of his petition for a pardon. (*Attachment B*). On February 28, 2022, the Board conducted a public hearing regarding Mr. Lamitie's petition. In his petition and at the public hearing, Mr. Lamitie requested a pardon for his conviction because of the effect it has had on his immigration status.

After due consideration, the Board voted unanimously to recommend favorable consideration of Mr. Lamitie's request for a pardon. The reasons for the Board's recommendations are set forth in the body of this opinion.

PROCEDURAL HISTORY

On March 30, 2001, Mr. Lamitie was arrested by the Cambridge Police Department, and on April 2, 2001 he was arraigned in Cambridge District Court, Docket Number 0152CR0972. (*Attachment C*).¹ He pleaded guilty on November 6, 2001, and was sentenced to a one-year house of correction sentence, with six months to serve and the balance suspended for one year of probation.² Rather than being released to his probation at the end of his term of incarceration, Mr. Lamitie was transferred to immigration detention, where he remained for approximately one year until he was deported to Haiti in 2003. Mr. Lamitie has not sealed his Massachusetts record.

STATEMENT OF THE CASE

In February 2001, the Cambridge and Somerville Police Departments conducted an investigation that included two controlled purchases of crack cocaine from Mr. Lamitie. On March 30, 2001, Mr. Lamitie was arrested, and an additional sixteen pieces of crack cocaine were located in a bag inside his pants. During a search of Mr. Lamitie's bedroom, items consistent with drug distribution were located, including a scale, baggies, a razor, and cash.

¹ Mr. Lamitie was also originally charged with committing a Controlled Substance Act violation within a school zone. This second charge was dismissed on July 31, 2001.

² Mr. Lamitie originally pleaded guilty on July 31, 2001, and was sentenced to a one-year house of correction sentence with six months to be served and the balance suspended for two years of probation. According to his Board of probation record, this sentence was vacated on September 26, 2001, and on November 6, 2001 he pleaded guilty again.

PRIOR CRIMINAL RECORD

According to the Massachusetts Board of Probation record and the National Crime Information Center (NCIC) record, both dated September 22, 2021, Mr. Lamitie has been charged in three additional adult cases, aside from the one for which he is seeking a pardon. (*Attachment D*). On December 17, 1998, Mr. Lamitie was arraigned in Cambridge District Court on one count of Larceny and one count of Witness Intimidation. These charges were dismissed on March 24, 1999. On October 29, 1997, Mr. Lamitie was arraigned in Lynn District Court on charges of Compulsory Insurance Violation, Attaching Wrong Motor Vehicle Plates, and Operating After Revoked Registration. These charges were dismissed upon the payment of court costs on January 30, 1998. On October 7, 1996, Mr. Lamitie was arraigned in Cambridge District Court on one count of Receiving a Stolen Motor Vehicle. The government filed a nolle prosequi relating to this charge on November 12, 1996. Mr. Lamitie's record also reflects one arraignment in Somerville Juvenile Court on January 19, 1993 for Larceny of a Motor Vehicle and Use Without Authority. These charges were dismissed at the request of the Commonwealth on June 15, 1993.

PARDON PETITION OF BERTRAND LAMITIE, 2014

Bertrand Lamitie submitted a petition for executive clemency, in the form of a pardon, for a conviction of Possession with Intent to Distribute a Class B Controlled Substance (Cocaine) from November 6, 2001 in Cambridge District Court. (*Attachment A*). In his petition, Mr. Lamitie explained that he was born in Haiti, and that his family moved to Cambridge when he was six or seven years old. Mr. Lamitie reported that he did well academically and participated in sports programs until he broke his ankle and was expelled from high school after being wrongly accused of smoking marijuana. After leaving school, he started using drugs. Ultimately, he began selling drugs to support his habit, while also

working at legitimate jobs. Mr. Lamitie stated in his petition that he became sober while participating in the drug treatment program at Billerica House of Correction, and that he has remained sober since.

