

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF:  
THE RHODE ISLAND AIRPORT  
CORPORATION

Employer

Case No. EE: 3615

- AND -

RHODE ISLAND LABORERS' DISTRICT  
COUNCIL ON BEHALF OF LOCAL 808  
Petitioner

DECISION AND DIRECTION OF ELECTION  
NATURE AND TRAVEL OF THE CASE

The above entitled matter came on to be heard on a Petition by Employees for Investigation and Certification of Representatives" (hereinafter "Petition") originally filed by the Rhode Island Laborers' District Council on behalf of its Local Union (hereinafter "Petitioner") on May 8, 1998, wherein the Petitioner sought to represent twelve (12) positions employed by the Rhode Island Airport Corporation, (hereinafter "Employer" or "RIAC"). The Petition was accompanied by signature cards, which, if verified, were sufficient in number to warrant the conducting of an election. All signature cards, which had been submitted, were verified on May 13, 1998, and, as indicated, were of sufficient number to warrant the conducting of an election.

An informal hearing on the Petition was conducted by the Board's Administrator on June 1, 1998, with representatives of both the Petitioner and the Employer present. At that time, the Employer objected to all the positions on the grounds that they are either supervisory, managerial, or confidential. On July 30, 1998, the Petitioner filed an amended petition, adding the Chief of Police to the list of requested positions. On October 20, 1998, the Employer filed a Motion to Preclude Re-Litigation, seeking an Order of the Board that would prevent the Petitioner from contesting the ineligibility of three positions - Human Resources Representative, Director of Property Management, and Manager of Finance and Accounting. In support of its Motion, the Employer referenced an earlier decision by the Board to exclude all three of these positions in response to a request for unit clarification filed by Rhode Island Council 94, AFL-CIO. The Petitioner filed an Objection to this Motion on October 28, 1998, stating that the duties and responsibilities of the positions had changed since Council 94's request for unit

clarification. Formal hearings on this matter commenced on October 29, 1998. Upon conclusion of this first formal hearing, the Employer submitted an unsolicited Memorandum of Law, which set forth its concerns regarding the scope of the formal hearing process and the threshold legal issues and precedents. Additional formal hearings were held on March 11, 1999, April 6, 1999, August 26, 1999, and December 14, 1999.<sup>1</sup> As part of the evidentiary record, the parties submitted two stipulations of facts, which the Board adopts and incorporates herein.

Upon the conclusion of the formal hearings, the parties filed written briefs. In reaching the decision herein, the Board has carefully reviewed the transcripts and exhibits and has considered the arguments set forth in the respective briefs.

### DISCUSSION

Under Rhode Island Law, certain employees are permitted to engage in collective bargaining. (See Title 28, Chapter 7 et seq., the Rhode Island State Labor Relations Act.) Supervisory, confidential or managerial employees are excluded from collective bargaining for various public policy and labor stability concerns. Professional employees are permitted to engage in collective bargaining, provided they are not otherwise excludable as supervisory, confidential, or managerial

#### Supervisory Employees:

In the Board of Trustees, Robert H. Champlin Memorial Library v. Rhode Island State Labor Relations Board, 694 A.2d 185, 189 (R.I. 1997), the Rhode Island Supreme Court adopted the following federal definition of “supervisor”:

“any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.” (29 U.S.C. § 152(11))

Under federal labor law, this list of supervisory functions has been determined to be disjunctive; that is, a supervisor is an individual with the authority to undertake any one of these functions. Rest Haven Living Center, Inc. 322 NLRB, no. 33, 153 LRRM 132 (1996). It also includes individuals who possess the authority to recommend any of the foregoing actions. However, as a practical matter, an individual who fails to exercise any of the indicia of statutory

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<sup>1</sup> These hearing were rescheduled and postponed several times by the parties, due to conflicts and unavailability of certain witnesses.

authority will rarely be found to be a supervisor. Capitol Transit Company, 4 NLRB 617, 37 LRRM 1005 (1955) enforced, 38 LRRM 2681 (D.C. 1956) Determining whether an individual uses independent judgment in the exercise of functions indicative of supervisory status is extraordinarily fact intensive analysis. N.L.R.A. Law & Practice 2.03 (4) In analyzing the indicia of “assignment” and “responsibly directing” employees, it is clear that “not all assignments and directions given by an employee involve the exercise of supervisory authority. As stated by the Fifth Circuit:

‘If any authority over someone else, no matter how insignificant or infrequent, made an employee a supervisor, our industrial composite would be predominantly supervisory. Every order giver is not a supervisor. Even the traffic director tells the president of a company where to park his car.’” N.L.R.A. Law & Practice 2.03 (4) citing Providence Hospital, 320 NLRB 717 (1996).

Determining whether an employee has used independent judgment in making an assignment requires careful analysis of the facts. For example, work assignments made to equalize work on a rotational basis or assignment based on skills when the differences in skills are well known to the employer is routine. Further, assigning tasks that clearly fall within an employee’s job description does not require the use of “independent judgment”.

Confidential employees:

In Barrington School Committee v. Rhode Island State Labor Relations Board, 694 A.2d 1185 (R.I. 1992) the Rhode Island Supreme Court considered the question of which employees qualify as “confidential” and held

“Two categories of employees are recognized as confidential under the test and are therefore excluded from collective bargaining. The first category comprises those confidential employees who assist and act in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations. ... The second category consists of employees who, in the course of their duties, regularly have access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.” (Barrington at p. 1136, quoting NLRB v. Hendricks County Rural Electric Membership Corp, 454 U.S. 170 at 189)

The definition of “confidential” for collective bargaining purposes, as set forth in Barrington, is purposefully and narrowly constricted to two types of employees, because a more expansive application of the exclusionary rule would deprive a great number of employees, in an unwarranted fashion, of the statutory right to collectively bargain”. Barrington at 1136, referencing, Note, “The Labor-Nexus” Limitation on the Exclusion of Confidential

Employees—NLRB v. Hendricks County Rural Electric Membership Corp., 16 Ga. L. Rev. 745, 754 (1982).

Thus, the word “confidential” within the scope of labor relations has a very specific legal meaning which departs significantly from the routine dictionary definition of confidential (treated with confidence, private, secret). In all employment situations, there are countless types of information that are considered “private” or “secret”, depending upon the relationship of the party seeking the information to the person who has control of the information. For instance, most employee personnel information is private or secret (i.e. “confidential”) to the individual employee and designated members of a department of human resources. This does not mean that clerks or secretaries in human relations or personnel departments are ineligible for collective bargaining. Further, employees with access to investigative pre-employment reports and reports of disciplinary actions including written reprimands do not meet the definition of “confidential” for collective bargaining purposes.

Managerial employees:

“Managerial” employees are employees who “formulate and effectuate management policies by expressing and making operative the decisions of their employers.” Fraternal Order of Police, Westerly Lodge 10 v. Town of Westerly, 659 A.2d 1104,1107 (1995); State v. Local 2883 AFSCME, 463 A.2d 186, 190 (1983) citing and quoting in part NLRB v. Bell Aerospace Co., 416 U.S. 267, 278 (1974). Managerial employees must exercise discretion within or even independently of established employer policy and must be aligned with management. N.L.R.B. v Yeshiva University, 444 U.S. 672 (1980). An employee may be excluded as managerial only if he represents management interests by taking or recommending discretionary actions that control or implement employer policy. Id. “Employees whose decision-making is limited to the routine discharge of professional duties in projects to which they have been assigned cannot be excluded from coverage even if union membership arguably may involve some divided loyalty. Only if an employee’s activities fall outside the scope of the duties routinely performed by similarly situated professionals will he be found aligned with management.” Id at 690.

