



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

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

MUP-15-4652 06-24-15

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 James McKenna, Town Manager	4. Telephone Number 617-846-1077
3. Address (street and No., city/town, state, and ZIP code) One Metcalf Square, Winthrop, MA 02152		5. Fax Number 617-846-5458
6. Employee Organization (if any): Massachusetts Coalition of Police	7. Representative to contact Hugh Cameron, President	9. Telephone Number 508-581-9336
8. Address (street and No., city/town, state, and ZIP code) 182 Worcester Providence Tpke (Rte. 146 South), Sutton, MA 01590		10. Fax Number 508-581-9564
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)(1), 10(a)(2), 10(a)(3) & 10(a)(4) <i>Failing to specify an appropriate section/subsection may result in the dismissal of the charge.</i>		
13. Summary of basis of Charge (be specific as to names, dates, addresses, etc.) This is a follow-up Charge to MUP-14-4210 which was filed on December 12, 2014. I filed that charge as President of MCOP Local 421 AFL-CIO after being placed on Administrative Leave in retaliation for my protected Union activity as President of the Local Union. Since the filing of the initial Charge, I was terminated on January 9, 2015 from my position as a Police Officer. My termination was in retaliation for my protected Union activity, as well as in retaliation for filing the initial Charge of Prohibited Practice on December 12, 2014 at the Commission. The initial Charge, MUP-14-4210, has been deferred to arbitration by the Commission, which is currently scheduled for August 24, 2015. I hereby respectfully request that this Charge also be deferred to the pending arbitration.		

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

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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.
Articles I, II, III, VIII, XXXV, XXXIX and any other applicable articles and sections.

(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.
Reinstatement with all back pay and benefits.

16. Have you attempted to settle this case? ☒ Yes ☐ No
 If not, why not?

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	18. Representative to contact	20. Telephone Number 781-389-2951
19. Address (street and No., city/town, state, and ZIP code) 9 Hitching Hill Rd, Saugus, MA 01906		21. Fax Number
22. The Charging Party is an: ☒ Individual ☐ Employee Organization ☐ Employer		

DECLARATION

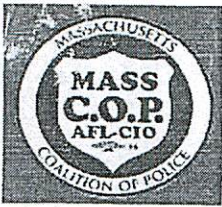
I have read the above charge of prohibited practice and swear under the pains and penalties of perjury that the information contained in it is true and complete to the best of my knowledge and belief.

Name (print) Ferruccio Romeo	Signature	Title (if any)
Address (street and no., city/town, state, and ZIP code) 9 Hitching Hill Rd, Saugus, MA 01906		Telephone Number 781-389-2951

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 Howard L. Greenspan	Address (street and no., city/town, state, and ZIP code) 200 Broadway, Suite 304, Lynnfield, MA 01940	Telephone Number 781-598-4545
Method of Service ☐ In hand ☒ First Class Mail ☐ Other (specify): _____		
Signature of Person making Certification 		Telephone Number 781-389-2951



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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AGREEMENT

This Agreement entered into this day of _____ 2007 between the Town of Winthrop, Massachusetts (hereinafter referred to as the "Employer") and the Winthrop Police, I.B.P.O., Local 397 (hereinafter referred to as the "Union").

ARTICLE I INTENT AND PURPOSE

The general intent and purpose of this Agreement is in the mutual interests of the Employer and the Union to provide for the operation of our Police Department under methods which will further to the fullest extent possible the safety, welfare and health of the inhabitants of the Town of Winthrop under conditions which will insure economy of operation, quality and quantity of performance, upkeep of the Town, and the protection of life and property.

By the consummation of this Agreement the parties seek to continue and promote harmonious relations and mutual cooperation between the Employer and the Union; to formulate work rules to govern the relationship; to insure the uninterrupted operation of police services; to set forth the agreement of the parties with respect to rates of pay, hours of work and conditions of employment under which members represented by the Union perform their duties; to provide for an orderly and equitable adjustment of all grievances as herein defined, all with the goal of improving the police services in the Town of Winthrop.

In seeking to achieve these goals the parties acknowledge that the Employer has and must retain complete authority over the policies and administration of the departments which it exercises under law, except as expressly modified by a specific provision of this Agreement.