Mr. Lamitie explained in his petition that being deported to Haiti was difficult for him because he could not speak the language and was unfamiliar with the culture. He also had to be away from his young daughter, who was living in the United States. Mr. Lamitie worked a variety of odd jobs in Haiti until emigrating to Canada in 2009. He met his wife there, and at the time of their petition they had one child and were expecting a second. While in Canada, Mr. Lamitie worked at McGill University as a security agent and dispatcher. He was active in the Knights of Columbus and attended church. Although Mr. Lamitie applied for Canadian citizenship, his application was denied based on his conviction. In addition to his letters of support, summarized below, Mr. Lamitie submitted with his petition a letter from McGill University thanking him for his service, various professional certificates, a certificate from the Knights of Columbus, photographs of his life in Canada, and a collection of eighteen signatures in support of his pardon petition. Mr. Lamitie also attached a translation of a certification from the Haitian government stating that he has no criminal record in that country.

SUPPLEMENTAL PARDON PETITION OF BERTRAND LAMITIE, 2016

In 2016, Mr. Lamitie submitted additional materials in support of his petition for a pardon. (*Attachment B*). In his supplemental petition, Mr. Lamitie reported that on February 10, 2015 he had to leave Canada and return to Haiti. He stated in his supplemental petition that he was having difficulty finding a job in Haiti due to a poor economic situation.

2022 INTERVIEW OF BERTRAND LAMITIE

At the request of the Advisory Board of Pardons, Mr. Lamitie consented to an interview concerning his petition. (*Attachment E*). The interview took place on February 16, 2022. During the interview Mr. Lamitie reported that after he sustained an injury during his high school years, he developed a dependency on narcotics. He began selling drugs to support his habit and earn money. After selling to undercover detectives, his home was raided and cocaine was located, leading to his arrest.

Mr. Lamitie stated during his interview that he obtained his GED while in federal custody awaiting deportation. In 2015 while living in Canada, his application for Canadian citizenship was denied because of his conviction from Massachusetts. He was informed that he would be deported back to Haiti. Mr. Lamitie chose to leave the country voluntarily within the timeline provided by the Canadian government. When he returned to Haiti, he again had difficulty finding work, but eventually found a job as an interpreter.

Mr. Lamitie stated in his interview that his wife and two sons - who are six and seven years old - remain in Montreal. His twenty-two-year-old daughter lives in Massachusetts, where she is a student at Framingham State University.

PROCEEDINGS BEFORE THE ADVISORY BOARD

On February 28, 2022, the Advisory Board of Pardons held a public hearing on Bertrand Lamitie's pardon petition. The hearing was chaired by Gloriann Moroney. Advisory Board of Pardon Members Charlene Bonner, Sheila Dupre,³ and Tina Hurley were present at the hearing. Board Members Tonomey Coleman and Colette Santa were not present for the hearing, but reviewed the record and participated in deliberations. Mr. Lamitie was represented by Attorney Paul Glickman and Attorney Stephanie Marzouk.

³ Board Member Dupre was present for Mr. Lamitie's pardon hearing and voted in favor of his petition. Her signature is not included on this memorandum because she is no longer a Board Member.

THE BOARD'S INQUIRY

SOCIAL HISTORY

Upon inquiry by the Board, Mr. Lamitie provided information concerning his social history. Mr. Lamitie was born in Port-au-Prince Haiti on January 21, 1977. His family moved to the United States when he was approximately six years old and he grew up in Cambridge, Massachusetts. He began his high school career at Trinity Catholic High School in Newton, and later transferred to North Cambridge Catholic High School. He played basketball in high school until he suffered an injury to his ankle and lost his athletic scholarship. He transferred again to Cambridge Rindge and Latin School for his senior year. While there, he was suspended, then expelled, for being wrongfully accused of smoking marijuana in the bathroom. After the expulsion, he began drinking and using drugs, eventually dropping out of his GED program to sell drugs. When his parents found out, they kicked him out of their home.

Mr. Lamitie stated that he moved to Boston and began to work at AT&T in addition to selling drugs. His daughter was born in 2000. At the time of his arrest in 2001, he was a Green Card holder. Mr. Lamitie shared with the Board that the conviction was the best thing that ever happened to him because the drug program that he attended in jail quite possibly saved his life. Mr. Lamitie finished his sentence in 2002 and was deported to Haiti in 2003, after being held in immigration detention in Louisiana. He was separated from his daughter and her mother, and was forced to acclimate to life in Haiti. This was especially difficult for him because he did not speak Haitian Creole well and was not used to the culture.