Professional employees:

Professional employees, who are permitted to engage in collective bargaining are defined as

“any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine, manual, or physical processes; or

(b) any employee who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph a, and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

Therefore, each of the contested positions must be examined in light of the foregoing definitions of supervisory employee, confidential employee, managerial employee, and professional employee. In the event that an employee is either supervisory, managerial or confidential, and also professional, the employee is precluded from participating in collective bargaining.

For each of the following positions, the Board has carefully considered the transcripts and exhibits. The Board has also given careful consideration to the arguments made by legal counsel for the respective parties. The Board will take each position in turn and will make separate findings of fact and conclusions of law.

**Director of Administration and Finance**  
**FINDINGS OF FACT**

- 1) James A. Jarry has been employed by the Rhode Island Airport Corporation since 1991. His present title is Director of Administration and Finance. (TR. 10/29/98 p. 25-26)
- 2) Mr. Jarry is responsible for all procurement of goods and services for the Airport Corporation, dealing with all “public records” requests, securing all insurance and dealing with the insurance companies on all related matters, and dealing with professional services providers such as financial advisors, airport consultants, legal services and insurance consultants. He also provides advice to other Directors, and Managers of the Airport Corporation. (TR. 10/29/98 p. 32, 61, 70-71) Mr. Jarry is directly responsible for submitting an administrative budget for his Department to the Executive Director. He also works with the Manager of Finance and Accounting in preparing a separate budget for finance. (TR. 10/29/98 p. 54-55) One of these budgets is in excess of one million dollars. (TR. 10/29/98 p. 61) He also serves as the Chairperson of the capital budget committee. (TR. 10/29/98 p. 55)
- 3) Mr. Jarry attends the monthly meetings of the RIAC Board of Directors to answer any questions that may arise concerning his areas of responsibility. Three employees report directly to Mr. Jarry; they are Ms. Sharon Bell, the Manager of Finance and Accounting; Mr. James Geer, Manager of Information Technology; and a Switchboard Operator. (TR. 10/29/98 p. 34) Mr. Jarry reports directly to Ms. Elaine Roberts, the Executive Director of the RIAC. (TR. 10/29/98 p. 35)

- 4) Mr. Jarry has participated in interviewing candidates for employment and has made recommendations on hiring, but he does not have the final say on who shall be hired. (TR. 10/29/98 p. 35-36)
- 5) Mr. Jarry has never disciplined any other employee and does not believe that he has the authority to do so. He does believe that he could make a recommendation on discipline. (TR. 10/29/98 p. 37, 83) He is not aware of any RIAC policy or procedure concerning the disciplinary process, except for what is contained in union contracts. (TR. 10/29/98 p. 37) Mr. Jarry does not know whether he would have the authority to engage in any corrective action to improve the performance of the employees who report to him. (TR. 10/29/98 p. 84)
- 6) Mr. Jarry does not recall any instances where he may have been involved in the transfer of any employee. (TR. 10/29/98 p. 37) He does, on occasion, assign tasks to employees, but does not determine the priority of their work, because these employees do not require a lot of direction. (TR. 10/29/98 p. 38)
- 7) Mr. Jarry does not prepare or assign work schedules. He does sign forms for employees who are seeking leave or time off, and then forwards the form to Human Resources. (TR. 10/29/98 p. 39)
- 8) Mr. Jarry does not participate in the adjustment of employee grievances. (TR. 10/29/98 p. 40)
- 9) Mr. Jarry's salary is approximately \$67,000.00 per year, which places him within the highest "pay band" at the RIAC. (TR. 10/29/98 p. 42) Mr. Jarry has completed "Senior Management Assessment Forms" regarding his own work performance. (TR. 10/29/98 p. 43)
- 10) Mr. Jarry, together with several other employees have worked together to implement a new financial accounting software package at RIAC, which was a capital budget item of \$750,000.00. (TR. 10/29/98 p. 48-49)
- 11) In his capacity as Director of Administration and Finance, Mr. Jarry has the authority to directly contact RIAC's legal counsel for assistance. (TR. 10/29/98 p. 63)
- 12) The record is devoid of evidence that Mr. Jarry has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.
- 13) The record, in this case is devoid, of evidence that Mr. Jarry assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations; or that in the course of his duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.
- 14) The record, in this case, is devoid of evidence that Mr. Jarry formulates and effectuates management policies by expressing and making operative the decisions of his employer, or that he exercises discretion within or even independently of established employer policy.

#### CONCLUSION OF LAW

- 1) The position of Director of Administration and Finance is not confidential, supervisory, or managerial as those terms are defined by law. Therefore, the position of Director of Administration and Finance shall not be excluded from the bargaining unit.

#### Manager of Information Systems and Technology

#### FINDINGS OF FACT

- 1) Mr. James Geer has been employed by the RIAC since 1993. He has served as the Manager of Information Systems and Technology and as the Assistant Manager of Procurement. (TR. 10/29/98 p. 86)

- 2) Mr. Geer's duties include maintaining the airport's computer system, including the multi-user flight information displays and the local area network (LAN). He keeps watch over the telephone systems, cellular phones and pagers. (TR. 10/29/98 p. 86-87) The RIAC's LAN holds the application programs including word processing, the financial system and other applications, and is connected by a CAT 5 cable plus fiber throughout the airport. (TR. 10/29/98 p. 88-89) Mr. Geer recommends applications and systems and started a website. (TR. 10/29/98 p. 89) Mr. Geer was also the "lead person" in obtaining the necessary hardware and software for RIAC which cost approximately \$20,000.00 - \$30,000.00 (TR. 10/29/98 p.93) Mr. Geer makes his own decision as to what work he will perform on a daily basis. (TR. 10/29/98 p. 95)
- 3) During his employment at RIAC, Mr. Geer has never hired, fired, suspended, transferred, promoted or disciplined any other employee. (TR. 10/29/98 p. 87) Mr. Geer describes himself as a "staff of one". (TR. 10/29/98 p. 87) Mr. Geer does not participate in adjusting grievances of employees. (TR. 10/29/98 p. 94)
- 4) Mr. Geer's salary is approximately \$48,100.00 per year which places him within "pay band" number five at the RIAC. (TR. 10/29/98 p. 90)
- 5) The recommendations that Mr. Geer makes in his capacity as Manager of the Information Systems affects RIAC's long-range planning of the corporation in terms of system management. (TR. 10/29/98 p. 91)
- 6) Although Mr. Geer has the technological capability to access the data base and financial information, including wages and benefits paid, it would be illegal for him to do so because he does not have clearance for that information. (TR. 10/29/98 p. 92)
- 7) The record, in this case, is devoid of evidence that Mr. Geer formulates and effectuates management policies by expressing and making operative the decisions of his employer, or that he exercises discretion within or even independently of established employer policy.
- 8) The record is devoid of evidence that Mr. Geer has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.
- 9) The record, in this case, is devoid of evidence that Mr. Geer assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that, in the course of his duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.

