Decision mailed: 1/28/11
Civil Service Commission

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS:

CIVIL SERVICE COMMISSION
One Ashburton Place- Room 503
Boston, MA 02108
(617) 727-2293

DANIEL DINICOLA,
Appellant

v.

DOCKET NO. D1-08-200

CITY OF METHUEN,
Respondent

Appellant:

S. L. Romano, Regional Coordinator
New England Laborers' Labor Management
Cooperative Trust
226 So. Main Street
Providence, RI 02903

Respondent:

Peter J. McQuillan, Atty.
Office of the City Solicitor
41 Pleasant Street, Room 311
Methuen, MA 01844

Commissioner:

Daniel M. Henderson

DECISION

The Appellant, Daniel Dinicola, (hereinafter "Appellant" or "Dinicola") filed an appeal with the Civil Service Commission (hereinafter "Commission") claiming that the City of Methuen (hereinafter ("City" or "Appointing Authority") did not have just cause to terminate his employment with the City of Methuen Water Treatment Plant because of his failure of random drug test, of a urine sample taken on July 2, 2008. The Appellant filed this appeal pursuant to

the provisions of G. L. c. 31, §. 41, from a decision of the Mayor of the City of Methuen dated August 13, 2008. Wherein, after a City of Methuen hearing on July 30, 2008, just cause was found for termination of the Appellant's employment with the City of Methuen Water Treatment Plant. The Appellant filed a timely appeal with the Commission. A full hearing was held at the Commission on January 28, 2010. The full hearing was digitally recorded. Both parties filed post-hearing proposed decisions.

FINDINGS OF FACTS:

Based upon the documents entered into evidence (Exhibits 1 through 10) and the testimony of Michael Sheehan ("Sheehan"), Supervisor of the Water Treatment Plant of the City of Methuen, Colleen McCarthy ("McCarthy"), Director of Human Resources, City of Methuen, and Michael Gagliardi, ("Gagliardi") Business Manager of LIUNA, Local 175;

I find the following:

1. Daniel Dinicola ("Appellant") was employed full time as a Treatment Plant Operator at the Methuen Water Treatment Plant facility ("MWTP") from 2002 up until the time of his termination on July 21, 2008. At all relevant times herein he worked the 6:00 pm to 6:00 am shift except for Tuesdays. (Testimony of Michael Sheehan)

2. The Appellant is a member of Laborers' International Union of North America ("Union") Local 175, a party to a collective bargaining agreement ("CBA"), with the City of Methuen (Exhibit 3, testimony of Michael Gagliardi)

3. The position of Water Treatment Plant Operator is a "safety sensitive" position. Duties of said position include, but are not limited to, monitoring the complete system of the plant, pumping of , chemical usage, storage and adjustment; flow amounts, laboratory testing. (Testimony of

Michael Sheehan)

4. The MWTP is the cleansing and purification facility for the purpose of purifying water to be potable, consumed by residents of communities of Methuen as well as parts of Dracut. (Testimony of Michael Sheehan)

5. Any misstep or negligence in the use and adjustment of certain chemicals during the treatment and purification of water by a treatment plant operator could result in serious physical harm to the consuming public. A caustic or burning chemical, sodium hydroxide, is used in addition to other toxic chemicals in the process. Inappropriate levels of treatment chemicals could cause the proliferation of bacteria in the system leading to a buildup of methane gas, a potentially dangerous situation. Another potentially dangerous situation could arise due to the overfilling of chemical holding tanks, spreading chemicals in the work area and onto equipment. (Testimony of Michael Sheehan)

6. The Appellant is the holder of a Commercial Drivers License and as such is subject to random drug testing by the Department of Transportation("DOT") under the Omnibus Transportation Employee Testing Act of 1991 and a policy directive of the City Mayor. (Exhibit 1, Testimony of Colleen McCarthy and Michael Sheehan)

7. The random drug testing that is conducted by the Department of Transportation, (DOT) on holders of Commercial Drivers Licenses (CDL) in the City of Methuen is coordinated through a company known as Compliance Network of New England on behalf of the Department of Transportation. A division of compliance network known as Occupational Drug Testing, LLC is the entity that actually conducts the on-site random drug samples and testing. (Testimony of Colleen McCarthy)