Mr. Lamitie reported that he was immediately jailed upon his return to Haiti, without knowing why. He got very sick due to the poor conditions of the facility, and was finally told that he could be released if he paid a fine. His family in the United States was able to raise enough donations to release him. He worked odd jobs in an attempt to support himself and kept in contact with his daughter to make sure she had everything she needed.

In 2009, Mr. Lamitie emigrated to Canada. He worked at McGill University, first as a basic security agent, and eventually working his way up to a dispatch lieutenant. He met his wife, and they were married in 2013. They have two young boys together. While in Canada, Mr. Lamitie was active in his local Knights of Columbus Fraternity doing volunteer work. He also reported going to church faithfully, and stated that his religion is exceptionally important to him. Because of his conviction, Mr. Lamitie was ultimately denied Canadian citizenship and deported to Haiti again. He stated that he maintains a close relationship with his wife and sons in Canada, as well as his parents, siblings, and daughter in the United States.

GOVERNING OFFENSE

The Board inquired about the offense for which Mr. Lamitie seeks a pardon. On March 31, 2001, Mr. Lamitie was arrested for Possession with Intent to Distribute a Class B Controlled Substance (Cocaine) and a school zone violation (which was later dismissed). After he originally pleaded guilty, the Judge vacated the plea because he felt that Mr. Lamitie received a harsher sentence than a similarly situated white man. A couple of months later, Mr. Lamitie again pleaded guilty and was sentenced to one year in the house of correction, with six months to serve and the balance suspended for one year of probation. His probation supervision was terminated November 6, 2002, although he was transferred directly from the House of Correction to immigration detention.

VICTIM IMPACT

No victim impact statements were provided to the Board.

PRIOR CRIMINAL HISTORY

In response to prompting by the Board, Mr. Lamitie shared that he has no other convictions in the United States or elsewhere and is a law-abiding citizen, excluding the offense for which he is seeking a pardon.

COMPELLING NEED FOR A PARDON

The Board made inquiries regarding Mr. Lamitie's compelling need for a pardon. Mr. Lamitie explained how his conviction has hindered his ability to obtain Canadian citizenship. This conviction also prompted the deportation warrant that returned him to Haiti, away from his wife and young children. He is also unable to visit his daughter and family members in Cambridge due to the consequences of this conviction. Overall, the conviction has been a significant emotional and financial barrier in his life and the lives of his family members. Further, due to the humanitarian turmoil in Haiti presently, he fears for his safety.

SUPPORT

TESTIMONY

Kyla Lamitie

Kyla Lamitie offered testimony to the Board in support of her father's petition for a pardon. Ms. Lamitie shared that as a child she suffered from severe panic attacks that only her father could alleviate, even while he was in a different country. She and her two brothers in Canada often speak to one another and to Mr. Lamitie in Haiti, so that they may maintain a strong and healthy relationship as a blended family. Ms. Lamitie stated that she yearns for a relationship with her father outside of letters and communicating through technology. She wishes for him to be able to attend her college graduation next year. She ended her testimony by stating that if not for her, she wants the petition to be granted for her two brothers in Canada, so they do not have to suffer what she suffered through, living her life without a present father.

Marie Lamitie

Marie Lamitie, Mr. Lamitie's mother, also offered testimony to the Board in support of her son's petition for a pardon. Ms. Lamitie shared that she will always feel empty as long as her son is away from her, and that she feels as though she is missing a part of her own body. She and her husband cannot go to sleep at night if they have not spoken to Mr. Lamitie over the phone at least

once during the day. She fears for the safety of this non-violent, respectful, hardworking, and kind man in Haiti, and expressed that his safe return would be the best gift she has ever received.

Yves Lamitie

Yves Lamitie, Mr. Lamitie's brother, offered testimony in support of his brother's petition for a pardon. Yves stated that he and Mr. Lamitie grew up and struggled together, so Mr. Lamitie acts as a role model for him. Yves explained that he inherited his older brother's strength and toughness, and that Mr. Lamitie always encouraged Yves to get involved in sports and remain on the right path. Yves stated that doesn't know what would have become of him if it wasn't for Mr. Lamitie. He also stated that he has employment available for his brother if Mr. Lamitie chose to return to the United States.

