

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

In the Matter of

TOWN OF WINTHROP

and

FERRUCCIO ROMEO

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* Case No. MUP-19-7261

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* Date issued: July 27, 2020

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COMPLAINT OF PROHIBITED PRACTICE ON REMAND

On April; 29 2019, Ferruccio Romeo (Romeo) filed an Amended Charge of Prohibited Practice with the Department of Labor Relations (DLR) alleging that the Town of Winthrop (Town) had engaged in prohibited practices within the meaning of Section 10(a)(4), Section 10(a)(3) and Section 10(a)(1) of M.G.L. c. 150E (the Law). Pursuant to Section 11 of the Law, as amended by Chapter 145 of the Acts of 2007, and Section 15.05 of the DLR's Rules, 456 CMR 15.05, I conducted an in-person investigation into these allegations on February 24, 2020.

On March 13, 2020, I dismissed the charge in its entirety. On March 30, 2020, Romeo filed a request for review of two aspects of the dismissal with the Commonwealth Employment Relations Board (CERB) pursuant to DLR Rule 15.05(9). The Town filed a response to the request for review on May 1, 2020. On July 24, 2020, the CERB issued a ruling affirming the dismissal with respect to all but one allegation, which the CERB remanded to me to issue a complaint consistent with its ruling. Therefore, this Complaint of Prohibited Practice shall issue, and the parties will be given the opportunity to be heard for the purpose of determining the following allegations.

COUNT I

1. The Town is a public employer within the meaning of Section 1 of the Law.
2. MASS COP Local 421 (Union) is an employee organization within the meaning of Section 1 of the Law.
3. The Union is the exclusive representative for police officers employed by the Town.
4. Romeo is employed by the Town as a police officer and is a member of the bargaining unit described in paragraph 3.
5. From December 2004 to February 2015, Romeo served as Union president. In this capacity, Romeo negotiated collective bargaining agreements and filed grievances on behalf of bargaining unit members.
6. In or around September 2014, Romeo filed a grievance on behalf of a bargaining unit member and posted documents related to that grievance on a bulletin board in the police station where he worked. On September 12, 2014 and November 22, 2014, Romeo refused requests by the Town's human resources director and police chief to remove the posted documents.
7. On or about December 1, 2014, the Town placed Romeo on administrative leave pending an investigation into a detail that Romeo worked on November 24, 2014.
8. On January 9, 2015, the Town terminated Romeo.
9. The Union filed a grievance challenging Romeo's termination and processed it to arbitration.
10. On February 28, 2018, an arbitrator concluded that the Town did not have just cause to terminate Romeo and ordered the Town to give Romeo a Letter of Warning instead and to make him whole for all lost wages and benefits, less offsetting income.
11. The Town sought judicial review of the arbitration award in Superior Court. Around April 2017, the Superior Court vacated the award.
12. Around April 2017, the Union appealed the Superior Court's decision to the Appeals Court.
13. On May 21, 2018, the Appeals Court vacated the Superior Court's decision.
14. On September 8, 2018, the Town reinstated Romeo to duty.

15. On October 18, 2018, the arbitrator referenced in paragraph 10 held a hearing on the backpay the Town owed to Romeo in which Romeo and the Union participated. On January 21, 2019, the arbitrator issued a backpay award.
16. For fifteen years prior to his termination, the Town assigned Romeo additional job duties pertaining to maintaining the Department of Justice Criminal Information Services (DCJIS) system. Romeo received "Kelly hours," a form of compensatory time, for performing these duties.
17. After reinstating Romeo to duty, the Town did not assign Romeo the DCJIS duties described in paragraph 16, even though Romeo asked to have those duties restored.
18. The conduct described in paragraphs 5, 6, 9, 12 and 15 constitutes concerted, protected activity.
19. The Town knew of the concerted, protected activity described in paragraph 5, 6, 9, 12 and 15.
20. The Town took the action referred to in paragraph 17 in retaliation for Romeo's concerted, protected activity described in paragraphs 5, 6, 9, 12 and 15.
21. By the conduct described in paragraphs 17 and 20, the Town has discriminated against Romeo in violation of Section 10(a)(3) of the Law
22. By the conduct described in paragraphs 17 and 20, the Town has derivatively interfered with, restrained and coerced its employees in the exercise of their rights guaranteed under Section 2 of the Law in violation of Section 10(a)(1) of the Law.

COUNT II

23. The allegations in paragraphs 1-17 are realleged.
24. On December 13, 2014, Romeo, in his capacity as Union president, filed Case No. MUP-14-4210 with the DLR alleging that the Town decided to place him on administrative leave in retaliation for the protected concerted activity described in paragraph 6, in violation of Section 10(a)(3) and, derivatively, Section 10(a)(1) of the Law.
25. On March 5, 2015, a DLR investigator dismissed Case No. MUP-14-4210.
26. On March 16, 2015, Romeo filed a request for review of the dismissal with the CERB.
27. On June 24, 2015, Romeo, as an individual, filed Case No. MUP-15-4652, alleging that his termination violated Sections 10(a)(4), Section 10(a)(3) and, derivatively, Section 10(a)(1) of the Law.

28. On May 21, 2015, the DLR deferred Case Nos. MUP-14-4210 and MUP-15-4652 to arbitration.
29. On March 2, 2016, Romeo requested that the DLR reopen Case Nos. MUP-14-4210 and MUP-15-4652 for further processing.
30. Since March 2, 2016, Romeo has participated in mediations under the DLR's auspices regarding Case Nos. MUP-14-4210 and MUP-15-4652.
31. On August 19, 2019, the DLR reopened Case Nos. MUP-14-4210 and MUP-15-4652 for further processing.
32. The conduct described in paragraphs 24, 26, 27, 29 and 30 constitutes protected activity.
33. The Town knew of the conduct described in paragraphs 24, 26, 27, 29 and 30.
34. The Town took the actions described in paragraph 17 to retaliate against Romeo for the conduct described in paragraphs 24, 26, 27, 29 and 30.
35. By the conduct described in paragraphs 17 and 34, the Town has discriminated against Romeo for filing and participating in DLR proceedings, in violation of Section 10(a)(4) of the Law.
36. By the conduct described in paragraphs 17 and 34, the Town has derivatively interfered with, restrained and coerced its employees in the exercise of their rights guaranteed under Section 2 of the Law in violation of Section 10(a)(1) of the Law.

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GAIL SOROKOFF, ESQ , INVESTIGATOR