

The Commonwealth of Massachusetts
Department of Labor Relations
Charles F. Hurley Building
19 Staniford Street, 1st Floor
Boston, MA 02114

Ferruccio Romeo
[REDACTED]
Saugus, MA 01906

January 17, 2020

RE: MUP-20-7789, Town of Winthrop: Supplemental/Amended Charge

On January 10, 2020, the Complainant, Ferruccio Romeo ("Mr. Romeo") filed a charge of prohibited practice with the Department of Labor Relations ("DLR"), individually, alleging that the Town of Winthrop ("Town") had violated Section 10(a)(5) and derivatively, 10(a)(1) of M.G.L. c.150E ("the Law"). On January 15, 2020 the DLR issued a Notice requiring show cause in writing why the DLR should not dismiss the charge with prejudice without an investigation due to the fact that individual employees do not have legal standing to claim Mr. Romeo's allegations since the Union and the Town are the only entities that can bring bad faith bargaining charges as they are the only parties in the bargaining relationship. Although Mr. Romeo informed the Local Union of the facts several times, no action was taken by the Union which resulted in his filing of this charge individually. Mr. Romeo hereby amends this charge alleging that Police Chief Terence M. Delehanty and Town Manager Austin Faison, designated representatives of the Town, have violated Section 10(a) (4) of the Law, and derivatively Section 10(a) (1) of the Law by discriminating and retaliating against Mr. Romeo because he has filed several complaints against them at the DLR both prior to his unlawful termination and since being reinstated. The following is in response to the DLR's Notice which forms the basis of this amended charge regarding the Town of Winthrop's continued **discrimination and retaliation** against Mr. Romeo for engaging in protected, concerted activity since his reinstatement.

1. The Town of Winthrop's and Police Chief Terence M. Delehanty's animus toward Mr. Romeo is well documented at the DLR.
2. The following charges have been filed and docketed by Mr. Romeo at the DLR, which remain pending:

MUP-14-4210
MUP-15-4652
MUP-19-7261

3. The following charge was filed by the Union in reference to the Town's continued retaliation against Mr. Romeo by refusing to fully comply with a final and binding arbitration award, even after the initial award was confirmed by the Massachusetts Appellate Courts and by refusing to comply with a final binding award pertaining to the remedy ("Remedy Award"):

MUP-19-7277

4. Department of Labor Relations Director, Philip T. Roberts, is aware of the facts and circumstances of the charges stated above and the history between the parties.
5. Mr. Romeo reiterates and reinforces his amended charge that the Town has discriminated and retaliated against him since his reinstatement by conducting a Shift Bid for Sergeants only negatively impacting his working conditions in violation of M.G.L. c.150E, section 10(a)(4), and derivatively section 10(a)(1) of the Law.
6. Mr. Romeo reiterates and reinforces his amended charge that the Town has discriminated and retaliated against him by altering the method of calculating seniority contrary to the express language of the Collective Bargaining Agreement in violation of M.G.L. c.150E, section 10(a)(4), and derivatively section 10(a)(1) of the Law.
7. Mr. Romeo reiterates and reinforces his amended charge that the Town has discriminated and retaliated against him by changing his terms and conditions of employment by repudiating his rights under the Collective Bargaining Agreement and the Law in violation of M.G.L. c.150E, section 10(a)(4), and derivatively section 10(a)(1) of the Law.
8. Mr. Romeo reiterates and reinforces and revives his prior request in this amended charge to request the DLR conduct an investigation into all the charges filed by Mr. Romeo

Therefore, by the foregoing and related conduct, the Town and its designated representatives have violated M.G.L. c.150E, section 10(a)(4), and derivatively section 10(a)(1) of the Law (Act) by their continued discriminatory and retaliatory conduct due to Mr. Romeo's long history as Union President for concerted, protected activity, a campaign that continues to exist from when the Town unlawfully removed him from duty in November, 2014 in retaliation for strongly opposing sex discrimination based on gender against 2 female police officers, Nancy Dalrymple and Judy Racow, raising numerous contractual and statutory claims, as well as many of his own filing of grievances on behalf of the Union.

Dated: January 17, 2020

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "F. Romeo", is written over the typed name and title.