Stacy Lamitie

Stacy Lamitie, Mr. Lamitie's sister, testified in support of her brother's petition for a pardon. Ms. Lamitie introduced herself as Mr. Lamitie's youngest sister, and described him as a kind of father figure to her because their parents worked extreme hours to support them. Ms. Lamitie has seen first-hand how Mr. Lamitie's daughter has suffered due to his deportation. She also stated that his potential in life has been hindered by this conviction. Further, Ms. Lamitie noted that the coronavirus pandemic has been especially terrifying for their family, as they were not able to know whether Mr. Lamitie was healthy.

Georgette Joy Rubio-Bergino

Georgette Joy Rubio-Bergino, Ms. Lamitie's wife, offered testimony to the Board in support of her husband's petition for a pardon. She told the Board that when Mr. Lamitie was deported from Canada to Haiti, she was five months pregnant with their second son. She described Mr. Lamitie as a good person, a responsible father and husband, and someone who would give to others even if he had nothing.

LETTERS

The Board received and considered nineteen letters of recommendation in support of Mr. Lamitie's petition in advance of his hearing. (*Attachment A*, pages 38-65; *Attachment B*, pages 3-7).

Maritza Aubourg

Maritza Aubourg submitted a letter dated December 9, 2014 in support of Mr. Lamitie's petition for a pardon. Ms. Aubourg stated that she has known Mr. Lamitie for five years since he moved to Canada and that he has become a part of her family. She stated that he volunteers in the community, participates in church activities, and mentors young men. She described Mr. Lamitie as someone who "has the drive to grow both personally as well as professionally," and asked for him to have the opportunity to remain in Canada with his family and friends.

Kelly Pierre Paul

Kelly Pierre Paul, Mr. Lamitie's co-worker, submitted an undated letter in support of Mr. Lamitie's petition for a pardon. This letter described Mr. Lamitie as "organized, efficient, extremely competent," and as someone who "has an excellent rapport with people of all ages." The letter states that Mr. Lamitie's contributions at work are valuable, as are his contributions to the community through his volunteer work.

Claudiel Petit-Homme

Claudiel Petit-Homme, a priest who witnessed Mr. Lamitie's marriage, submitted a letter dated November 10, 2014 in support of Mr. Lamitie's petition for a pardon. This letter described Mr. Lamitie as "a serious man," "a caring father," "a present husband," and "a hard worker who is very concerned about the future of his family."

Me Chantal Ianniciello

Me Chantal Ianniciello, an attorney representing Mr. Lamitie for his immigration case in Canada, submitted a letter dated November 23, 2014 in support of Mr. Lamitie's petition for a pardon. This letter explains that Mr. Lamitie's Massachusetts conviction has had "a direct and dire impact" on his immigration status in Canada. If not for this conviction, he would not be subject to removal from Canada. The letter states that Mr. Lamitie regrets the offense and has turned his life around, steering clear of any trouble since that time.

Georgette Joy Rubio-Brigino

Georgette Joy Rubio-Brigino, Mr. Lamitie's wife, submitted two letters in support of his petition for a pardon, dated November 23, 2014 and March 29, 2016. Ms. Rubio-Brigino described Mr. Lamitie as an amazing father, one who is "responsible, loving, happy, and unselfish." She described his passion for helping others, which he demonstrated through his participation in the Knights of Columbus and his church. She explained that others enjoy his personality, which she described as calm and cheerful.

Ms. Brigino's second letter, written after Mr. Lamitie's removal from Canada in 2015, explained that it had been sixteen years since "he has completely changed his lifestyle by associating with a strong network of friends and committing his life to God." She also described the difficulties their family has faced since he was removed from the country, including being alone for the birth of their second child. She described the emotional and financial stress of taking care of their family without him being present.

Marie Lucie Lamitie

Marie Lucie Lamitie, Mr. Lamitie's mother, submitted a letter dated December 12, 2014 in support of her son's petition for a pardon. Ms. Lamitie described her son's childhood

growing up in Cambridge, and expressed regret that she did not attempt to make him an American citizen.