#### CONCLUSION OF LAW

- 1) The position of Manager of Information Systems and Technology is not confidential, supervisory, or managerial as those terms are defined by law. Therefore, the position of Manager of Information Systems and Technology shall not be excluded from the bargaining unit.

#### Manager of Finance and Accounting

#### FINDINGS OF FACT

- 1) Ms. Sharon Bell has been employed by RIAC since November, 1993. Her present title is Manager of Finance and Accounting. (TR. 10/29/98 p. 96)
- 2) Ms. Bell's duties include compiling and consolidating monthly financial statements for RIAC, and then reporting that information to the Finance Committee of the Board of Directors. Some of the meetings with the Finance Committee are not open to the public, but the majority are open to the public. (TR. 10/29/98 p. 119) She is also responsible for the cash management of the operating funds according to the RIAC's master indenture. She works on the year-end audit and is responsible for the general ledger system in accounting. (TR. 10/29/98 p. 96-97, 114) Ms. Bell also interacts with the RIAC's outside auditors. (TR.

10/29/98 p. 114) She also served on the committee that made recommendations to the Board of Directors concerning the computer systems financial software. (TR. 10/29/98 p. 115) Ms. Bell interacts with Ms. Monti, RIAC's computer consultant concerning the ongoing questions concerning the systems design or software design. (TR. 10/29/98 p. 115) Ms. Bell also meets on a weekly basis with a group of other RIAC employees and the Executive Director. (TR. 10/29/98 p. 120)

- 3) Ms. Bell reports to Mr. Jarry, and she has four accounting clerks that report to her. (TR. 10/29/98 p. 97) These four clerks are members of Council 94's local union. (TR. 10/29/98 p. 99)
- 4) Ms. Bell participated in interviewing the accounting clerks when they were hired and made recommendations to Human Resources. (TR. 10/29/98 p. 98) The list of interviewees was developed by the Human Resources Department, after internal postings and advertising in the Providence Journal. When Nancy Ford, an Accounting Clerk, was hired, Ms. Bell, after consultation with Mr. Jorge Matesanz and Mr. Jarry, communicated the corporation's offer of employment to Ms. Ford. (TR. 10/29/98 p. 110, 113) Ms. Bell also performed the reference checks on Ms. Ford. (TR. 10/29/98 p. 97)
- 5) She does not evaluate the performance of the Accounting Clerks or conduct weekly staff meetings. (TR. 10/29/98 p. 104) If one of these employees should request a "desk audit" (an evaluation of the duties of the position to determine whether an upgrade is appropriate) Ms. Bell would make a recommendation to the Human Resources department. (TR. 10/29/98 p. 105) Ms. Bell has made a recommendation for denial of a desk audit, and Human Resources followed that recommendation. (TR. 10/29/98 p. 107)
- 6) Ms. Bell does not have the authority to transfer, suspend, discipline or layoff any employees or to adjust grievances. She does have the ability to recommend promotion. (TR. 10/29/98 p. 99-100) On one occasion, Ms. Bell sent a memo to an employee regarding the proper policy and procedure to follow on timesheets because that person had done something incorrectly. (TR. 10/29/98 p. 106) If one of the clerks were engaging in unacceptable conduct, Ms. Bell would bring it to Mr. Jarry and the Human Resources Department. (TR. 10/29/98 p. 107)
- 7) Employer's Exhibit #6, the position announcement for Ms. Bell's position is a fair and accurate representation of the duties of the position of Manager of Finance and Accounting. (TR. 10/29/98 p. 102)
- 8) The record, in this case, is devoid of evidence that Ms. Bell formulates and effectuates management policies by expressing and making operative the decisions of her employer or that she exercises discretion within or even independently of established employer policy.
- 9) The record is devoid of evidence that Ms. Bell has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.
- 10) The record, in this case, is devoid of evidence that Ms. Bell assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of her duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.

#### CONCLUSION OF LAW

- 1) The position of Manager of Finance and Accounting is not confidential, supervisory, or managerial as those terms are defined by law. Therefore, the position of Manager of Finance and Accounting shall not be excluded from the bargaining unit.



## **Director of Internal Audit**

### **FINDINGS OF FACT**

- 1) Linda Burke has been employed by the RIAC as the Director of Internal Audit since July 1, 1997. She is the first person to serve in this capacity. (TR. 10/29/98 p. 125) Prior to this position, Ms. Burke served as the Manager of Finance and Accounting since July 1993. (TR. 10/29/98 p. 123) She reports to the Executive Director and the Finance Committee of RIAC's Board of Directors. (TR. 10/29/98 p. 123) No employees report to her. (TR. 10/29/98 p. 123)
- 2) Ms. Burke's duties include internal audit for the corporation and preparing and compiling budgetary information for the annual budget. (TR. 10/29/98 p. 123) Ms. Burke wrote the majority of the RIAC's "Internal Audit Charter", a document which was established to outline the procedure of the Corporation's internal auditing function. (TR. 10/29/98 p. 127) As a part of the audit function, Ms. Burke has free access to all departmental records, including financial records of any kind. (TR. 10/29/98 p. 128) Ms. Burke also meets on a weekly basis with a group of other RIAC employees and the Executive Director. (TR. 10/29/98 p. 129) As part of her auditing functions, Ms. Burke's responsibilities include reviewing the financial controls of RIAC and making recommendations with respect to the adequacy thereof. (TR. 10/29/98 p. 129) Ms. Burke also audits the contracts of the outside vendors and concessionaires and airlines, entities that bring in about twenty million dollars in annual revenues to the corporation. (TR. 10/29/98 p. 130)
- 3) Ms. Burke wrote and made a recommendation for the RIAC to adopt a fraud policy which, at the time of the hearing in that matter, was pending before the Board of Directors. (TR. 10/29/98 p. 133) Ms. Burke has also made recommendations concerning changes to the validation of parking tickets and made a recommendation that a travel and expense policy be developed. (TR. 3/11/99 p. 7-8) As part of Ms. Burke's auditing function, she analyzes revenues from concessions to determine whether they are in compliance with their contracts. (TR. 3/11/99 p. 11) If she finds a shortfall or problem, she then examines and reviews their books and records, and runs mathematical functions. Upon conclusion of this review, she then prepares a report and makes recommendations on how to tighten up the process and contracts. (TR. 3/11/99 p. 12) Ms. Burke also participated on a committee that developed a customer satisfaction form and a committee to develop pension plans for the employees who were not grandfathered with pensions from the State of Rhode Island. (TR. 3/11/99 p. 19-21)
- 4) Ms. Burke's function regarding the budget process is to collect information and prepare schedules for the various departments and Human Resources. She then prepares projections based upon historical information and current contracts as to the amount of incoming revenue. (TR. 3/11/99 p. 18) After negotiations are concluded, Human Resources provides her with wage information and the percentage of wage increases that are going to occur in the following year. (TR. 3/11/99 p. 18, 23)
- 5) Ms. Burke has no authority to hire, fire, promote, or discipline any employee. She is not involved with adjusting grievances. (TR. 10/29/98 p. 124) She does not handle any matters concerning labor relations or contract negotiations with Council 94. (TR. 10/29/98 p. 124)
- 6) Ms. Burke's salary is approximately \$61,000.00 per year which places her within "pay band" number seven at the RIAC. (TR. 10/29/98 p. 129)
- 7) The record, in this case, is devoid of evidence that Ms. Burke formulates and effectuates management policies by expressing and making operative the decisions of her employer or that she exercises discretion within or even independently of established employer policy.
- 8) The record is devoid of evidence that Ms. Burke has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.
- 9) The record, in this case, is devoid of evidence that Ms. Burke assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the

field of labor relations or that in the course of her duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.

