

VERMONT LABOR RELATIONS BOARD

APPEAL OF:)	
)	DOCKET NO. 01-1
DENNIS MADORE)	

FINDINGS OF FACT, OPINION AND ORDER

Statement of Case

On January 5, 2001, Dennis Madore (“Appellant”), through Attorney Thomas Zonay, filed an appeal with the Labor Relations Board over his dismissal from employment as a State Police Lieutenant. Appellant contended that the Department of Public Safety (“Employer”) violated Article 14 of the collective bargaining agreement between the Vermont State Employees’ Association and the State of Vermont for the State Police Unit (“Contract”) by imposing discipline without just cause, bypassing progressive discipline, not imposing discipline in a uniform and consistent manner, not preferring charges in a timely manner, and not instituting disciplinary proceedings within a reasonable time after a violation of the Code of Conduct occurred and was discovered.

Pursuant to a joint motion filed by the parties, this case has been bifurcated for hearing. In the first stage of the proceedings, the Board held hearings limited to whether Appellant committed violations of the Employer’s Code of Conduct as charged. The Board issued a decision on that issue on December 31, 2003, concluding that the Employer demonstrated that Appellant committed violations of the Code of Conduct as charged in several cases and not in other instances. 26 VLRB 284 (2003).

The Board then conducted an additional hearing on May 6, 2004, to address the remaining issues raised by Appellant in his appeal. Prior to the hearing, Appellant narrowed the issues for hearing to whether the Employer violated Article 14 of the

Contract by not instituting disciplinary proceedings within a reasonable time after a violation of the Code of Conduct occurred and was discovered and not preferring charges in a timely manner. The hearing was held in the Labor Relations Board hearing room in Montpelier before Labor Relations Board Members Edward Zuccaro, Acting Chairperson; Carroll Comstock and Joan Wilson. Attorney Zonay represented Appellant. William Reynolds, Assistant Attorney General; Elizabeth Novotny, General Counsel for the Employer; and Kristin Chandler, Counsel for the Employer; represented the Employer. Appellant and the Employer filed briefs on June 7 and 8, 2004, respectively.

FINDINGS OF FACT

1. Findings of Fact Nos. 1 – 24 in the December 31, 2003, decision of the Labor Relations Board in this matter are incorporated herein by reference. 26 VLRB at 285-297.

2. The Contract provides in pertinent part as follows:

...

ARTICLE 14 DISCIPLINARY AND CORRECTIVE ACTION

...

2. DISCIPLINARY ACTION

...

(b) Disciplinary proceedings shall be instituted within a reasonable time after the violation of the Code of Conduct occurred or was discovered and disciplinary action shall be taken within a reasonable time after disciplinary charges have been proved or admitted. Non-criminal internal investigations should normally be completed within 30 work days, and notice of disposition should normally be given within 30 work days after completion of the investigation.

...

3. Section III, Article III, of the Employer's Rules and Regulations provide in pertinent part as follows:

Receipt, Reporting and Investigation of Allegations of Misconduct and Improper Conduct

1.0 OBLIGATION TO REPORT ALL ALLEGATIONS

- 1.1 . . . every member has the obligation to report all allegations received by him/her and all acts or substantial evidence of acts of misconduct and improper conduct discovered by him/her in accordance with the provisions of this article.

2.0 FORM OF ALLEGATIONS

- 2.1 An allegation made by a member must be in writing, must be dated and signed by the member making the same, and must include all information about the alleged act of misconduct or improper conduct known to the member making the allegation.
- 2.2 Whenever possible, an allegation made by a person other than a member should be in writing and should be dated and signed by the person making the same. However, the refusal of such a person to file or date and sign a written statement or even to identify himself/herself will not relieve the member receiving that person's allegation from processing the same in accordance with the provisions of this Article.

3.0 RECEIPT AND PROCESSING OF ALLEGATIONS

...

- 2.3 A member receiving an allegation shall obtain as much information as possible concerning the allegation from the person making it. At the very least, the member should get from the person making the allegation the date, time, and place of the alleged incident and the name(s) of the member(s) involved, if known.

...

4.0 REPORTING OF ALLEGATIONS

- 4.1 All allegations will be reported in accordance with the provisions of this section, regardless of the opinion of the member making or receiving the same as to the merits or seriousness thereof.
- 4.2 All allegations will be reported by the member making or receiving the same within 24 hours of discovery or receipt.
- 4.3 Every allegation will be reported by the member making or receiving the same in writing, on a Department complaint form. . .