8. Each quarter of the calendar year the Human Resources Department of the City of Methuen ("HR") is notified by Compliance Network of New England ("CNNE") of the latter's intent to conduct random drug testing of city employees holding Commercial Drivers Licenses. CNNE is a DOT approved contractor for this testing service. HR provides to Compliance Network of New England the names and shift availability of those employees holding such licenses from the various departments in the City of Methuen. Compliance Network of New England then selects names from the list for random testing and advises HR of the time and place for such drug testing and the employees to be tested. (Testimony of Colleen McCarthy)

9. On July 2, 2008 at approximately 6:00 PM, Ms. McCarthy and another employee of the City's HR, Ms. Jill Stackelin met the representatives driving the testing van of the Occupational Drug Testing, LLC at the MWTP for the purposes of monitoring the random drug test sample-taking. Two employees had been selected to be tested at that time including the Appellant. Ms. Stackelin went into the Plant and retrieved the two employees. Ms. McCarthy remained outside the Plant and identified the two employees as they reported to the testing van. The other employee was then tested in the van. (Testimony of Colleen McCarthy)

10. At that time, Ms. McCarthy had the opportunity to personally observe the Appellant when told he was to be tested. He appeared: "apprehensive" "nervous", "anxious", "fidgety and pacing ..." He insisted on returning back into the plant while at the drug testing van "to check some levels". He was accompanied by Jill Stackelin, as required, when he re-entered the plant. He returned outside the plant shortly thereafter and was walking around in a circle for a period of approximately 45 minutes, continuing to act: "apprehensive" "nervous", "anxious" "fidgety. "His behavior was noteworthy." He was observed drinking from a large bottle of water stating

that he was unable to "to go" and finally did enter the van, a portable facility provided by Occupational Drug Testing, LLC for the purposes of taking the urine testing sample. (Testimony of Colleen McCarthy)

11. On July 2, 2008, DOT approved contractor Occupational Drug Testing, LLC conducted on-site random drug testing sample-taking of two employees of the MWTP including the Appellant. Said test entailed the analysis of a urine sample of the employees. The results of the on-site random drug test on July 2, 2008 showed the Appellant tested positive for cocaine. The notice of positive results is signed by William N. Windler, MD, MROCC, with a verification date of 7/11/2008. (Exhibit 6, testimony of Colleen McCarthy)

12. Occupational Drug Testing, LLC is a subsidiary or division of Compliance Network of New England, used for drug testing purposes. The test results identified here is the report received by the witness in the normal course of her duties and is in the form similar to other reports she has received in the normal course of her duties. (Exhibit 6, testimony of Colleen McCarthy)

13. It is standard operating procedure for Occupational Drug Testing, LLC to notify Ms. McCarthy as director of the HR of the results of the tests. If the results were negative she would normally get an email. However, if the results were positive she would first receive a telephone call followed as well by an email; which occurred in this matter. (Testimony of Colleen McCarthy)

14. It is standard operating procedure of the Occupational Drug Testing, LLC to first notify the employee of the result of the test before notifying the employer. The procedure is for the

Doctor who has read and verified the test results for the testing company to call the employee first regarding the results. (Testimony of Colleen McCarthy)

15. On or about July 10, 2008, a meeting with Raymond DiFiore, Director of Public Works for the City of Methuen and Colleen McCarthy and the Appellant occurred; at that meeting, the Appellant admitted ingesting cocaine at a party the night before the random drug test on July 2, 2008. This meeting occurred in DiFiore's office. (Testimony of Colleen McCarthy)

16. On July 21, 2008 the Appellant was notified in writing by McCarthy that he was terminated from his position as a water treatment plant operator effective July 10, 2008. The reasons stated in the letter for termination was: failure of a DOT regulated drug test as per the union contract or CBA and City Ordinance and also for engaging in unprofessional conduct while on duty. (Exhibit 4, testimony of Colleen McCarthy)

17. On July 21, 2008 the Union filed a grievance on behalf of the Appellant, regarding his drug testing and termination, pursuant to the collective bargaining agreement. On July 30, 2008 a hearing was held thereon. (Testimony of Michael Gagliardi) *(See also Finding of Fact 10. Decision on Motion for Summary Decision, dated September 10, 2010)*

18. On August 13, 2008 the Mayor adopted the findings of the hearing officer and upheld the termination of the Appellant. (Testimony of Michael Gagliardi) *(See also Finding of Fact 11. Decision on Motion for Summary Decision, dated September 10, 2010)*