#### CONCLUSION OF LAW

- ) The position of Director of Internal Audit is not confidential, supervisory, or managerial as those terms are defined by law. Therefore, the position of Director of Internal Audit shall not be excluded from the bargaining unit.

#### Director of Property Management FINDINGS OF FACT

- 1) Mr. Daniel E. Clarke has been employed by RIAC since 1993. Prior to that date, he was also employed at the airport under the Department of Transportation's Division of Airports as a Chief Real Estate Specialist. This position was a member of another union, Local 400. Mr. Clarke presently serves as the Director of Property Management. (TR. 3/11/99 p. 26) The Manager of Properties (David Cloutier) and an Administrative Assistant (Aggie Hozempa) both report to Mr. Clarke. (TR. 3/11/99 p. 27) Mr. Clarke reports directly to the Executive Director of RIAC. (TR. 3/11/99 p. 30)
- 2) Mr. Clarke describes his position as "the landlord of the airport" (T.F. Green). He deals with the concessionaires and tenants of the airport as well as with the "vendors" and the general public in the area of customer service and satisfaction. (TR. 3/11/99 p. 26) He also oversees a management contract for the outlying airports. (TR. 3/11/99 p. 29) Mr. Clarke is responsible for preparing the budget for his department, which is \$10,000.00, exclusive of salaries. (TR. 3/11/99 p. 30) Mr. Clarke's duties also include negotiating leases, and making recommendations as to the terms of the lease. (TR. 3/11/99 p. 38) In making his recommendation, Mr. Clarke considers investments, financial stability, and the experience of a vendor. (TR. 3/11/99 p. 38) Some leases go before the RIAC Board for approval and some do not; there is no established policy on which ones require Board approval. (TR. 3/11/99 p. 39) In monitoring leases, Mr. Clarke has to make sure that the rent is paid, that the tenants make improvements as provided for by contract, and the quality of service being provided. (TR. 3/11/99 p. 48)
- 3) Mr. Clarke prepared a public solicitation for a new fuel farm, a 1.4 million dollar project for T. F. Green Airport, and participated with three other members on a committee in interviewing and reviewing the bidders and recommending the company which was eventually selected. (TR. 3/11/99 p. 32) Mr. Clarke also took a leadership role in the selection of the consultants for economic impact studies, the garage design firm, and a production manager. (TR. 3/11/99 p. 32) He also participated on a panel, as a management representative, that interviewed candidates for the Director of Human Resources. (TR. 3/11/99 p. 34) Mr. Clarke has also been responsible for overseeing the concessions proposal in the "Four Gate Expansion Project". (TR. 3/11/99 p. 41)
- 4) Mr. Clarke does not hire, fire, discipline or promote employees. (TR. 3/11/99 p. 28-29) In the event that Mr. Cloutier failed to show up for work on a daily basis, Mr. Clark believes it would be his responsibility to speak to Mr. Cloutier. (TR. 3/11/99 p. 56) Mr. Clarke does not know whether he would have the authority to issue a written reprimand. (TR. 3/11/99 p. 56) Mr. Clarke does not adjust grievances of employees. (TR. 3/11/99 p. 28) Mr. Clarke did participate in the interviewing of candidates for the position of Manager of Properties (Cloutier). (TR. 3/11/99 p. 43) Subsequent to the interview, Mr. Clarke prepared a table that compared the standings of the candidates. (TR. 3/11/99 p. 45)
- 5) Mr. Clarke's salary is approximately \$61,700.00 per year which places him within "pay band" number seven at the RIAC. (TR. 3/11/99 p. 48)
- 6) Mr. Clarke personally prepared Employer's Exhibit #18 which is a memorandum outlining "Property Management Goals" for 1999. (TR. 3/11/99 p. 53) In this document, Mr. Clarke stated that he was assigning the responsibility of general aviation development to Mr. Cloutier. (TR. 3/11/99 p. 53) This assignment of duties was the same as Mr. Cloutier's

predecessor and was a natural delineation of duties. (TR. 3/11/99 p. 57) When the time comes for an evaluation of Mr. Cloutier's work, Mr. Clarke believes that he will be responsible for the same. (TR. 3/11/99 p. 54)

- 7) The record, in this case, is devoid of evidence that Mr. Clarke formulates and effectuates management policies by expressing and making operative the decisions of his employer or that he exercises discretion within or even independently of established employer policy.
- 8) The record is devoid of evidence that Mr. Clarke has the authority, in the interest of his employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.
- 9) The record, in this case, is devoid of evidence that Mr. Clarke assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of his duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.

#### CONCLUSION OF LAW

- 1) The position of Director of Property Management is not confidential, supervisory, or managerial as those terms are defined by law. Therefore, the position of Director of Property Management shall not be excluded from the bargaining unit.

#### Director of Public Affairs

##### FINDINGS OF FACT

- 1) Ms. Patty Goldstein has been employed by RIAC as the Director of Public Affairs since July, 1996. Prior to this position, Ms. Goldstein served as an Assistant Project Manager from March, 1995. (TR. 3/11/99 p. 60)
- 2) Ms. Goldstein's responsibilities include disseminating information to the public, the media and elected officials. She is responsible for handling consumer services response in the terminals, tracking and testifying on proposed legislation. (TR. 3/11/99 p. 61)
- 3) Ms. Goldstein reports directly to the RIAC's Executive Director. Ms. Goldstein has a full time secretary, Ms. Loretta Rotondo, who reports to her. (TR. 3/11/99 p. 61) When Ms. Rotondo was hired, Ms. Goldstein participated on the interviewing committee. (TR. 3/11/99 p. 62) Ms. Goldstein believes that if Ms. Rotondo's actions warranted disciplinary measures, Ms. Goldstein would have the responsibility to discipline her. (TR. 3/11/99 p. 63)
- 4) Ms. Goldstein does not participate in contract negotiations for Council 94 or in any other labor relations matters, such as adjusting grievances. (TR. 3/11/99 p. 63-64)
- 5) Ms. Goldstein directs Ms. Rotondo's work and makes daily work assignments. (TR. 3/11/99 p. 64)
- 6) Ms. Goldstein prepares the budget (\$381,487.00 for fiscal year 1999) for the Public Affairs Department. (TR. 3/11/99 p. 65, 68) She then meets with the Executive Director and the budget committee for final approval. (TR. 3/11/99 p. 65) Ms. Goldstein also fields all media inquiries from local, regional, national and international outlets on behalf of the RIAC. Occasionally, an inquiry is directed to some other specific individual, or Ms. Goldstein decides to refer it to some other individual. (TR. 3/11/99 p. 66)
- 7) Part of Ms. Goldstein's function is to develop strategies for handling the media. (TR. 3/11/99 p. 69) She also works with the Executive Director to develop air service marketing and air service development. (TR. 3/11/99 p. 70) Ms. Goldstein has appeared on television and radio on behalf of RIAC. (TR. 3/11/99 p. 71) Ms. Goldstein determines when press releases should be issued, and then prepares the releases. (TR. 3/11/99 p. 74)