...

5.0 NOTIFICATION

...

5.2 As soon as possible after receipt of an allegation and prior to the commencement of an investigation into it, the Internal Affairs Unit . . . shall notify the member against whom the allegation was made of the allegation. Such notification shall be either direct or through a Commanding Officer of the member involved, and will be effected in the most expeditious manner. Such notification will include a complete explanation of the substance of the allegation made.

5.3 Notwithstanding the provisions of subsection 5.2 of this section, if to immediately notify the member against whom the allegation was made might jeopardize the investigation into the allegation, the Internal Affairs Unit or the Commissioner may commence an investigation without notifying the member and may postpone notification of the member until such time as it would not jeopardize the investigation. However, in no case with the exception of a criminal investigation, will the member against whom the allegation was made be interviewed or questioned concerning it without first having been given proper notification of the allegation against him/her.

...

6.0 INVESTIGATION OF ALLEGATIONS

6.0 All allegations of misconduct and improper conduct will be investigated expeditiously by or at the direction of the Internal Affairs Unit, or, in the case of an allegation against a member of that unit, by or at the direction of the Commissioner.

...

(State's Exhibit 49)

4. In 1996, Major Nicholas Ruggerio, who was in Appellant's chain of command, met with Appellant to discuss whether Appellant had improperly used the Governor's limousine off-duty and to pick up women at a softball game, and whether Appellant was having an extra-marital affair. Appellant tape-recorded the meeting without Ruggerio's knowledge.

5. In February 1997, Attorney Jerome Diamond filed a Petition for Divorce in Washington Family Court on behalf of Appellant's wife, Donna Madore. On April 15, 1997, Diamond met with Major Ruggerio in an effort to obtain information about

Appellant that Diamond could use in the divorce case. Diamond was aware from Donna Madore that the 1996 meeting between Ruggerio and Appellant had included discussion about whether Appellant used the vehicle assigned him to drive the Governor to pick up women at softball games, as well as discussion of extra-marital affairs of Appellant. Diamond told Ruggerio that Appellant had tape-recorded the 1996 meeting. Ruggerio was angry with Appellant for tape-recording the meeting (State's Exhibit 50a).

6. During the April 15 meeting, Diamond informed Ruggerio that Donna Madore had called the Middlesex Barracks of the State Police and Appellant had told the dispatcher not to log the call. Diamond also told Ruggerio that Donna Madore had called the Barre police during a time Appellant was at the family home during a child visitation exchange.

7. Diamond did not mention to Ruggerio any incidents of domestic assault by Appellant on Donna Madore, and did not use the terms domestic abuse or domestic assault in their conversation. Diamond and Donna Madore had discussed this, and it was agreed not to disclose any incidents of domestic assault because it was not to Donna Madore's advantage for Appellant to lose his job.

8. Shortly after the April 15 meeting, Major Ruggerio asked Lieutenant Timothy Bombardier, Internal Affairs Director, to contact the Barre police department to see if they had gone to the Madore home as a result of a complaint from Donna Madore. Bombardier contacted the Barre police and was informed that the police had not gone to the home. Ruggerio discussed Donna Madore's alleged call to the Middlesex Barracks with Ravenna and Bombardier. Ruggerio determined there was no evidence that Donna

Madore had called the Middlesex Barracks of the State Police and that Appellant had told the dispatcher not to log the call.

9. After the April 15 meeting with Diamond, Ruggerio met with Captain Donald Ravenna to discuss whether any of Appellant's actions discussed in the April 15 meeting could have constituted a violation of the Employer's Code of Conduct. Ruggerio focused particularly on whether Appellant could have violated the rules concerning employment outside of the department, soliciting and special privileges. Ruggerio concluded through these discussions that Appellant could not be charged with any violations of the Code of Conduct (State's Exhibits 50f and 50g).

10. On April 24, 1997, Ruggerio and Captain James Cronan, Appellant's immediate supervisor, met with Appellant to discuss the issues raised by Diamond in the April 15 meeting. During this meeting, there was no mention of domestic violence or domestic abuse by Appellant. Ruggerio and Cronan questioned Appellant about the calls Donna Madore allegedly made to the Barre police and the Middlesex Barracks. Appellant denied that the Barre police had ever come to the house as a result of a call made by his wife. Ruggerio also inquired into the reasons Appellant tape-recorded their 1996 meeting and communicated his displeasure with Appellant recording the meeting (State's Exhibits 50e and 52).

