

IN RE: ALBERT APICELLA)
) **Case No.: 2109**
EMT I.D. NO.: 861521)

A written Complaint has been filed with the Delaware State Fire Prevention Commission (“Commission”) alleging that Albert Apicella (“Respondent”), an emergency medical technician in the State of Delaware has engaged in conduct which constitutes grounds for discipline under 16 *Del. C.* Ch. 67 and the Delaware State Fire Prevention Regulations.

Respondent and the State enter into this Consent Agreement and submit it to the Commission for review and approval as a means of resolving the pending administrative prosecution against Respondent pursuant to 16 Del. C. Ch. 67 and 29 Del. C. Ch. 101.

1. Respondent is a resident of Millsboro, Delaware and is certified as an emergency medical technician ("EMT") in Delaware pursuant to the provisions of 16 *Del. C.* Ch. 67.

2. On March 6, 2021, Respondent was arrested and charged as follows: one count of Driving Under the Influence of Alcohol in violation of 21 Del. C. § 4177 (misdemeanor), one count of Failure to Stop at Stop Sign in violation of 21 Del. C. § 4164 and one count of Failure to Signal in violation of 21 Del. C. § 4155 (violation).

3. On March 7, 2021, Respondent self-reported his arrest to the Fire Commission.

4. On March 1, 2022, Respondent pled guilty to an amended charge of Reckless Driving, Alcohol Related. He was sentenced to ten days of incarceration, suspended for eleven

months Level 1 court-monitored probation; undergo a substance abuse evaluation within 28 days and then complete a rehabilitation program within 11 months at Respondent's expense; and pay a \$100 fine.

5. Respondent has violated Part 710, Section 14.4.1.9 of the Delaware State Fire Prevention Regulations in that he has engaged in unprofessional conduct.

6. Respondent hereby admits that the allegations set forth in paragraphs one (1) through five (5) above are true and correct.

7. Respondent and the State agree that the appropriate disciplinary sanctions shall be as follows:

- a. Respondent's EMT certification shall be placed on probation for one year;
- b. During the period of probation, and before his probationary term ends, Respondent shall provide proof to the Fire Commission that he is engaging in substance abuse treatment or counseling as ordered by the Court in his criminal case; and
- c. Failure to comply with this Order, including any arrest or violation of criminal probation, may result in further discipline, including suspension or revocation of Respondent's EMT certification, without further hearing.
- d. Should Respondent's certification be suspended pursuant to paragraph (c), such suspension shall not lift until Respondent petitions the Commission for a hearing; and
- e. The Commission may, in its discretion, lift Respondent's probationary status upon proof of his successful discharge from criminal probation.

8. The parties to this Consent Agreement are the State of Delaware and Respondent.

9. The parties agree and acknowledge that nothing contained in this Consent Agreement shall affect any rights or interests of any person not a party to this Agreement.

10. Respondent acknowledges that he is waiving his rights under the State Fire Prevention Regulations and 29 *Del. C.* Ch. 101 to a hearing before the Commission prior to the imposition of disciplinary sanctions.

11. Respondent acknowledges that he has carefully read and understands this Consent Agreement, and is entering into this Consent Agreement freely, knowingly, voluntarily, and after having received or having been afforded the opportunity to receive the advice of counsel.

12. Respondent acknowledges that this Consent Agreement is a public record within the meaning of 29 *Del. C.* § 10002 and will be available for public inspection and copying as provided for by 29 *Del. C.* § 10003.

13. The parties acknowledge and agree that this Consent Agreement is subject to approval by the Commission.

14. The parties acknowledge and agree that if the Commission does not accept this Consent Agreement, it shall have no force or effect, except as follows:

- a. Neither Respondent, nor anyone on his behalf, will in any way or in any forum challenge the ability of the Commission or any of its members to conduct an evidentiary hearing relating to the allegations in the subject Complaint;
- b. The Consent Agreement, or conduct or statements made in negotiating the Consent Agreement, will be inadmissible at any administrative, civil or criminal legal proceeding; and
- c. No provision contained in the Agreement shall constitute or have the effect of an admission by the Respondent as to any fact alleged in the

Complaint in this matter or in this Agreement.

15. If the Commission accepts the Consent Agreement and enters it as an Order, the Consent Agreement shall be admissible as evidence at any future proceedings before the Commission.

16. The parties acknowledge and agree that this Consent Agreement, along with any exhibits, addendums, or amendments hereto, encompasses the entire agreement of the parties and supersedes all previous understandings and agreements between the parties, whether oral or written. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

17. This Consent Agreement shall be effective upon acceptance by the Commission and entry of the Commission's Order.



Albert Apicella
Respondent

Dated: 4/5/22



Renee Hrivnak
Deputy Attorney General
Delaware Department of Justice

Dated: 4/6/22

**BEFORE THE STATE FIRE PREVENTION COMMISSION OF THE STATE OF
DELAWARE**

IN RE: ALBERT APICELLA

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Case No.: 2109

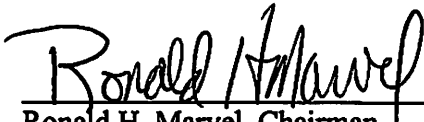
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EMT I.D. NO.: 861521

ORDER

WHEREAS, the Delaware State Fire Prevention Commission has reviewed this matter and hereby approves the Consent Agreement of the parties, and enters it now as an Order of the Delaware State Fire Prevention Commission;

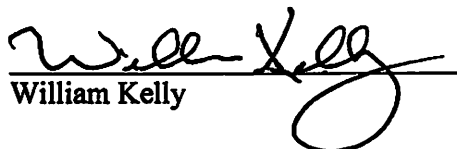
IT IS SO ORDERED this 19th day of April, 2022



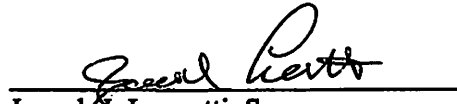
Ronald H. Marvel, Chairman



Alan Robinson, Jr., Vice Chairman


Lynn Truitt


William Kelly


Richard T. Perillo


Joseph J. Leonetti, Sr.


Bill Betts