- 8) Ms. Goldstein provides input into legislative proposals, whether introduced by RIAC or some other entity. She tracks the legislation and will often attend hearings and testify. (TR. 3/11/99 p. 75-76) She has attended meetings with the Governor and RIAC's legal counsel, to discuss proposed legislation. (TR. 3/11/99 p. 77) Ms. Goldstein also manages the contract between RIAC and its outside advertising agency. (TR. 3/11/99 p. 78)
- 9) Ms. Goldstein's salary is \$62,000.00 per year, which places her within "pay band" number seven at the RIAC. (TR. 3/11/99 p. 83) She attends weekly staff meetings with the Executive Director and other Department Directors.
- 10) The record, in this case, is devoid of evidence that Ms. Goldstein formulates and effectuates management policies by expressing and making operative the decisions of her employer or that she exercises discretion within or even independently of established employer policy.
- 11) The record is devoid of evidence that Ms. Goldstein has the authority, in the interest of her employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.
- 12) The record, in this case, is devoid of evidence that Ms. Goldstein assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of her duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations

#### CONCLUSION OF LAW

- 1) The position of Director of Public Affairs is not confidential, supervisory, or managerial as those terms are defined by law. Therefore, the position of Director of Public Affairs shall not be excluded from the bargaining unit.

#### Director of Planning and Development

#### FINDINGS OF FACT

- 1) Mr. Wayne Schuster has been employed by RIAC as its Director of Planning and Development since April, 1997. (TR. 4/6/99 p. 5)
- 2) Mr. Schuster's responsibilities include developing plans and programs, and multi-year, multi-million dollar capital improvement programs. (TR. 4/6/99 p. 5) Mr. Schuster also handles all the complaints and issues relating to noise. He is involved in planning and construction projects and public contracts. (TR. 4/6/99 p. 5-6) Mr. Schuster is responsible for keeping the airport's layout plans current and functional, according to Federal Aviation Administration (hereinafter F.A.A.) requirements. (TR. 4/6/99 p. 12) Within RIAC, Mr. Schuster makes the determination as to whether the airport's plans are in conformance with federal requirements. (TR. 4/6/99 p. 13) Mr. Schuster delivers these plans to both the Executive Director and the F.A.A. (TR. 4/6/99 p. 13) In developing these plans, Mr. Schuster works with the Rhode Island Pilot's Association, the F.A.A., local and state politicians, local towns and communities affected by the airport and staff members of the RIAC, including the Executive Director. (TR. 4/6/99 p. 14)
- 3) Mr. Schuster has five employees who report to him: Jim Zisiades, Manager of Environmental Affairs; Ahmed Shihadeh, Principal Engineer; Laurie Sirois, Secretary; Ronny Miozza, Planning and Engineering Technician; and Joe Harris, Airport Noise Program Manager. (TR. 4/6/99 p. 6)
- 4) Mr. Schuster chaired the interview committee when Laurie Sirois, Joe Harris, and Jim Zisiades were all hired. Prior to their actual hiring, Mr. Schuster did discuss all three candidates with the Executive Director. Although she did approve of their hiring, Mr. Schuster does not believe that the Executive Director's approval was necessary for him to hire them; and that he actually hired them, not RIAC. (TR. 4/6/99 p. 7) Mr. Schuster did not

set their salaries, but he did make recommendations as to the appropriate salary ranges. (TR 4/6/99 p. 8, 10)

- 5) In his capacity as Director of Planning and Development, Mr. Schuster has not fired anyone, but believes that he has the authority to do so. (TR. 4/6/99 p. 8) After consultation with the Human Resources Director and the Executive Director, Mr. Schuster believes that he can award pay raises. (TR. 4/6/99 p. 8)
- 6) Mr. Schuster determines the priority of projects within the Planning Department and makes assignments to personnel based on his priorities. (TR. 4/6/99 p. 15) Mr. Schuster has occasionally changed the priority of projects and re-assigned work. (TR. 4/6/99 p. 16)
- 7) As part of Mr. Schuster's "development" responsibilities, he prepares or oversees the design of construction projects, and actually performs or oversees the construction projects themselves. For instance, if a runway is to be rehabilitated, he would oversee the selection of a consultant and the plans and specific indications for the project, to make sure that the project meets all statutes and requirements. (TR. 4/6/99 p. 18-19)
- 8) Mr. Schuster's salary is \$68,000.00 per year which places him within "pay band" number six at the RIAC. (TR. 4/6/99 p. 22)
- 9) As part of his responsibilities, Mr. Schuster also prepares the budget for the Planning Department and proposes salary increases, when appropriate. (TR. 4/6/99 p. 22) Mr. Schuster completes performance evaluations on the employees within his Department. (TR. 4/6/99 p. 23)
- 10) The record, in this case, is devoid of evidence that Mr. Schuster formulates and effectuates management policies by expressing and making operative the decisions of his employer or that he exercises discretion within or even independently of established employer policy.
- 11) The record is devoid of evidence that Mr. Schuster has the authority, in the interest of his employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.
- 12) The record, in this case, is devoid of evidence that Mr. Schuster assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of his duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations

#### CONCLUSION OF LAW

- 1) The position of Director of Planning and Development is not confidential, supervisory, or managerial as those terms are defined by law. Therefore, the position of Director of Planning and Development shall not be excluded from the bargaining unit.

#### Director of Building/ Terminal Maintenance

##### FINDINGS OF FACT

- 1) Mr. Jose DaSilva has been employed by RIAC as the Director of Building/Terminal Maintenance. (TR. 4/6/99 p. 38)
- 2) In his capacity as Director of Building/Terminal Maintenance, Mr. DaSilva oversees thirteen employees who are members of Council 94. When eight of these employees were hired, Mr. DaSilva participated in the interview committee and made his recommendations to Mark Brewer, the Deputy Executive Director of RIAC. (TR. 4/6/99 p. 37) Mr. DaSilva does not have the ability to suspend or lay off any of these employees. As for promotions or discharge, Mr. DaSilva would make a recommendation to the Human Resources Director, Mr. Arthur Tate. In addition, when employees request a "desk audit", Mr. DaSilva is responsible for reviewing the application and making recommendations to Human Resources. (TR. 4/6/99 p. 54)

- 3) Employer's Exhibit #26 is a fair and accurate representation of the duties of the position of Director of Building/Terminal Maintenance. (TR. 4/6/99 p. 38-39)
- 4) Mr. DaSilva has made recommendations to his employer for the establishment of policies and procedures for maintenance, and sprinkler and fire alarm testing procedures. (TR. 4/6/99 p. 40) Mr. DaSilva is responsible for establishing goals and objectives of his Department. (TR. 4/6/99 p. 42)
- 5) Mr. DaSilva's salary is \$56,000.00 per year which places him within "pay band" number six at the RIAC. (TR. 4/6/99 p. 53)
- 6) Mr. DaSilva has issued written disciplinary warnings to employees in his department. (TR. 4/6/99 p. 44) Mr. DaSilva, in conjunction with Mr. Edwards, issued a written suspension of 10 hours for an employee who was involved in an incident during snow removal. (TR. 4/6/99 p. 45-46) Mr. DaSilva also issued a written warning to an HVAC Technician in June 1997, after consultation with the Human Resources Director. (TR. 4/6/99 p. 45-46)
- 7) The record, in this case, is devoid of evidence that Mr. DaSilva formulates and effectuates management policies by expressing and making operative the decisions of his employer or that he exercises discretion within or even independently of established employer policy.
- 8) The record, in this case, is devoid of evidence that Mr. DaSilva assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of his duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.
- 9) Evidence in the record establishes that Mr. DaSilva has the authority, in the interest of his employer, to discipline other employees and/or to effectively recommend such action.