Kyla Leilani Cardoso Lamitie

Kyla Leilani Cardoso Lamitie, Mr. Lamitie's daughter, submitted a letter dated December 17, 2014 in support of her father's petition for a pardon. She explained that Mr. Lamitie has been a great father and that they have a good relationship, even though he hasn't been able to live with her since she was very young. She stated that he always tries to take care of others before himself, and has always sent money to take care of her.

Stacy Lamitie

Stacey Lamitie, Mr. Lamitie's sister, submitted a letter dated December 8, 2014 in support of her brother's petition for a pardon. She explained that as a young man her brother played basketball, served as an altar boy, and excelled academically. She asked for a second chance for her brother, describing his conviction as "his first and only run in with the law." She explained that since that time he has lived his life as a "hardworking family man" who "continues to strive to not only better himself as a person but to enable his children to become positive people in society."

Yves Lamitie

Yves Lamitie, Mr. Lamitie's brother, submitted a letter dated December 19, 2014 in support of his brother's petition for a pardon. He stated that when Mr. Lamitie was young, he always helped his neighbors and stood up for his younger siblings. Yves asked for a pardon to allow his brother to return to Canada, "the country where he has been living and working, paying taxes, helping out in the community, and being an upstanding gentleman" since 2009.

Ricky Edner Beaudin

Ricky Edner Beaudin, Mr. Lamitie's distant cousin, submitted a letter dated December 17, 2014 in support of Mr. Lamitie's petition for a pardon. Mr. Beaudin stated that he looked up to Mr. Lamitie as a big brother. Mr. Lamitie has helped him pursue his passion for music. He described Mr. Lamitie as "a very organized individual, a very respectful man, and a great father."

Marie Lespinasse

Marie Lespinasse, Godmother to Mr. Lamitie's sister, submitted a letter dated December 16, 2014 in support of Mr. Lamitie's petition for a pardon. She described Mr. Lamitie as caring and respectful, someone who "always has a big smile and continues to work hard."

John Casey

John Casey, Fraternal Counselor for the Knights of Columbus, submitted a letter dated November 25, 2014 in support of Mr. Lamitie's petition for a pardon. Mr. Casey stated that Mr. Lamitie is an active member of the organization, and that he participates in community events such as food drives and fundraising. He believes Mr. Lamitie exhibits a "sincere desire to help others."

Dexter Delpeche

Dexter Delpeche, a neighborhood friend of Mr. Lamitie from Canada, submitted a letter dated December 16, 2014 in support of Mr. Lamitie's petition for a pardon. Mr. Delpeche described Mr. Lamitie as a wonderful friend who has helped in times of need.

Boris Polanski

Boris Polanski, a Knights of Columbus member, submitted a letter dated March 3, 2014. The letter certifies that Mr. Lamitie is a member of the Knights of Columbus. Mr.

Polanski described Mr. Lamitie as “a complete gentleman who exhibits all the qualities of charity, unity, fraternity, and patriotism embodied by the Order.”

Marian Burns

Marian Burns, Principal of St. John the Evangelist School in Cambridge, submitted a letter dated December 5, 2014 in support of Mr. Lamitie’s petition for a pardon. Principal Burns described Mr. Lamitie as “a well mannered hardworking student” during his time at the school. She stated that the school could always count on him to volunteer for any service project.

Balkys Sicard

Balkys Sicard, a childhood friend of Mr. Lamitie, submitted a letter dated December 15, 2014 in support of Mr. Lamitie’s petition for a pardon. Mr. Sicard described Mr. Lamitie as “the product of a family with strong moral values and beliefs.”

Jonathan Aubourg

Jonathan Aubourg, a friend of Mr. Lamitie from Canada, submitted a letter dated December 17, 2014 in support of Mr. Lamitie’s petition for a pardon. Mr. Aubourg explained that Mr. Lamitie helped him pursue an interest in music and encouraged him to focus on his education. Mr. Aubourg described Mr. Lamitie as a good influence in his life.

Roger Jacque

Roger Jacque, Mr. Lamitie’s supervisor at McGill University, submitted a letter dated November 19, 2014 in support of Mr. Lamitie’s petition for a pardon. Mr. Jacque described Mr. Lamitie as someone who “has shown tremendous effort, dedication and loyalty to our department.” He stated that Mr. Lamitie is a valuable team member, and also someone who is “friendly, reliable, dependable, and a good communicator.”