11. Captain Cronan took notes during the April 24 meeting in which he characterized the alleged calls to the Barre police and Middlesex Barracks as "domestic violence complaints", and under a section entitled "Judgment – (poor)" stated: "Troops Barre at home on domestic abuse". Cronan did not use the terms domestic violence and domestic abuse to convey that they had occurred, but to categorize the subjects they were

discussing. Cronan also used the term “domestic violence situations” to describe the alleged Barre and Middlesex calls in a summary of the April 24 meeting that he entered in a log on Appellant’s performance (State’s Exhibits 52 and 53).

12. In September of 1999, Major Ruggerio received a call from Donna Madore. Ruggerio decided not to talk with her but instead referred her to Lieutenant William O’Leary. Ruggerio wanted to avoid a conflict if Donna Madore sought to discuss a sensitive matter involving Appellant because Appellant had accused Ruggerio of harassing him.

13. On September 28, 1999, Lieutenant O’Leary reported to the Internal Affairs Unit on a DPS 1001 form, the form used in the department to make an internal affairs complaint, that Donna Madore had called him that day and made a complaint.

O’Leary stated as follows on the form:

The complainant alleges that she was physically abused over a three year period from 1993 – 1997. On one particular evening during 1996, she was allegedly assaulted by Lt. Madore to the point where she blacked out after being strangled. When she came to, she called the Middlesex Barracks in order to speak with a Trooper to try to get a Trooper to talk to Lt. Madore so as not to have to call the Barre Police. Allegedly, Dispatcher Madelyn Sinon was working and Sinon reportedly refused to let Ms. Madore speak with a Trooper unless she told Sinon exactly why she needed to speak with a Trooper. At some point during this conversation, Lt. Madore allegedly got on the phone while Donna Madore was speaking with the barracks, whereby Lt. Madore allegedly told Dispatcher Sinon that his wife was either drinking or suffering from emotional problems and further, that he allegedly told Dispatcher Sinon not to log the phone call in the barracks log. Ms. Madore advised she did not wish to pursue that assault complaint against Lt. Madore because she did not want him to lose his job. I have difficulty believing that Ms. Madore knew this assault complaint could be ignored in lieu of her alleged intended purpose for the call which was to ensure that dispatchers, in the future, do not prevent a Trooper’s wife from speaking with another Trooper when faced with the same issues. Ms Madore indicated further that she has a court order, not a restraining order, preventing Lt. Madore from entering her neighborhood when the visitation agreement was not in effect. This complaint is being filed based on alleged misconduct pertaining to the alleged assaultive behavior on the part of Lt. Madore, his alleged role in advising a

dispatcher not to log the call, and the role of a dispatcher who failed to let Ms. Madore speak to a Trooper when she asked to do so. It was not clear what Madore told Dispatcher Sinon for a reason she needed to speak with a Trooper. Ms. Madore advised she is difficult to reach at night but that for the period September 28 thru October 4, 1999 her phone would be kept available from 2000-2100 hours in the evening (State's Exhibit 40).

14. On the same day, but prior to completing the DPS 1001, O'Leary called Bombardier to tell him of the telephone call that he had received from Donna Madore. Bombardier called Dirk Anderson, an attorney with the Employer, to check on the statute of limitations for domestic and aggravated assault. Anderson informed Bombardier that both offenses had three-year statutes of limitations. Bombardier received the completed DPS form from O'Leary on September 29 (State's Exhibit 44).

15. At approximately 7:20 p.m. on September 28, prior to receiving the DPS 1001 from O'Leary, Bombardier spoke to Donna Madore concerning the allegations she had made to O'Leary. She informed Bombardier that she did not want to be involved in the investigation and that she did not want her children involved. She indicated that the children were the only witnesses to Appellant's violence against her. When Bombardier asked her for a timeframe for the violence, she responded the fall of 1996. She gave as a reason for not wanting to be involved in the investigation that she had post-traumatic stress disorder. She indicated that Judge Elizabeth Manley had agreed with this diagnosis. She also informed Bombardier that there were no doctor's reports and no documentation of the violence. She informed Bombardier that Barre police officer Jason Fleury had witnessed bruises she had from a kick from Appellant. Bombardier asked her if she had confided in any friends concerning Appellant assaulting her when it occurred. She mentioned Fleury and Dave Dwyer. Bombardier was familiar with Dwyer as an auxiliary police officer with the State Police. Donna Madore told Bombardier that she knew that

she would “not be able to prove this” because it was her “word against his” (State’s Exhibit 42).