#### CONCLUSION OF LAW

- 1) The position of Director of Building/Terminal Maintenance is not confidential or managerial as those terms are defined by law. However, the position of Director of Building/Terminal Maintenance is supervisory. Therefore, the position of Director of Building/Terminal Maintenance shall be excluded from the bargaining unit.

#### Manager of Environmental Affairs

#### FINDINGS OF FACT

- 1) Mr. James Zisiades has been employed by RIAC as the Manager of Environmental Affairs since approximately February, 1998. (TR. 4/6/99 p. 61)
- 2) In his capacity as Manager of Environmental Affairs, Mr. Zisiades is responsible for RIAC's compliance with federal, state and local environmental regulations. (TR. 4/6/99 p. 61) In that regard, Mr. Zisiades organizes, assigns, manages, supervises and reviews the performance of staff or consultants assigned to environmental compliance projects at the six RIAC airports. (TR. 4/6/99 p. 74-75)
- 3) Mr. Zisiades reports to Mr. Wayne Schuster, the Director of Planning and Development. Mr. Zisiades has no employees that report to him. (TR. 4/6/99 p. 62)
- 4) Mr. Zisiades was once asked to participate in interviewing an employee for his department, but he declined the request. (TR. 4/6/99 p. 62)
- 5) Mr. Zisiades does not participate in collective bargaining or the adjustment of grievances for the Council 94 Union. (TR. 4/6/99 p. 63)
- 6) Employer's Exhibit #32 is a fair and accurate representation of the duties of the position of Manager of Environmental Affairs. (TR. 4/6/99 p. 64) Mr. Zisiades is responsible for

training, compliance, inspections, quality control, project implementation and more. TR. 4/6/99 p. 64)

- 7) Mr. Zisiades has served on committees that select consultants for various projects at the airport. (TR. 4/6/99 p. 65)
- 8) Mr. Zisiades' salary is approximately \$57,000.00 per year. (TR. 4/6/99 p. 73)
- 9) The record, in this case, is devoid of evidence that Mr. Zisiades formulates and effectuates management policies by expressing and making operative the decisions of his employer or that he exercises discretion within or even independently of established employer policy.
- 10) The record, in this case, is devoid of evidence that Mr. Zisiades assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of his duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.
- 1) The record is devoid of evidence that Mr. Zisiades has the authority, in the interest of his employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.

#### CONCLUSION OF LAW

- 1) The position of Manager of Environmental Affairs is not confidential, managerial, or supervisory as those terms are defined by law. Therefore, the position of Manager of Environmental Affairs shall not be excluded from the bargaining unit.

#### Human Resources Representative

#### FINDINGS OF FACT

- 1) Ms. Susan Bowen has been employed by RIAC as a Human Resources Representative since April, 1994. (TR. 4/6/99 p. 76)
- 2) Ms. Bowen reports to Mr. Arthur Tate, the Director of Human Resources. Ms. Bowen has one part-time co-worker, Ms. Marie Brown, a Human Resources Clerk. (TR. 4/6/99 p. 77, 81) When Ms. Brown was hired, Ms. Bowen participated on the interview committee with Mr. Jorge Matesanz, the former Human Resources Director. (TR. 4/6/99 p. 77) Ms. Bowen, collaboratively with Mr. Matesanz, made the decision to hire Ms. Brown. (TR. 4/6/99 p. 91)
- 3) Ms. Bowen's duties include administering benefit packages, maintaining payroll records, time sheets, payroll changes and inputting all of that information into the computer system. (TR. 4/6/99 p. 78)
- 4) Ms. Bowen does not participate in collective bargaining negotiations with Council 94. (TR. 4/6/99 p. 79) Ms. Bowen has provided specific information to the Human Resources Director in his deliberation of grievances and arbitration. (TR. 4/6/99 p. 80)
- 5) Ms. Bowen has access to all personnel files and provides information from those files to Mr. Tate when he is reviewing disciplinary action. (TR. 4/6/99 p. 82) It is Ms. Bowen's responsibility to remove grievances and notices of disciplinary action from personnel files after the appropriate time period. (TR. 4/6/99 p. 83) Ms. Bowen is also responsible for implementing court ordered wage garnishments. (TR. 4/6/99 p. 83)
- 6) Upon request by Mr. Tate, Ms. Bowen has performed mathematical analyses of collective bargaining proposals. (TR. 4/6/99 p. 86, 92) Ms. Bowen spent a week or two on this type of work on one contract. (TR. 4/6/99 p. 86) She has prepared a benefits matrix during collective bargaining that shows different benefit levels and the results of certain benefits proposals if agreed to. (TR. 4/6/99 p. 89) She has reviewed an employee handbook, which was drafted by Mr. Tate, to insure compliance with labor contracts. (TR. 4/6/99 p. 87, 92) Ms. Bowen has also reviewed drafts of grievance resolutions before they have been made



final by Mr. Tate. (TR. 4/6/99 p. 89) Ms. Bowen also served on a sick leave bank committee. (TR. 4/6/99 p. 89)

- 7) Ms. Bowen has served as a "sounding board" to Mr. Tate on potential disciplinary actions. (TR. 4/6/99 p. 89)
- 8) Ms. Bowen does not attend collective bargaining sessions, type the minutes of the sessions, type proposals, or responses for collective bargaining sessions. (TR. 4/6/99 p. 95-96) She spent about two months in 1995 and one month in 1998 working on the agreed upon revisions to the collective bargaining agreements. (TR. 4/6/99 p. 95) Ms. Bowen discussed approximately five grievances with Mr. Tate during a one-year period. (TR. 4/6/99 p. 96) Ms. Bowen has also discussed grievances and proposed discipline with outside legal counsel. (TR. 4/6/99 p. 97)
- 9) The record, in this case, is devoid of evidence that Ms. Bowen formulates and effectuates management policies by expressing and making operative the decisions of her employer or that she exercises discretion within or even independently of established employer policy.
- 10) The record, in this case, is devoid of evidence that Ms. Bowen assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of her duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.
- 11) The record is devoid of evidence that Ms. Bowen has the authority, in the interest of her employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.

#### CONCLUSION OF LAW

- 1) The position of Human Resources Representative is not confidential, managerial, or supervisory as those terms are defined by law. Therefore, the position of Human Resources Representative shall not be excluded from the bargaining unit.