OPPOSITION

TESTIMONY

No individuals testified in opposition to Mr. Lamitie's petition.

LETTERS

No letters were submitted in opposition to Mr. Lamitie's petition.

OPINION OF THE ADVISORY BOARD

FAVORABLE RECOMMENDATION

After careful review and consideration, it is the opinion of 6 of the 6 voting members of the Advisory Board of Pardons that a favorable recommendation for a pardon be sent to the Governor on behalf of Bertrand Lamitie.

Governor Charles D. Baker's Executive Clemency Guidelines, issued on February 21, 2020 ("Guidelines"), establish the grounds upon which a pardon may be granted and provide assistance to the Advisory Board of Pardons in making recommendations to the Governor on clemency petitions. The Guidelines state that a pardon is "an extraordinary remedy which has the effect of treating the petitioner as if the offense had never been committed." The Guidelines further provide that "[pardons are] intended to remove the barriers that are sometimes associated with a criminal record, thereby facilitating the reintegration of the petitioner into his or her community." The Guidelines state that the nature and circumstances of the offense and the character and behavior of the petitioner are the two "paramount considerations in deciding whether to grant clemency."

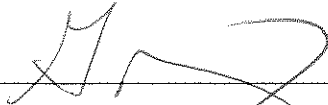
Under the Governor's Guidelines, a person who petitions for a pardon bears the responsibility of demonstrating, by clear and convincing evidence, that:

- (a) The petitioner has clearly demonstrated an acceptance of responsibility for the offense for which the petitioner is seeking clemency;
- (b) the petitioner does not have any pending appeals or challenges to a conviction or sentence;
- (c) the petitioner has made full restitution to his or her victims, in the

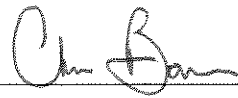
- event of economic injury;
- (d) the petitioner has made exceptional strides in self-development and self-improvement and would be a law-abiding citizen;
 - (e) the petitioner has provided substantial assistance to law enforcement in the investigation or prosecution of other more culpable offenders;
 - (f) the petitioner has contributed to society through the military or public service, or through charitable work;
 - (g) the petitioner has demonstrated a period of good citizenship by "leading a responsible and productive life and contributing to [his or her] community in a positive manner" for more than ten years following a felony conviction, "without the structure provided by government supervision," such as probation or parole;
 - (h) there is no alternative remedy available to the petitioner.

The petitioner is seeking a pardon for a conviction of Possession with Intent to Distribute a Class B Controlled Substance (Cocaine) from November 6, 2001. The Board notes that Mr. Lamitie presents an extremely compelling need for a pardon of a 2001 drug conviction, for which he served six months. The twenty-year-old conviction resulted in his deportation from the United States to Haiti, and then from Canada to Haiti. The deportation from Canada, which separated him from his pregnant wife and child, arose when he applied for citizenship. Mr. Lamitie has represented that he would be able to seek citizenship in Canada and reunite with his family if he receives a pardon. The Board notes that he has maintained an excellent support system in both Canada and Massachusetts despite significant challenges. Mr. Lamitie has also maintained good citizenship since his conviction and has had no further involvement in the criminal justice system. He has been forthcoming about the offense and accepted full responsibility for his actions. Therefore, the Board recommends that a pardon be granted.

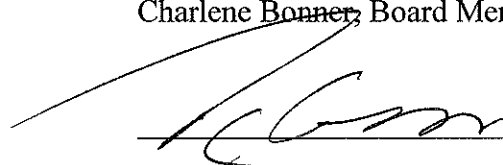
For the members of the Advisory Board of Pardons respectfully recommending favorable consideration, signed on this the 1st of September, 2022:



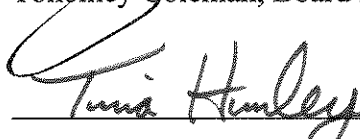
Gloriann Moroney, Chair




Charlene Bonner, Board Member



Tonomey Coleman, Board Member



Tina Hurley, Board Member



Colette Santa, Board Member