Sergeant Ferruccio Romeo
Winthrop Police Department

cc: Austin Faison, Town Manager
Town of Winthrop



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

CHARLES F. HURLEY BUILDING
19 STANIFORD STREET
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PHILIP T. ROBERTS
DIRECTOR

January 15, 2020

Ferruccio Romeo

[REDACTED]
Saugus, MA 01906

Re: MUP-20-7789, Town of Winthrop

Dear Mr. Romeo:

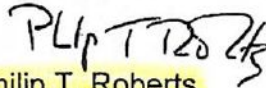
On January 10, 2020, you filed a charge of prohibited practice with the Department of Labor Relations (DLR) alleging that the Town of Winthrop (Town) had violated Section 10(a)(5) and, derivatively, 10(a)(1) of M.G.L. c.150E (the Law). The DLR has reviewed and docketed the charge. The DLR has not directed an investigation into the charge because you, as an individual, may not have legal standing to file it.

You alleged in your charge that "the Town has committed a prohibited practice as defined under the Law, both regarding conducting a shift bid for sergeants only and for unilaterally altering the method of calculating seniority which is contrary to the express language of the Collective Bargaining Agreement without notice and an opportunity to bargain." Your charge appears to only allege that the Town failed to bargain in good faith with MCOP Local 421, AFL-CIO.

Individual employees do not have legal standing to claim that an employer has failed to bargain by unilaterally changing terms and conditions of employment or repudiating a collective bargaining agreement. The union and the employer are the only entities that can bring bad faith bargaining charges, because they are the only parties in the bargaining relationship. Individual employees have no standing to file a charge against an employer for failing to bargain in good faith because the employee is not a party to the bargaining relationship. Quincy City Employees Union, H.L.P.E., 15 MLC 1340, 1355 (1989), aff'd sub. nom. Pattison v. Labor Relations Commission, 309 Mass. App. Ct. 9 (1991), further rev. den'd, 409 Mass. 1104 (1991).

Consequently, you must show cause in writing why the DLR should not dismiss your charge with prejudice without an investigation. Any show cause response that you may wish to submit must be efiled to the DLR at efile.DLR@mass.gov by the close of business on January 24, 2020. If you do not efile a show cause response on or before January 24, 2020, the DLR will dismiss this charge with prejudice without an investigation.

Very truly yours,
DEPARTMENT OF LABOR RELATIONS

A handwritten signature in black ink, appearing to read "Philip T. Roberts" with a stylized flourish at the end.

Philip T. Roberts
Director

CC: Howard Greenspan, Esq.
Austin Faison



COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS
CHARGE OF PROHIBITED PRACTICE
M.G.L. c.150E

DO NOT WRITE IN THIS SPACE

Case No.

MUP-20-7789

Date Filed

01/10/2020

INSTRUCTIONS: Answer all applicable questions. Failing to provide information may result in the dismissal of the charge.

Note: Pursuant to 456 CMR 15.04, the DLR will not issue a complaint unless the charging party has complied with the applicable provisions of M.G.L. c.150E, §§13 and 14.

1. Employer Town of Winthrop	2. Representative to contact Austin Faison, Town Manager	4. Telephone Number (617) 846-1705
3. Address (street and No., city/town, state, and ZIP code) 1 Metcalf Square, Winthrop, MA 02152		5. Fax Number
6. Employee Organization (if any): MassCOP Local 421 AFL-CIO	7. Representative to contact Michael Connolly, President	9. Telephone Number (617) 846-1212
8. Address (street and No., city/town, state, and ZIP code) 3 Metcalf Square, Winthrop, MA 02152		10. Fax Number

11. This charge is filed against (check one)



Employer



Employee Organization

12. The above named employer or employee organization has engaged or is engaging in a prohibited practice within the meaning of Massachusetts General Law, Chapter 150E, Section(s) (enter all appropriate sections/subsections)

10(a)(5) and, derivatively, 10(a)(1) of the Law

Failing to specify an appropriate section/subsection may result in the dismissal of the charge.