#### Chief of Airport Police

#### FINDINGS OF FACT

- 1) Mr. Edward B. Carter has been employed by RIAC as the Chief of Airport Police since April, 1995. Prior to this appointment, Mr. Carter served as an Aeronautics Inspector from 1987. (TR. 8/26/99 p. 9)
- 2) Mr. Carter's duties include overseeing the operations of the patrol division, the detective division, and the investigative division. Mr. Carter also handles all the applications (presently at approximately 2,500) for security badges for the entire airport. (TR. 8/26/99 p. 10) The Police department has 24 officers, six dispatchers, and one secretary. (TR. 8/26/99 p. 10) Mr. Carter is also responsible for establishing goals and priorities for the police department. (TR. 8/26/99 p. 18) Mr. Carter is also generally responsible for maintaining discipline and morale within the department. (TR. 8/26/99 p. 25) Mr. Carter is also responsible for administering the overall security program for the airport, in conjunction with Federal Aviation Regulations, Part 107. (TR. 8/26/99 p. 28) Mr. Carter amends the written security program in accordance with FAA directives and then forwards those amendments to the FAA, without first having the same reviewed by the Deputy Director. (TR. 8/26/99 p. 29) Mr. Carter also writes and promulgates general orders concerning the routine operations of the department, including such issues as conduct of the police dispatcher patrol console; the use of roll call to pass down daily information; routing of after hours calls to RIAC through the police console; the testing and selection process for the positions of police sergeant and lieutenant. (TR. 8/26/99 p. 29-30)
- 3) When there is an opening for employment within the police department, Mr. Carter screens the applications, appoints a committee for interviews, participates in the interview, and then recommends the applicant to the human resources department. (TR. 8/26/99 p. 12-13)



- 4) When discipline is necessary within the department, Mr. Carter will meet with the employee and the union. (TR. 8/26/99 p. 15) There have been no grievances filed by employees of the police department since Mr. Carter became the Chief. (TR. 8/26/99 p. 24)
- 5) Mr. Carter reports directly to the Deputy Director of RIAC. (TR. 8/26/99 p. 19) Within the chain of command in the Police Department, there are three lieutenants, an inspector, and four sergeants that report directly to Mr. Carter. These eight employees, in turn, supervise lower ranking officers. (TR. 8/26/99 p. 16) Mr. Carter designed this chain of command. (TR. 8/26/99 p. 18) Mr. Carter conducts weekly staff meetings with all of these employees and sometimes includes others, as well. (TR. 8/26/99 p. 19) Over the years, he has made changes to the department's organizational structure and has changed duties of officers. (TR. 8/26/99 p. 18) In addition to the departmental weekly staff meetings, Mr. Carter also meets weekly with the Executive Director and other directors. (TR. 8/26/99 p. 33)
- 6) During 1998, Mr. Carter recommended that RIAC give strong consideration to establishing an inspector's position. Mr. Carter wrote the proposed job description and presented it to the Deputy Director and Human Resources. Thereafter a test was designed, the position was posted, an interview process conducted, and an inspector was hired. (TR. 8/26/99 p. 20-21, 26) Mr. Carter also recommended that another sergeant be added to the ranks within the department. (TR. 8/26/99 p. 21)
- 7) Mr. Carter sent a memorandum to Mr. Tate, the Human Resources Director, recommending changes to the police officers' contract as it pertains to staffing levels and requirements. (TR. 8/26/99 p. 32)
- 8) The record, in this case, established that Mr. Carter formulates and effectuates management policies by expressing and making operative the decisions of his employer or that he exercises discretion within or even independently of established employer policy when he amends the security policies with the FAA, and submits the same to the FAA without anyone's approval or consent.
- 9) The record, in this case, is devoid of evidence that Mr. Carter assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of his duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.

#### CONCLUSION OF LAW

- 1) The position of Chief of Airport Police is not confidential, or supervisory as those terms are defined by law, but is managerial. Therefore the position of Chief of Airport Police shall be excluded from the bargaining unit.

#### Director of Airfield Operations and Maintenance

#### FINDINGS OF FACT

- 1) Mr. David Edwards has been employed by RIAC as the Director of Airfield Operations and Maintenance since December, 1997. (TR. 8/26/99 p. 41)
- 2) Mr. Edwards' duties include the general oversight and administration for the operations of the department, garage and airfield maintenance, and compliance with FAA regulations. (TR. 8/26/99 p. 41, 52) He is also responsible for developing Standard Operating Procedures for the Operations Department (hereinafter SOPs). (TR. 8/26/99 p. 59) He is also responsible for establishing goals and objectives for his department. (TR. 8/26/99 p. 59) Mr. Edwards has the authority to close the airport when weather conditions warrant the same. (TR. 8/26/99 p. 60) When such conditions exist, Mr. Edwards will return to work, if necessary, and roam and collect data and generally monitor the situation. (TR. 8/26/99 p. 60)
- 3) Mr. Edwards supervises thirty-one (31) people in his department. (TR. 8/26/99 p. 41) Four work in the garage, five work in the electrical department, 10 work on operations, and the rest are in maintenance. Within these areas, there are also four supervisors. (TR. 8/26/99 p. 51-

- 52) Mr. Edwards determines when additional staffing is needed in his department. He then serves on the interview committee with other managers and supervisors. He believes that he has the authority to hire temporary workers, but that he must go through the hiring process for full time employees. (TR. 8/26/99 p.46)
- 4) Mr. Edwards believes that he has the power and authority to fire employees without first obtaining the approval of the Human Resources Department, although he would usually first discuss it with Mr. Tate, the Human Resources Director. (TR. 8/26/99 p. 43) However, Joint Exhibit # 2, the Collective Bargaining Agreement for Council 94 for July 1, 1998 through June 30, 2001, provides that the body with the authority to discharge shall be the "Appointing Authority". (TR. 8/26/99 p. 46) In the event that Mr. Tate objected to a firing, Mr. Edwards believes that he could still go ahead and fire the individual, although he has not had the occasion to do so. (TR. 8/26/99 p. 45)
  - 5) Mr. Edwards believes that he has the authority to discipline employees with either verbal or written warnings. That authority is also set forth under Council 94's collective bargaining agreement. (TR. 8/26/99 p. 45-46) On the first day of holding the Director's position, Mr. Edwards issued an oral warning to an employee who failed to report for work. (TR. 8/26/99 p. 68)
  - 6) Employer Exhibit #38 fairly describes the duties and responsibilities of the position of Director of Airfield Operations & Maintenance. (TR. 8/26/99 p. 50)
  - 7) Mr. Edwards has sent correspondence to the FAA described as a "self disclosure" of an incident, without first obtaining anyone else's permission. (TR. 8/26/99 p. 57) Mr. Edwards has also made the determination that several operation safety practices would be reviewed. (TR. 8/26/99 p. 58) Mr. Edwards has made changes in the policies and procedures in the electrical department by implementing a preventive maintenance program and established monthly electrical safety meetings. (TR. 8/26/99 p. 61) Mr. Edwards implemented a new policy and procedure regarding weather emergencies and the functions of various levels of employees. (TR. 8/26/99 p. 65) Mr. Edwards also implemented a new policy pertaining to licensing requirements for electricians. (TR. 8/26/99 p. 65) At the time of the formal hearing, Mr. Edwards was also in the process of formulating other policies. (TR. 8/26/99 p. 66)
  - 8) Mr. Edwards is involved at the first step for resolving grievances with members of Council 94<sup>2</sup>. (TR. 8/26/99 p. 62)
  - 9) Mr. Edwards holds weekly staff meetings to coordinate issues between his various departments. (TR. 8/26/99 p. 67)
  - 10) The record, in this case, is devoid of evidence that Mr. Edwards formulates and effectuates management policies by expressing and making operative the decisions of his employer or that he exercises discretion within or even independently of established employer policy.
  - 11) The record, in this case, is devoid of evidence that Mr. Edwards assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of his duties, regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.
  - 10) The record is devoid of evidence that Mr. Edwards has the authority, in the interest of his employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.

