

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In re:

N.M. STATE POLICE ASSOCIATION
Complainant,

v.

PELRB No. 137-09

N.M. DEP'T. OF PUBLIC SAFETY,
Respondent

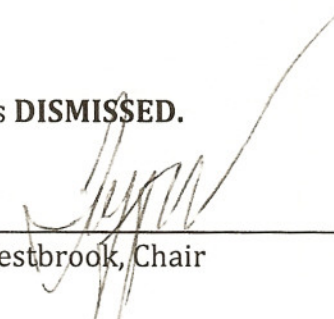
ORDER

THIS MATTER comes before the Board on the Hearing Officer's Dismissal of the above-captioned case based on representations that the matter has been settled. On a vote of 3-0 during the Board's regularly scheduled July Board meeting the Board voted to adopt and ratify the Executive Director's Dismissal of this case for the reasons stated in the Executive Director's Dismissal.

WHEREFORE, IT IS HEREBY ORDERED:

The above-captioned action shall be and hereby is **DISMISSED**.

Dated: 7-13-12



Duff Westbrook, Chair

SUSANA MARTINEZ
Governor

Duff Westbrook, Board Chair
Wayne Bingham, Vice-Chair
Roger E. "Bart" Bartosiewicz, Board Member

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

2929 Coors Blvd. N.W., Suite 303
Albuquerque, NM 87120
(505) 831-5422
(505) 831-8820 (Fax)

THOMAS J. GRIEGO
Executive Director

June 8, 2012

Germaine R. Chappelle
General Counsel, Dept. of Public Safety
P.O. Box 1628
Santa Fe, NM 87504-1628

Justin Leskey
Attorney at Law
8210 La Mirada Place NE, Suite 600
Albuquerque, NM 87109

RE: *NM State Police Assoc. v. NM Dept. of Public Safety; PELRB 137-09*

Dear Ms. Chappelle and Mr. Lesky:

I am aware that Mr. Lesky no longer represents the Complainant in the above-referenced case and that Ms. Chappelle no longer works for the Respondent agency. I am sending this to both of you nevertheless because you remain as counsel of record. Although there is correspondence in the Board's file indicating that this case was settled, neither side has been able to present me with an executed copy in order that I might close out this case. (I do have an unsigned settlement agreement). Accordingly, in order to bring closure, I am closing this case pursuant to NMAC 11.21.1.29 either because all administrative and judicial proceedings related to the case are completed or because the moving party has taken no action within the previous six months. This dismissal will be reviewed by the Public Employee Labor Relations Board at their next regularly scheduled Board meeting in July.

Sincerely,

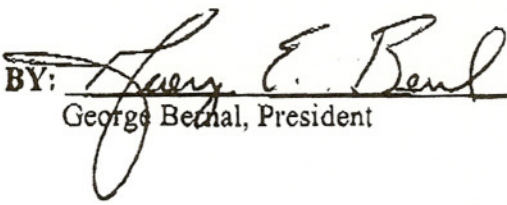
Thomas J. Griego
Executive Director, PELRB

Cc: Sandy Martinez, SPO

**SETTLEMENT AGREEMENT BETWEEN
THE DEPARTMENT OF PUBLIC SAFETY
AND
THE STATE POLICE ASSOCIATION**

Before a merits hearing was conducted in PELRB Case No. 137-09, *New Mexico State Police Association v. New Mexico Public Safety Department*, the parties desired to amicably resolve the prohibited practice complaint filed by the Association against the Department. The State Police Association agrees to withdraw the Prohibited Practice Complaint and the Department agrees to post, at a time and place(s) subsequently agreed to by the parties, the attached Notice, incorporated and attached as Attachment 1. Prior to this Agreement, the Association has not requested the Department to post such a notice and the Department is agreeable to posting such notice upon request by the Association in accordance with applicable law. Neither this Settlement Agreement, nor the posting of the attached Notice, should be construed as a finding of any legal violation committed by the Department, Major Pete Kassetas, or the Association. Instead, it is being issued to settle the complaint and inform the Department's employees of their rights and duties under the New Mexico Public Employee Bargaining Act.

NEW MEXICO STATE POLICE ASSOCIATION

BY: 
George Bechal, President

DATE: 3-31-2010

NEW MEXICO DEPARTMENT OF PUBLIC SAFETY

BY: _____
John Denko, Secretary

DATE: _____

Reviewed as to legal form and sufficiency
New Mexico Department of Public Safety, Office of Legal Affairs

By: _____
General Counsel or Designee

DATE: _____

Attachment 1

**NOTICE TO EMPLOYEES
POSTED BY THE DEPARTMENT OF PUBLIC SAFETY
AND THE STATE POLICE ASSOCIATION**

A. RIGHT TO ORGANIZE AND COLLECTIVELY BARGAIN

1. Public employees, other than management employees, supervisory employees, and confidential employees, have the right to form, join or assist labor organizations for the purpose of collective bargaining through representatives chosen by the public employees without interference, restraint or coercion, and public employees have the right to refuse such activities.

2. To become certified as the exclusive representative of an appropriate bargaining unit, a labor organization must file a certification petition with the PELRB. The petition must include a showing of interest of at least thirty-percent (30%) of the members of the proposed bargaining unit, which is usually accomplished through signatures obtained on authorization cards indicating that the employees desire the labor organization to represent them for collective bargaining purposes. The PELRB treats the showing of interest as confidential information that will not be released to the public employer.

3. Certification can take place one of two ways. The PELRB may conduct a secret-ballot election. Alternatively, the parties may agree to voluntarily recognize the labor organization as the exclusive representative if the labor organization can demonstrate to the PELRB that it represents a majority of employees in the bargaining unit, which is usually accomplished through authorization cards.

4. If a labor organization is certified as the exclusive representative of public employees in an appropriate bargaining unit, then the exclusive representative may negotiate a collective bargaining agreement with the public employer.

5. The exclusive representative and the public employer are required to negotiate in good faith on wages, hours and all other terms and conditions of employment and other issues agreed to by the parties. The agreement must contain a grievance procedure to be used for the settlement of disputes pertaining to employment terms and conditions and related personnel matters. The agreement must be reduced to writing and it is enforceable. However, the parties cannot make any agreement that is in conflict with the provisions of any state statute.

B. PROHIBITED PRACTICES

1. Public employers or their representatives shall not:

- A. discriminate against a public employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;
- B. interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the Public Employee Bargaining;
- C. dominate or interfere in the formation, existence or administration of a labor organization;
- D. discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization;
- E. discharge or otherwise discriminate against a public employee because he has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization;
- F. refuse to bargain collectively in good faith with the exclusive representative;
- G. refuse or fail to comply with a provision of the Public Employee Bargaining Act or PELRB rule; or
- H. refuse or fail to comply with a collective bargaining agreement.

2. A public employee or labor organization or its representative shall not:
 - A. discriminate against a public employee with regard to labor organization membership because of race, color, religion, creed, age, sex or national origin;
 - B. interfere with, restrain or coerce any public employee in the exercise of a right guaranteed pursuant to the provisions of the Public Employee Bargaining Act;
 - C. refuse to bargain collectively in good faith with a public employer;
 - D. refuse or fail to comply with a collective bargaining or other agreement with the public employer;
 - E. refuse or fail to comply with a provision of the Public Employee Bargaining Act; or
 - F. picket homes or private businesses of elected officials or public employees.

3. Prohibited practices complaints must be filed with the PELRB.

If you have any questions or need any information regarding the New Mexico Public Employee Bargaining Act, please contact the PELRB.

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST THIRTY (30) CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED WITH ANY OTHER MATERIAL.