13. Summary of basis of Charge (be specific as to names, dates, addresses, etc.)

The following is a Summary of the Charge (s) based upon direct first hand knowledge:
Sergeants and Patrol Officers of the Winthrop Police Department are members of the same Collective Bargaining Unit, MCOP Local 421 AFL-CIO. I hold the rank of Sergeant. I was the President of the Local Union from December 2004 through February 2015 at which time I was unlawfully removed as Union President and unlawfully terminated from my employment by Police Chief Terence M. Delehanty and former Town Manager James M. McKenna who was forced to resign at a later date. I was unlawfully removed in retaliation of my strong union advocacy for women. Prior to being unlawfully terminated in 2015, a demand for binding grievance arbitration of 3 Grievances (Filed by 2 women) was filed with AAA Arbitration which specifically dealt with this very same issue, namely seniority as defined under the contract. I was reinstated in July 2018. Several charges have been filed at the DLR, both prior to my unlawful termination and since my reinstatement, and remain pending. On or about December 18, 2019, Chief Terence M. Delehanty issued General Order 19-09 RE: Shift Bids for Sergeants. The General Order instructed Sergeants to bid their shift according to "In-Rank" seniority. The Collective Bargaining Agreement defines seniority as "continuous service in the Winthrop Police Department." That definition is consistent with the Civil Service Commission interpretation of seniority as defined under M.G.L. c. 31, section 33. Department Rules and Regulations do not supersede the express language of the contract. Seniority is a clearly defined term in the Collective Bargaining Agreement. The seniority provision of the contract applies to shift-bidding, vacation bidding, overtime hiring eligibility, off-duty extra duty police details, layoffs, transfers and promotions. In-rank seniority is inapplicable. The Police Department conducts a yearly shift bid in July where all the members of the Union, Sergeants and Patrol Officers who are not assigned to a specialty, bid their shift. The department has never conducted a Shift bid for Sergeants only during my approximately twenty four employment history with the Town. After speaking with Union President Michael Connolly, the Sergeant's Shift Bid was

By these and other acts, the party complained of has interfered with, restrained, and/or coerced rights guaranteed by the Law.

DLR FORM-005 (page 1)

Revised 08/13

Continued Page 1a

13. Summary of basis of Charge(s) – CONTINUED

After Speaking with Union President Michael Connolly, the Sergeant's Shift Bid was conducted without any notice or opportunity to bargain with the Local Union. Also, the method of calculating seniority, here in regards to shift-bidding, is a mandatory subject of bargaining under the Law. The Town has committed a prohibited practice as defined under the Law, both regarding conducting a shift bid for sergeants only and for unilaterally altering the method of calculating seniority which is contrary to the express language of the Collective Bargaining Agreement without notice and an opportunity to bargain. I have been forced, under duress, to participate in an unlawful shift bid and to bid a shift out of my proper order of seniority in the Winthrop Police Department. In-rank seniority is opposite of the express language of the seniority article of the contract. In-rank seniority is expressly defined in the Lieutenant's contract, MassCOP Local 430 AFL-CIO (copy attached) and clearly NOT in the Sergeant's and Patrol Officer's contract (copy attached) due to it being overwhelmingly voted against in April 2019. Police Chief Terence M. Delehanty has unilaterally violated the Law and Town Manager Austin Faison has rubber stamped it as he has been informed at each step and has failed to take any action to prevent it despite several opportunities to do so.

Ferruccio Romeo, Sergeant
Winthrop Police Department

01/10/2020

14. (a) Is there a collective bargaining agreement that may apply to the conduct that is alleged to have violated the Law? ☒ Yes ☐ No

(b) If you checked "Yes" in question 14(a), please list all of the clauses alleged to apply and attach a copy of each.
Article XXX - Seniority and Past Practice in reference to Shift Bidding.

(c) Is there a grievance concerning this matter pending? ☒ Yes ☐ No

15. Without limiting your rights to later amend your remedial request, please explain what remedy you seek. Include the amount of any financial remedy to which you claim entitlement.
The requested remedy is to rescind General Order 19-09 and conduct a shift bid according to dept. Seniority.

16. Have you attempted to settle this case? ☒ Yes ☐ No
 If not, why not?
Several attempts with Town Manager Austin Faison via electronic mail.

Note: The DLR may decline to issue a complaint unless reasonable settlement efforts have been made by the charging party. 456 CMR 15.04(1).

INFORMATION ON CHARGING PARTY

17. Name Ferruccio Romeo, Sergeant	18. Representative to contact Same	20. Telephone Number [REDACTED]
19. Address (street and No., city/town, state, and ZIP code) [REDACTED] Saugus, MA 01906		21. Fax Number
22. The Charging Party is an: ☒ Individual ☐ Employee Organization ☐ Employer		

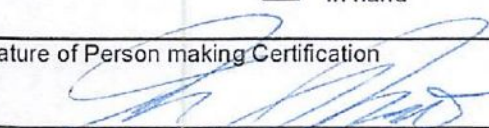
DECLARATION

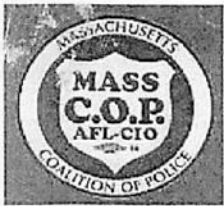
I have read the above charge of prohibited practice and swear under the pains and penalties of perjury that the information contained in it is true and complete to the best of my knowledge and belief.