ARTICLE II RECOGNITION

Section 1: Subject to any applicable provisions of state or federal law, or regulations now or hereafter in effect, this Employer recognizes the Union as the exclusive collective bargaining agent in respect to wages, hours and terms and conditions of employment for full-time, certified employees employed by the Town of Winthrop in the Police Department, including:

1. Patrolmen

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.

come within the jurisdiction of said Civil Service Commission may be processed either as a grievance or as a Civil Service appeal, but not both..

ARTICLE VII UNION ACTIVITY ON DEPARTMENT PROPERTY

Section 1: The members of the Department shall be permitted to hold regular business meetings of the Union on Department property. Except as to said regular business meetings and to the extent expressly permitted in Article VIII (Grievances) or except as expressly approved by the Chief or his/her designee, no member of the Union shall conduct Union business on Department property.

Section 2: Bulletin board announcements shall be posted in conspicuous places where employees enter or leave the premises. Parties to this Agreement, both of whom may use this bulletin board for signed notices of routine nature, agree that it would be improper to post denunciatory or inflammatory written material on such bulletin boards.

ARTICLE VIII GRIEVANCE PROCEDURE

Section 1: For the purposes of this Agreement, a grievance shall be defined as a complaint between the Employer and the Union and/or any employee involving only an alleged specific and direct violation of express language of a specific provision of this Agreement.

Section 2: A grievance must be presented within four (4) working days of the time of the occurrence of the alleged contract violation or within four (4) days from the time the employee should have reasonably acquired knowledge of the incident giving rise to the contract violation and must be processed in accordance with the steps, time limits and conditions set forth below in this Article.

(A) The employee, with a steward or representative if she/he so desires, shall take up the grievance or dispute in writing to the Chief or his/her designee within four (4) working days of the occurrence giving rise to the grievance. The Chief or his/her designee shall attempt to adjust the matter and shall respond in writing within four (4) working days. If the grievance is not satisfactorily settled at this step,

(B) It shall be appealed in writing within seven (7) days after receipt of the written answer of the Chief or his/her designee by the employee to the Town Manager. The Town Manager or his designated representative and the employee, and counsel and/or an authorized representative of the Union, shall meet to discuss the grievance as promptly as possible, normally within fourteen (14) days, at a time designated by the Town Manager. If any person or persons are to represent or appear with the employee at this meeting, the Town Manager will be informed in writing at least three (3) days before the meeting of the names and titles of such persons. The Town Manager or his designated representative shall elect whether this discussion shall take place during working hours or not. The Town Manager will give his written answer to the grievance within ten (10) days following the conclusion of the meeting. If both the Chief or his/her designee and the Town Manager appoint a designee under this section, it shall not be the same person for both steps. If the grievance is not satisfactorily settled at this step, it may,

(C) Be appealed to arbitration by written Demand for Arbitration within fourteen (14) working days after the receipt of the written answer under Step 2. This appeal to arbitration shall be in accordance with the procedure and conditions set forth in Article IX.

Section 3: A grievance not initiated within the time specified shall be deemed waived. Failure of the Union to appeal a decision within the time limit specified shall mean that the grievance shall be considered settled on the basis of the decision last made and shall not be eligible for further appeal. Failure of Town Manager to answer an appeal within the time limit specified shall mean that the appeal may be taken to the next step immediately. The above limitations may be waived by mutual agreement of the parties.

Section 4: No reprisals of any kind will be taken by the Employer against any party in interest or any participant in the grievance procedure by reason of such participation.

Section 5: The Union recognizes the authority and responsibility of the officers, the Chief or his/her designee and the Town Manager for reprimanding or disciplining an employee for delinquency of performance.

✱ Section 6: No employee will be disciplined, reprimanded, reduced in rank or compensated or deprived of any wage increase or increment without just cause. Any contention that the Town Manager has acted in an arbitrary or discriminatory manner in withholding a wage increase or increment may be raised as a grievance.

The parties agree that nothing in this Agreement is intended to add to or subtract from the rights and remedies provided by any Civil Service law, or to make arbitrable a question which is covered under Civil Service law.

Notwithstanding any provision of this Agreement to the contrary, any matter which is subject to the jurisdiction of the Massachusetts Superior Court and where a Union member files a complaint in the Superior Court to enforce any private right of action, which is also enforceable under the Collective Bargaining Agreement, it shall not be the subject of a grievance or arbitration.

