

# AND THE REGION Delaware

## Tobin settles federal lawsuit, claims victory

Defendants say dollar amount shows case was weak

By SEAN O'SULLIVAN  
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WILMINGTON — Former New Castle County Police Lt. Henry "Hank" Tobin III and his attorneys declared victory Monday in announcing the resolution of his federal lawsuit against his employers.



Henry 'Hank' Tobin III is now Middletown's police chief.

Countering, the defendants — the county and former county officials Tom Gordon, Sherry Freebery and two former police chiefs — admitted no wrongdoing and maintained Tobin had a poor case against them.

Tobin accepted an offer of judgment over the weekend from the county and the former county officials for \$25,000 and "reasonable" legal fees. Tobin's attorneys said Monday the fees would likely be an additional \$75,000.

While Tobin called this a win, his at-

torneys said that by making the offer, the defendants essentially conceded defeat.

Attorney Charles E. Butler, who represented Gordon and Freebery, said the offer was a "token" amount they never expected Tobin to accept. He said the fact that Tobin did shows the apparent weakness of his case.

Butler said to declare victory for such a small amount was an attempt by Tobin's attorneys "to put lipstick on a pig."

Attorney Kathleen Jennings, who represented former county police Chief John Cunningham, agreed. She also noted that the county was paying the full settlement amount. She described the declaration of victory by Tobin as "spin."

New Castle County issued a statement Monday stating the offer was made to avoid additional legal fees and expenses for county taxpayers, and was not an admission.

Tobin, who is now the chief of police for Middletown, filed his federal civil lawsuit in September 2004, alleging he was repeatedly passed over for promo-

tion because of his cooperation with the federal criminal investigation of Gordon and Freebery.

That criminal case against Gordon, Freebery and one other county official ended last year on the eve of trial with Gordon pleading guilty to two misdemeanor offenses of making improper statements on a tax form and Freebery pleading guilty to one felony charge of making false statements to a bank.

Tobin also alleged in his suit that Freebery covered up a hit-and-run accident involving her son and shut down the county police's detective division for a full day so officers could work on a political campaign.

Freebery denied both allegations at the time the suit was filed, charging the lawsuit was politically motivated and timed to undermine her run for New Castle County executive. She was ultimately unsuccessful in that bid for office.

Tobin's attorney, John LaRosa, said Monday that his client decided to accept the offer to put the past behind him.

"Our client feels that he has won," said LaRosa, who noted that because Tobin left the county, accepting the better-paying position as chief of the newly formed police force in Middletown in

July, he would not have been able to claim as much in economic losses due to the promotion denial if his case went to trial.

In a press statement, LaRosa's co-counsel, Thomas Neuberger, described the offer by defendants as "confessing" judgment.

"The reign of terror in county government ended with the convictions of Gordon, Freebery and Cunningham. They now live in eternal shame and disgrace, which is some punishment for ruining the lives of many good and honest public servants who stood up to them," Neuberger said.

In a press statement, Tobin, a 28-year-veteran of the county police force when he left, said he is now focused on working for the people of Middletown.

He said he "knows" that he was passed over for promotion "for blowing the whistle on the illegal activities going on in county government. Despite scoring number one for promotion, I ... had no further chance for promotional opportunities. With my recent appointment to police chief in Middletown, I feel vindicated."

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