16. Bombardier did not go to the Washington Family Court to review documents in the Madore divorce case because Donna Madore had told him that there was no documentation that Appellant had assaulted her. Bombardier called the Barre police department on or around September 28 to check whether that department had any information on Donna Madore’s complaint against Appellant, and was informed that there was no information. He did not seek to speak with Fleury because he assumed that, if Fleury had any information on an assault, it would be in a police report. Bombardier did not seek to talk with Dwyer.

17. Bombardier spoke with dispatcher Madelyne Sinon on September 30. He asked her whether she had received a telephone call from Donna Madore as described in the completed DPS 1001 form from Lieutenant O’Leary. Sinon told Bombardier that the only calls she received from Donna Madore were to “check to see where Dennis was” (State’s Exhibit 43).

18. After speaking with Sinon, Bombardier concluded that Donna Madore’s complaint against Appellant was not substantiated and decided to place the investigation on hold. He informed his superiors he was placing the case on hold. He decided not to further pursue the investigation unless Donna Madore decided to cooperate in it. He determined that notifying Appellant of the investigation would have closed the limited avenues of investigation open to him, and would have placed Donna Madore in “harm’s way”.

19. On June 12, 2000, Elizabeth Novotny, Employer General Counsel, provided Lieutenant David Harrington, who had succeeded Bombardier as Director of Internal Affairs in January 2000, with a copy of the decision of the Washington Family Court in the divorce case of Appellant and his wife. Novotny had received the court decision from Attorney Kimberly Cheney in response to an interrogatory of the Employer in a case pending before the Labor Relations Board, Docket No. 99-62, Appeal of Gloria Danforth. Cheney was Danforth's attorney in the case. Harrington read the court decision either the same day, or the day after, he received it. The decision indicated that Appellant had admitted to several instances of domestic assault of his wife and had engaged in extra-marital affairs (State's Exhibits 30, 59).

20. Lieutenant Harrington opened an investigation to determine whether Appellant had engaged in criminal conduct through domestic assaults of his wife. Harrington discussed the Washington Family Court decision with his superiors. They informed him of Bombardier's investigation the previous fall of Donna Madore's complaint against Appellant. Harrington spoke with Bombardier on June 14, 2000, and obtained from him the written materials related to that investigation (State's Exhibits 40 – 44).

21. Harrington then sought approval to spend the funds to order a transcript of Appellant's testimony before the Washington Family Court. After receiving approval, he ordered the transcript on June 23, 2000. Harrington waited to receive the transcript before conducting further investigation. He received the 169 page transcript on July 26, 2000 (State's Exhibits 30, 59).

22. Harrington spoke with Sinon on July 28, 2000, concerning the alleged telephone call that she had received from Donna Madore that had been previously investigated by Bombardier in the fall of 1999. Harrington was aware that Bombardier had contacted Sinon the previous fall, and he contacted her again to see if she had any relevant information. Sinon was unable to verify that the call had occurred as described by Donna Madore (State's Exhibits 30, 59).

23. Harrington notified Appellant on August 4, 2000, that an internal affairs investigation had been opened on him due to the domestic assault allegations, and that he wished to interview him. Harrington waited to notify Appellant until August 4 because he believed earlier notification might jeopardize the investigation due to the domestic violence nature of the allegations. Harrington was concerned that Appellant may act out against Donna Madore. He also wished to review Appellant's family court testimony prior to interviewing him to aid him in formulating his line of questioning of Appellant. Another factor in Harrington's delay in notifying Appellant was that he believed, based on his discussions with Bombardier, that Donna Madore may be uncooperative in the investigation (State's Exhibits 30, 59).

24. The first time Harrington contacted Donna Madore concerning the investigation was August 21, 2000. Harrington interviewed Appellant on September 6, 2000. Harrington submitted his investigation report on September 22, 2000, and a supplemental report on October 4, 2000 (State's Exhibits 30, 59).