ARTICLE IX ARBITRATION

Section 1: In the event either party elects to submit a grievance to arbitration, the arbitrator shall be selected according to and shall be governed by the following procedure: Within fourteen (14) working days after receipt of the Town Manager's written answer under Step 2 of the Grievance Procedure set forth at Article VII of this Agreement, the party demanding arbitration shall file a written Demand for Arbitration to the American Arbitration Association, with a copy to the Town Manager, and shall request the AAA to provide an arbitrator to be selected under the provisions of the Voluntary Labor Arbitration Rules.

Section 2: Each party shall bear the expense of its representatives, participants, witnesses and for the preparation and representation of its own case. The fees and expenses (if any) of the arbitrator of the American Arbitration Association shall be shared equally by the parties, provided that the obligation of the Town Manager to pay shall be limited to the obligation which the Town Manager can legally undertake in that connection. In no event shall any present or future Town Manager have any personal obligation for any payment under any provision of this Agreement. If either party desires a verbatim record of the proceedings, it may cause such a record to be made and shall be responsible for the cost of said record.

Section 3: Notwithstanding anything to the contrary, no dispute or controversy shall be a subject for arbitration unless it involves only an alleged specific and direct violation of express language of a specific provision of this Agreement. The arbitrator shall have no power to add to, subtract from, or modify any of the terms of this Agreement. The parties are agreed that no restrictions are intended on the rights and powers of the Employer except those specifically

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

ARTICLE XXXV DISCIPLINARY ACTION

No permanent employee shall be removed, dismissed, discharged, suspended or charged in any manner except for just cause and at any hearings or interviews attendant thereto the police officer will have an opportunity to have an attorney present on his behalf.

ARTICLE XXXVI EVALUATIONS

Employees shall be evaluated once annually and within thirteen (13) months of the employee's last evaluation by the Chief of his/her designee using an evaluation instrument developed and agreed to by the parties. A joint sub-committee will be formed to develop a mutually agreed upon evaluation instrument to be completed by _____.

ARTICLE XXXVII DRUG TESTING

- A. Probationary Employees.** Employees may be tested periodically during the probationary period with or without reasonable suspicion at such times as may be determined by Chief.
- B. Absence from Duty.** An employee who is absent from duty for more than sixty (60) continuous calendar days on sick leave, injured-on-duty leave, disciplinary suspension, or leave of absence may be tested once within the first seven (7) calendar days after his return to active duty. Employees may make a timely appeal of the Chief's decision that he/she be tested to the Town Manager.
- C. Serious Incidents.** An employee involved in an incident on the job which involves serious property damage, is life threatening, or involves serious bodily injury may be tested where the Chief has reasonable belief that the incident was within control of the employee.
- D. Reasonable Suspicion.** An employee may be tested after a determination by the Chief or his designee that there is reasonable suspicion to test the employee. Reasonable suspicion is a belief based on objective facts sufficient to lead a reasonably prudent person to suspect that an employee is using or is under the influence of drugs so that the employee's ability to perform his/her duties is impaired. Reasonable suspicion shall be based upon information of objective facts obtained by the department and the rational inferences which may be drawn from those facts.

first laying-off or eliminating the Civilian Dispatcher. A member of 397A will be assigned to the station at all times, even if the Civilian Dispatcher position is implemented.

ARTICLE XXXIX DURATION

Section 1: This Agreement shall become effective retroactive to July 1, 2005 subject to the provisions of Section 2 of this Article and shall continue in effect up to and including June 30, 2008 and shall thereafter renew itself for successive terms of one (1) year each unless sixty (60) days prior to December 31, 2002 or any December 31st thereafter, either the Employer or the Union shall have given the other written notice of its desire to modify or terminate this Agreement.

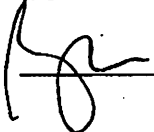
In the event that a successive contract is not effectuated on the date of termination of this Agreement, then all the provisions of this Agreement shall remain in full force and effect until a succeeding agreement is consummated.

Section 2: This Agreement shall become effective only to the extent that sufficient funds are appropriated and to the extent that necessary amendments to all laws, ordinances, and by-laws are approved at Town Council so that this Agreement will not conflict with any said law, ordinance or by-law.

The Employer shall request and actively support and urge at Town Council the necessary appropriations and propose necessary amendments to existing laws, ordinances and by-laws.

IN WITNESS WHEREOF, the authorized representatives of the parties have set their hands this day of November, 2007.

TOWN MANAGER,



APPROVED AS TO FORM
TOWN COUNSEL

WINTHROP POLICE ASSOCIATION

