

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

IN THE MATTER OF	:	
	:	
RHODE ISLAND STATE LABOR	:	
RELATIONS BOARD	:	
	:	
-AND-	:	CASE NO. ULP-6210
	:	
	:	
CITY OF EAST PROVIDENCE	:	

CONSENT ORDER

By agreement of the parties, the Rhode Island State Labor Relations Board ("SLRB") makes the following findings of fact and conclusions of law.

FACTS

- 1) United Steelworkers, Local 15509 ("Union") is the exclusive collective bargaining representative for certain employees (the "Unit") of the City of East Providence ("Employer").
- 2) The Union and the Employer are parties to a collective bargaining agreement, which includes a grievance and arbitration clause.
- 3) Louis Gelfuso is employed by the Employer and at the times relevant hereto worked as a police dispatcher.
- 4) On July 18, 2017, the Employer suspended Mr. Gelfuso for ten (10) days for an incident which occurred on July 6, 2017.

- 5) The Employee did not inform the Union of Gelfuso's suspension.
- 6) The Chief of Police for the City of East Providence discussed the suspension with Gelfuso. A representative of the Union was not present for these discussions.
- 7) On or about August 15, 2017, the Union filed a grievance contesting the Employer's ten (10) day suspension of Mr. Gelfuso (the "Grievance").
- 8) A third step meeting occurred on or about August 28, 2017 regarding the Grievance.
- 9) On or about September 6, 2017, the City Manager, provided the Employer's third step answer to the Grievance, in which he terminated Mr. Gelfuso.
- 10) The incident giving rise to the termination was the same incident for which Mr. Gelfuso had already served a ten (10) day suspension and which was the subject of the Grievance.
- 11) On October 12, 2017, the Union filed an unfair labor practice charge with the Board, in which the Union alleged that the Employer:
 - a. Bargained directly with an employee represented by the Union regarding discipline in violation of Section 28-7-13(6), (7) and (10).
 - b. Retaliated against an employee in violation of Section 28-7-13(10) by terminating him after he exercised his right under the parties' Agreement and Chapter 28-7 to file a grievance contesting the severity of the suspension imposed by the Employer. In so doing the Employer has created a chilling effect on other employees from similarly exercising the rights under Chapter 28-7.
- 12) The Union appealed the Employer's termination of Mr. Gelfuso through the grievance/arbitration process, as well as to the Personnel Appeals Board for the City of East

Providence. As a result of the appeal, the original ten (10) day suspension was upheld, but Mr. Gelfuso was reinstated and awarded full back pay and benefits, excepting therefrom pay associated with the 10-day suspension.

13) On December 18, 2017 the Board issued a Complaint on the Union's Unfair Labor Practice Charge.

14) A formal hearing was scheduled for February 15, 2018.

15) The parties have agreed to waive a formal hearing and enter into this Consent Order.

CONCLUSION OF LAW

1) The Employer committed an unintentional violation of R.I.G.L § 28-7-13(6), (7) and (10) by bargaining directly with an employee regarding discipline and by terminating an employee after the Union filed a grievance contesting his suspension.

ORDER

Based on the foregoing, and upon agreement of the parties, the Employer is hereby ordered to:

1) Cease and desist from using the grievance process to enhance or increase a previously imposed disciplinary penalty.

2) Cease and desist bargaining directly with Union members regarding discipline.

3) Inform the Union when it imposes discipline upon a member of the bargaining unit represented by the Union.

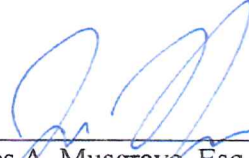
4) Post a copy of this Consent Order on all common area bulletin boards and to provide a copy each member of the bargaining unit represented by the Union.

CITY OF EAST PROVIDENCE
By Its Attorney,



Matthew T. Oliverio, Esq. (#3372)
OLIVERIO & MARCACCIO, LLP
55 Dorrance Street, Suite 400
Providence, RI 02903-2221
(401) 861-2900
(401) 861-2922 Fax
mto@om-rilaw.com

UNITED STEELWORKERS, LOCAL 15509,
By Its Attorney,



James A. Musgrave, Esq. (#6640)
ROBERTS, CARROLL, FELDSTEIN &
PEIRCE, INC.
10 Weybosset Street, Suite 800
Providence, RI 02903
(401) 521-7000
(401) 521-1328 FAX
jmusgrave@rcfp.com

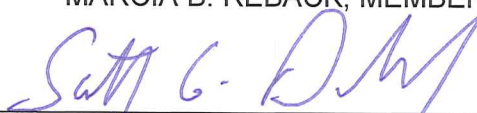
RHODE ISLAND STATE LABOR RELATIONS BOARD



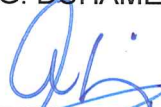
WALTER J. LANNI, CHAIRMAN



MARCIA B. REBACK, MEMBER



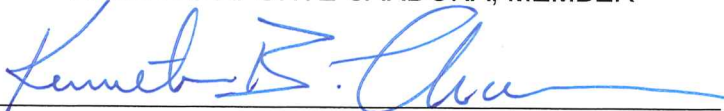
SCOTT G. DUHAMEL, MEMBER



ARONDA R. KIRBY, MEMBER



ALBERTO APONTE CARDONA, MEMBER



KENNETH B. CHIAVARINI, MEMBER



DEREK M. SILVA, MEMBER

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

Dated: FEBRUARY 22, 2018

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