OPINION

The issue before the Board is limited to whether the Employer violated Article 14 of the Contract by not instituting disciplinary proceedings within a reasonable time after a

violation of the Code of Conduct occurred, or was discovered, and not preferring charges in a timely manner. Appellant does not contest that just cause existed for his dismissal if the Employer did not violate the timeliness provisions of the Contract.

In a previous case applying the timeliness provisions of the Contract, the Board determined that the Employer waived the right to institute disciplinary proceedings against a State Police officer by violating the timeliness provisions. Appeal of Wells, 16 VLRB 52 (1993). Appellant argues that the Employer similarly violated the timeliness provisions here during three separate time periods. We will discuss each of these time periods in turn.

Appellant asserts that the internal affairs investigation and subsequent disciplinary proceedings, which gave rise to the pending grievances, were generated based on allegations of domestic violence made against him by his wife Donna Madore, including a specific allegation concerning a phone call made by her to the Middlesex Barracks during which Appellant told the dispatcher not to log the call. Appellant contends that this phone call was brought to the attention of the Employer as early as April of 1997.

It is true that the Employer first became aware of the existence of the telephone call in April of 1997. However, the evidence does not indicate that the Employer at this time was aware that the Middlesex call involved domestic violence allegations. During an April 15 meeting, Appellant's wife's divorce attorney informed Major Ruggerio that Donna Madore had called the Middlesex Barracks of the State Police and Appellant had told the dispatcher not to log the call. The attorney did not mention to Ruggerio that this

telephone call concerned an incident of domestic assault by Appellant on Donna Madore, and did not use the terms domestic abuse or domestic assault in their conversation.

We recognize that in a subsequent April 24, 1997, meeting among Ruggerio, Appellant and Appellant's supervisor, Captain Cronan, Cronan took notes characterizing the alleged Middlesex call, and another alleged call to the Barre police, as "domestic violence complaints". Cronan also stated in his notes that the alleged Barre call concerned "domestic abuse". He further used the term "domestic violence situations" to describe the alleged calls in a summary he prepared the day of the meeting to enter in a log on Appellant's performance.

Nonetheless, this does not result in a conclusion that the Employer was aware that the alleged Barre or Middlesex calls involved domestic violence allegations. Cronan did not use the terms domestic violence and domestic abuse to indicate that Appellant had committed such acts, but rather used them to categorize the subjects that were being discussed at the meeting. Although this explanation by Cronan is not entirely clear or satisfactory to demonstrate lack of awareness by the Employer of domestic violence allegations, it is consistent with the evidence that there was no discussion during the April 15 meeting between Major Ruggerio and Donna Madore's attorney indicating that the telephone calls concerned domestic assault by Appellant on Donna Madore.

The Board gives significant weight to the fact that Appellant was present at the April 24 meeting during which Cronan took notes. If he believed that discussion occurred during that meeting on the alleged calls involving domestic violence, he could have so testified at the hearing before the Board. However, he did not testify at the hearing, and

thus provided no evidence to bolster his allegation that the Employer was aware in April 1997 of domestic violence allegations against him.

Appellant next argues that in the fall of 1999 the Employer violated the requirement of Article 14 to institute disciplinary proceedings within a reasonable time after a violation of the Code of Conduct was discovered. Appellant argues that a violation occurred then because the internal affairs complaint form completed by Lieutenant O'Leary in September 1999, based on a complaint made by Donna Madore, clearly identified the Middlesex phone call as a domestic violence incident and also set forth that there was a court order between Appellant and Donna Madore.

We conclude that this argument fails when we focus on the specific incidents for which the Employer established that Appellant engaged in domestic assaults. The Employer presented no evidence supporting a charge of domestic assault in connection with the Middlesex call, and thus the Board concluded in our December 31, 2003, decision that the Employer had not established this charge. 26 VLRB at 293, 298-99. The issue of whether the Employer proceeded in a timely manner in instituting disciplinary proceedings with respect to the Middlesex call is moot since it does not involve a proven domestic assault offense of Appellant supporting Appellant's dismissal. Further, if we ultimately were to conclude that the Employer handled the issue in an untimely manner, it would not affect the validity of the timeliness of the other charges against Appellant.

Also, the fact that the September 1999 complaint set forth that there was a court order between Appellant and Donna Madore does not establish that the Employer was aware, or reasonably should have become aware, of other incidents of domestic assault against Appellant. The complaint form completed by Lieutenant O'Leary states in

pertinent part that Donna Madore “has a court order, not a restraining order, preventing Lt. Madore from entering her neighborhood when the visitation agreement was not in effect”.

