



with deadlocked opposing motions. The Board's enabling Act does not provide for alternate Members who can be utilized for breaking tie votes. Thus, without a majority to support either a Motion to proceed to election or to dismiss the Complaint on substantive grounds, the Board has no choice but to dismiss the within matter on procedural grounds. Accordingly, the Complaint is being dismissed solely due to the inability of Motions to sustain sufficient votes for passage.

#### **FINDINGS OF FACT**

- 1) The Rhode Island Higher Education Assistance Authority is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.
- 2) The Union is a labor organization, which exists and is constituted for the purpose, in whole or in part, of collective bargaining and of dealing with employers in grievances or other mutual aid or protection and, as such, is a "Labor Organization" within the meaning of the Rhode Island State Labor Relations Act.
- 3) On September 6, 2011 the Petitioner filed the instant action seeking to represent the following positions: Assistant Administrative Officer, Chief of Program Development, Department Manager, Director of Program Administration, Programmer Analyst I, Programmer Analyst II, Supervising Accountant and Technical Support Specialist III.
- 4) The Employer objected to the inclusions of these positions in the bargaining unit on the grounds that these employees were either supervisory, managerial, or confidential employees; and therefore, ineligible for collective bargaining.
- 5) On August 28, 2012, the Board considered the matter and was unable to arrive at anything other than a deadlocked vote.

#### **CONCLUSIONS OF LAW**

- 1) Since neither a Motion to either include or exclude the positions of Assistant Administrative Officer, Chief of Program Development, Department Manager, Director of Program Administration, Programmer Analyst I, Programmer Analyst II, Supervising Accountant and Technical Support Specialist III, within the proposed bargaining unit has carried, the within matter must be dismissed solely on procedural grounds.

#### **ORDER**

- 1) The Petition in this matter is hereby dismissed, without prejudice, to the possible reconsideration upon the appointment of a seventh Board Member.

RHODE ISLAND STATE LABOR RELATIONS BOARD

*Walter J. Lanni*

WALTER J. LANNI, CHAIRMAN

*Frank J. Montanaro*

FRANK J. MONTANARO, MEMBER

*Gerald S. Goldstein*

GERALD GOLDSTEIN, MEMBER

*John Capobianco*

JOHN CAPOBIANCO, MEMBER

*Ellen L. Jordan*

ELLEN L. JORDAN, MEMBER

*Elizabeth S. Dolan*

ELIZABETH S. DOLAN, MEMBER

ENTERED AS AN ORDER OF THE  
RHODE ISLAND STATE LABOR RELATIONS BOARD

Dated: DECEMBER 21, 2012

By: Robyn H. Golden  
ROBYN H. GOLDEN, ADMINISTRATOR