Name (print) Ferruccio Romeo	Signature 	Title (if any) Sergeant
Address (street and no., city/town, state, and ZIP code) [REDACTED] Saugus, MA 01906		Telephone Number [REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this Charge of Prohibited Practice on the following representative of the opposing party.

Name Austin Faison, Town Manager	Address (street and no., city/town, state, and ZIP code) 1 Metcalf Square, Winthrop, MA 02152	Telephone Number (617) 846-1705
Method of Service ☐ In hand ☐ First Class Mail ☒ Other (specify): Email		
Signature of Person making Certification 		Telephone Number [REDACTED]



Winthrop Police Union MCOP Local 421 AFL-CIO

*Ferruccio Romeo, President
Stephen Acone, Vice-President
Guilio Bonavita, Secretary/Treasurer
Mary Crisafi, E-Board
617-846-1212*



Winthrop Police Department
3 Metcalf Sq.
Winthrop, MA 02152

AGREEMENT

WINTHROP POLICE UNION

M.C.O.P. LOCAL 421 AFL-CIO

AND

TOWN OF WINTHROP

JULY 1, 2011 – JUNE 30, 2014

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2. Sergeants
but excluding:
 1. Chief of Police
 2. Intermittent Employees
 3. Lieutenants

Section 2: The Employer will not aid, promote or finance any labor groups or organizations which purport to engage in collective bargaining, or make any agreement with any such group for the purpose of undermining the Union or changing any condition contained in this Agreement.

Section 3: This Agreement is a complete Agreement between the parties covering all mandatory subjects of discussion. The parties agree that the relations between them shall be governed by the terms of this Agreement and in accordance with the appropriate sections of Chapter 150E, Massachusetts General Laws.

No prior agreements or understandings, oral or written, shall be controlling or in any way affect the relations between the parties unless and until such agreements or understandings have been reduced to writing and duly executed by both parties subsequent to the date of this Agreement.

All matters not dealt with herein shall be treated as having been brought up and disposed of and the Employer shall be under no obligation to discuss with the Union any modifications or additions to this Agreement which are to be effective during the term hereof. No change or modification of this Agreement shall be binding on either the Employer or the Union unless reduced to writing and executed by the respective duly authorized representatives.

ARTICLE III **NO DISCRIMINATION**

Section 1: There shall be no discrimination, interference, restraint or coercion by the Town or the Union or their respective agents against any employee because of membership or non-membership in the Union.

Section 2: The Union agrees to represent all employees covered in this unit without regard to membership or participation in or association with the activities of the Union, or any

other employee organization, and continue to admit said persons to membership without qualification, other than the payment of periodic dues or initiation fees regularly required by the Union. There shall be no discrimination by either party against any employee because of race, creed, color, sex or age.

ARTICLE IV UNION DUES AND AGENCY SERVICE FEES

Under the authority of General Laws, Chapter 150E, the Employer agrees that Union dues, determined in accordance with the Constitution and Bylaws of the Union, may be deducted monthly from the salary of any employee in the bargaining unit who signs and files with the Town Accountant a form authorizing such deductions. Such authorization shall remain in full force and effect until the employee ceases to be employed in the bargaining unit, or if the employee remains in such employment, until sixty (60) days after notice in writing by the employee to the Employer withdrawing the authorization, with a copy thereof filed with the Treasurer of the Union. The Town Accountant shall remit the sum so deducted to the Treasurer of the Union, provided the Treasurer of the Union has given to the Union a bond for the faithful performance of his/her duties in a sum and with such surety or sureties as are satisfactory to the Town Accountant.

Agency Fee shall become a condition of employment in compliance with the terms and conditions as set out in General Laws, Chapter 150E, Section 12.

The Union agrees that it shall provide the Employer certification that a vote of the majority of the employees in the Bargaining Unit present and voting did, in fact, vote to include the provisions of Agency Fee. In the event that legal action is taken by any member of the Union or by any third party against the Town Accountant and/or the Employer as a result of their implementation of the Agency Fee provisions of this Article, the Union agrees to hold the Town Accountant and/or the Employer harmless and indemnify them for all expenses or judgments or allowances entered against them as a result of said action. Further, the Union agrees that it will assume the costs to defend the Town Accountant and/or the Employer in any and all such causes of action.