A restraining order or relief from abuse order certainly would indicate a probability of physical violence or threat of violence. The fact that neither a restraining order nor a relief from abuse order was in effect could cause an investigator reasonably to not conclude domestic violence was involved. This conclusion is bolstered by the fact that Donna Madore told Lieutenant Bombardier that there was no documentation of domestic violence, that it was her “word against his”. Given such a representation, it was reasonable for Lieutenant Bombardier to conclude that the court order did not address domestic assaults by Appellant.

This is not to say that we do not have some concerns and questions with respect to the manner in which Lieutenant Bombardier conducted his investigation in the fall of 1999. Nonetheless, the evidence does not indicate that his investigation contributed to the Employer instituting disciplinary proceedings against Appellant in an untimely manner with respect to any of the proven domestic assault offenses supporting Appellant’s dismissal.

Appellant finally alleges that the Employer violated the requirement of Article 14 to institute disciplinary proceedings within a reasonable time after a violation of the Code of Conduct was discovered through the actions of Lieutenant Harrington between the time when he became aware of domestic assault allegations against Appellant on June 12, 2000, and when he notified Appellant on August 4, 2000. Appellant alleges that Harrington failed to institute disciplinary proceedings within a reasonable time by failing

to notify Appellant of the allegations for more than seven weeks despite the language of the Employer's rules and regulations requiring prompt notification.

The failure of the Employer to notify a State Police officer as soon as possible after an allegation is made against the officer can contribute to a determination that the Employer violated the timeliness provisions of Article 14. Appeal of Wells, 16 VLRB at 62-63. This is a significant due process protection accorded to employees to defend against allegations of misconduct.

Nonetheless, the Employer's rules and regulations relied on by Appellant create an exception to the requirement of notification to the employee "as soon as possible after receipt of an allegation" by stating: "if to immediately notify the member against whom the allegation was made might jeopardize the investigation into the allegation, the Internal Affairs Unit or the Commissioner may commence an investigation without notifying the member and may postpone notification of the member until such time as it would not jeopardize the investigation." We therefore must determine if Lieutenant Harrington appropriately determined that it would jeopardize the investigation if he notified Appellant of the allegations prior to August 4, 2004.

We conclude that the delay here was reasonable and that it resulted in no harm or prejudice to Appellant. It was reasonable for Harrington to conclude that earlier notification might jeopardize the investigation of the domestic violence incidents based on concerns that Appellant may act out against Donna Madore. Harrington knew from reviewing the family court decision that there were several cited instances of Appellant engaging in domestic assault of his wife, and responsibly delayed notification to Appellant to minimize the timeframe in which Donna Madore potentially would have

been subject to violent response from Appellant during the pendency of the investigation. He acted with appropriate caution in not making Appellant aware of the investigation into the assault incidents until he had more specific information about them to proceed with his investigation, including a transcript of Appellant's family court testimony. It also was reasonable for Harrington to wish to review Appellant's family court testimony prior to interviewing him to aid in formulating his line of questioning of Appellant.

Harrington acted with a reasonable degree of diligence in ordering the transcript of Appellant's testimony and reviewing the transcript once he obtained it. Much of the delay in notifying Appellant was caused by Harrington awaiting receipt of the transcript from the court, a situation beyond his control. Harrington notified Appellant of the allegations nine days after receipt of the transcript, a reasonable timeframe under the circumstances.

In sum, we conclude that Appellant has not demonstrated that the Employer violated Article 14 of the Contract by not instituting disciplinary proceedings within a reasonable time after a violation of the Code of Conduct occurred or was discovered and not preferring charges in a timely manner. Thus, since Appellant does not contest that just cause existed for his dismissal if the Employer did not violate the timeliness provisions of the Contract, we dismiss his appeal of his dismissal.

ORDER

Based on the foregoing findings of fact and for the foregoing reasons; and in consideration of the Findings of Fact, Opinion and Order issued by the Labor Relations Board in this matter on December 31, 2003; it is ordered that the Appeal of Dennis Madore is dismissed.

Dated this 12th day of July, 2004, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

Edward R. Zuccaro, Acting Chairperson

Carroll P. Comstock

Joan B. Wilson