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<sup>2</sup> The Petitioner in this case stipulated to this fact.

### CONCLUSION OF LAW

The position of Director of Airfield Operations and Maintenance is not confidential, managerial, or supervisory as those terms are defined by law. Therefore, the position of Director of Airfield Operations and Maintenance shall not be excluded from the bargaining unit.

### Chief of the ARFF FINDINGS OF FACT

- 1) Mr. Paul M. Healy has been employed by RIAC as the Chief of the ARFF since March, 1997. Prior to this appointment, Mr. Healy served as the Director of Public Safety from 1994. (TR. 8/26/99 p.91)
- 2) Mr. Healy's duties include serving as the Chief of the Fire Department; serving as Chair of the Safety Committee; instructing employees on OSHA requirements; and maintaining OSHA training records. (TR. 8/26/99 p.92) Mr. Healy is also responsible for implementing FAA training programs such as Part 139 and keeping individualized training records. (TR. 8/26/99 p.103-104) Mr. Healy is also responsible for developing a "confined space program" in conjunction with a consultant and OSHA regulations. (TR. 8/26/99 p.104) Mr. Healy has been responsible for developing some standard operating procedures (SOPs) for the Department. (TR. 12/14/99 p.5) Mr. Healy also has some responsibility for preparing the Department's annual budget request which is somewhere around 1.3 million (TR. 12/14/99 p.6, 9) Mr. Healy also maintains the inventory control for the self-contained breathing apparatus units and established procedures for safeguarding assets. (TR. 12/14/99 p.7-8)
- 3) A total of eighteen employees report to Mr. Healy; four (4) Captains, four (4) Lieutenants, and ten fire fighters. (TR. 8/26/99 p. 92)
- 4) Mr. Healy participated in the hiring of one employee by serving on the interview committee with several other individuals. The Personnel Director did the actual hiring. (TR. 8/26/99 p. 93) Mr. Healy also suggested that the Employer create the position of Deputy Chief of the Fire Department and the Employer followed that suggestion. (TR. 12/14/99 p.10) Mr. Healy worked with the Human Resources Department in creating the Deputy Chief's job description. (TR. 12/14/99 p.11)
- 5) When Mr. Healy feels as though an employee's conduct warrants disciplinary measures, he contacts Arthur Tate in Human Resources. Any discipline imposed within the Department is done in conjunction with the Human Resources Department. (TR. 8/26/99 p.94) Mr. Healy has signed written disciplinary letters issued to employees, after consultation with the Human Resources Department. (TR. 8/26/99 p. 99-100)
- 6) Mr. Healy does not believe that he has any authority to discharge any employee because no one has ever told him that he possesses such authority. (TR. 8/26/99 p.95)
- 7) Mr. Healy does not control the schedule of the employees; it is controlled by the contract and seniority issues. (TR. 8/26/99 p. 95)
- 8) Mr. Healy reports to Mr. Mark Brewer, the Deputy Executive Director. (TR. 8/26/99 p. 96) Mr. Healy participates in weekly staff operations meetings with the Police Chief, the Director of Airfield Maintenance, the Director of Terminal Maintenance and the Aeronautics Inspector and a representative from Hawthorne which operates the outlying airports. (TR. 8/26/99 p. 96)
- 9) When the position of Director of Public Safety was eliminated and the then vacant position of Fire Chief was changed from union to non-union, Mr. Healy participated on management's negotiating team which consisted of four members. (TR. 8/26/99 p.98) At the direction of the Executive Director, Mr. Healy has also provided some suggestions on behalf of management for collective bargaining. (TR. 12/14/99 p. 14, Employer Exhibit #48 ) Mr. Healy does not participate in negotiations for collective bargaining in his capacity as Fire Chief. (TR. 12/14/99 p.16)

- 10) The record, in this case, established that Mr. Healy does not formulate or effectuate management policies by expressing and making operative the decisions of his employer or that he exercises discretion within or even independently of established employer policy.
- 11) The record, in this case, is devoid of evidence that Mr. Healy assists or acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations or that in the course of his duties as Chief of the ARFF (not as Director of Public Safety), regularly has access to confidential information concerning anticipated changes which may result from collective bargaining negotiations.
- 12) The record is devoid of evidence that Mr. Healy has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to adjust their grievances, or effectively to recommend such action.

#### CONCLUSION OF LAW

- 1) The position of Chief of the ARFF is not confidential, or supervisory or managerial as those terms are defined by law. Therefore the position of Chief of the ARFF shall not be excluded from the bargaining unit.

#### DIRECTION OF ELECTION

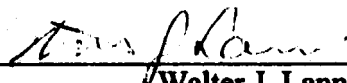
By virtue of and pursuant to the power vested in the Rhode Island State Labor Relations Board by the Rhode Island Labor Relations Act, it is hereby:

DIRECTED that an election by secret ballot shall be conducted within sixty (60) days hereafter, under the supervision of the Board or its agents, at a time, place and during hours to be fixed by the Board, among the following employees who were employed by the Rhode Island Airport Corporation on October 25, 2000:

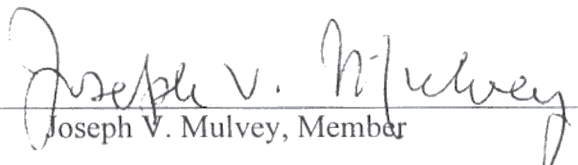
**INCLUDING:** Director of Administration and Finance; Manager of Information Systems and Technology; Manager of Finance and Accounting; Director of Internal Audit; Director of Property Management; Director of Public Affairs; Director of Planning and Development; Manager of Environmental Affairs; Human Resources Representative; Director of Airfield Operations and Maintenance; and Chief of the ARFF; and

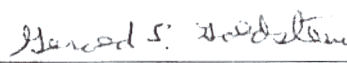
**EXCLUDING:** Director of Building/Terminal Maintenance; and Chief of Airport Police; to determine whether they wish to be represented, for the purposes of collective bargaining, as provided for in the Act, by the Rhode Island Laborer's District Council on behalf of Local Union 808 or by no labor organization.


RHODE ISLAND STATE LABOR RELATIONS BOARD

  
Walter J. Lanni, Chairman

  
Frank J. Montanaro, Member

  
Joseph V. Mulvey, Member

  
Gerald S. Goldstein, Member (Dissent)

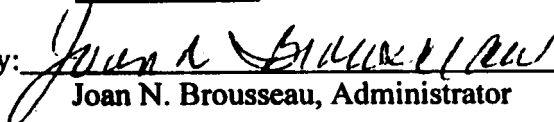
  
Ellen L. Jordan, Member (Dissent)

  
John R. Capobianco, Member

  
Elizabeth S. Dolan, Member (Dissent)

Entered as an Order of the  
Rhode Island State Labor Relations Board

Dated: October 25, , 2000

By:   
Joan N. Brousseau, Administrator