ARTICLE XXXII COURT TIME

Any officer who goes to court before or after his/her regular shift or on a day off, shall be paid a minimal amount equal to four (4) hours. The officer shall be paid the regular rate of pay for the court time when she/he is on his/her regular tour of duty. Any officer who is requested to appear in court other than on his/her regular tour of duty shall be compensated at the rate of one and one-half (1-1/2) times the regular rate.

ARTICLE XXXIII SENIORITY

Seniority is defined as the length of continuous full-time employment in the Winthrop Police Department.

The Employer recognizes the principle of seniority in layoffs due to lack of work, provided that 'the senior employee is available and qualified to do the remaining work.

The Employer, in recognition of seniority, shall allow an employee to bid for a vacancy on a different work shift which is caused by death or retirement as long as it is of comparable duty and rank and does not involve a specialty.

That the seniority provisions of the contract relative only to job bidding for vacancies on a different work shift? would provide a clause that would allow aggrieved members of the Bargaining unit to appeal any seniority decision made by the Chief of Police to the Town Manager, the Town Manager's decision shall be final and binding on both parties. Seniority shall be broken by:

- A) Resignation.
- (B) Layoff due to lack of work for a period of sixty (60) days.
- (C) Discharge for just cause.

ARTICLE XXXIV EDUCATIONAL BENEFITS

The Employer agrees to compensate each employee Fifty Dollars (\$50.00) per year for each three (3) credits an employee earns towards an Associates Degree or a Bachelors Degree in law enforcement at an accredited university.

MCOP Local 430

Memorandum of Agreement

Between

Town of Winthrop

And

Winthrop Superior Police Officers Union, MCOP Local 430

The Town of Winthrop and the Winthrop Superior Police Officers Union, MCOP Local 430, hereby agree except as indicated herein the agreement between the parties effective July 1, 2017 through June 30, 2018 will continue full force and effect.

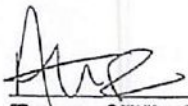
1. Salaries

July 1, 2018 1.5%

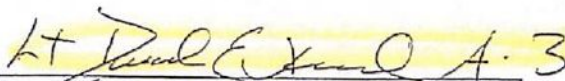
2. The Town will undertake a compensation and reclassification study prior to the beginning of contract negotiations for the successor agreement effective July 1, 2019. The cost will be conducted at the Town's expense.

3. Wages

If any other union receives a greater accumulative cost of living raise on the wage scale the same increase would be applied for this union.



Town of Winthrop



Winthrop Superior Police Officers Union,
MCOP Local 430

Date: 05/13/19

Date: 5-10-19

Any officer who goes to court before or after his/her regular shift or on a day off, shall be paid a minimum amount equal to four (4) hours. The officer shall be paid the regular rate of pay for the court time when she/he is on his/her regular tour of duty. Any officer who is requested to appear in court other than on his/her regular tour of duty shall be compensated at the rate of one and one-half (1-1/2) times the regular rate.

ARTICLE XXXII SENIORITY

Section 1. The Seniority of Lieutenants shall date from the time of their promotion to such rank. Employees in the same rank promoted on the same date shall their relative seniority determined on the bases of the grade they receive on the Civil Service examination for that rank, broken down to the smallest possible percentage. If the grade of two or more employees is the same, the date of their application for their respective examinations shall govern.

Section 2. Unless otherwise stated, length of service for all other purposes shall be calculated in accordance with the provisions of M. G. L. Chapter 31, Section 33.

Section 3. Employees taking a leave of absence of more than six (6) months shall have the aggregate seniority reduced by said period of absence.

ARTICLE XXXIII EDUCATIONAL BENEFITS

The Employer agrees to compensate each employee Fifty Dollars (\$50.00) per year for each three (3) credits an employee earns towards an Associates Degree or a Bachelors Degree in law enforcement at an accredited university.

The employee will earn these credits on his/her own time and the Employer shall not be responsible for the employee's tuition.

ARTICLE XXXIV DISCIPLINARY ACTION

Section 1: Employees who have completed their probationary period of twelve (12) months shall not be disciplined or discharged except for just cause. The probationary period shall commence upon the graduation from the Police Academy.