19. Drug and alcohol testing of employee union members is covered by the CBA. The union was aware of the random drug testing City policy and procedure for a "significant period of time" prior to the testing of the Appellant in this matter. The union was aware of the CFR requirements regarding drug testing prior to and at the time of the Appellant's testing. The union

was aware of the short window of time available for an independent private drug test to be done, for it to be applicable to an initial test, resulting in a positive result. The union was aware that by waiting for a report of a positive test result before seeking a private independent test, would likely result in a test sample being too stale to be viable as a relevant comparative test result. The union Business agent was aware of potential CBA issues such as: chain of custody of test samples, union representative presence at the taking of the testing sample and other potential issues related to the CBA and/or the CFR on drug testing protocols, prior to and at the time of the Appellant's testing. The witness has never asked the City's HR Department to be present on site during the taking of samples for drug testing. The witness Business agent has been representing union member employees for 17 years and City of Methuen members for 10 years. The union filed a grievance on the Appellant's termination and the drug testing process covering a multitude of testing and procedural issues. The witness was asked directly by this hearing officer why arbitration was not the best forum to address the termination and all of the alleged testing protocols covered by the CBA and by extension the CFR, especially since it is now, after the testing has already been done? The witness answered simply that it was believed that the Civil Service Commission was the Appellant's best option under the circumstances. (Testimony of Michael Gagliardi)

20. A copy of the City's Employee Handbook and Personnel Policies is given to each employee along with periodic updates as they are issued. Each employee is obligated to be aware of and to abide by the enumerated policies and updated policies. The Handbook, under Alcohol and Drug Policy, specifically forbids the use of drugs and alcohol while on duty. It also forbids "off duty illegal drug activity that could adversely affect an employee's job performance, or that could jeopardize the safety of other employees, the public or Town property or equipment is

proper cause for administrative or disciplinary action, up to and including termination of employment." It specifically lists cocaine as one of the illegal drugs. (Exhibit 2, testimony of Sheehan, McCarthy and Gagliardi)

21. Said CBA makes reference to the applicability of "the Drug Testing Policy as provided for in the 1987-1988 collective bargaining agreement." It further states that the parties will "conform to the requirements of Federal and State law as it applies to this issue." (Exhibit 3, Article XXXIII)

22. The union Business Agent believes that the CBA supersedes the Employee Handbook on the issue of drug testing. (Testimony of Michael Gagliardi)

23. The Methuen Water Treatment Plant (MWTP) at all relevant times herein maintained its own employment policies including the prohibition of the use of drugs or being under the influence of drugs during working hours. The Policy Order of the Mayor dated May 3, 1994 states in relevant part that the employee shall not report for duty while under the influence of any narcotic drug or controlled substance unlawfully administered. It further prohibits an employee, while off duty rendering them unfit to report for duty through the use of any narcotic drug or controlled substance unlawfully administered. (Exhibit 9) It is noted that cocaine is an illegal Class B controlled substance pursuant to G.L. c. 94C § 32. (Administrative notice)

24. The collective bargaining agreement (CBA) between the Union and the Respondent specifically incorporates the provisions of the "Methuen Water Treatment Plant – Plant Policy" (Exhibit 3, p. 14, Section 7; Exhibit 9).

25. The MWTP Policies incorporate the "Policy Order of the Mayor" dated May 3rd, 1994 which provides in relevant part, as follows:

> "Use of Intoxicating Beverages and Drugs - An employee shall not, while on duty, consume any alcoholic beverage and shall not, while on duty, use any narcotics, controlled substance or other toxic drug except at the direction of a physician for a specific health purpose...An employee shall not report for duty while under the influence of intoxicating liquor or under the influence of any narcotic drug or controlled substance unlawfully administered. Violations of this policy order shall be grounds for disciplinary action, up to and including discharge." (Exhibit 9)

26. In September 1996 the City of Methuen adopted and revised on May 8, 1998 the "Town of Methuen, Massachusetts Employee Handbook and Personnel Policies" (Employee Handbook") The same provides in relevant part that:

> "The illegal use, sale or possession of narcotics, drugs, or controlled substances while on the job; or on Town property, is an offensive warranting discharge. Off-the job illegal drug activity that could adversely affect an employee's job performance, or that could jeopardize the safety of other employees, or the Town property or equipment is proper cause for administrative or disciplinary action, up to and including termination of employment" (Exhibit 2, pp. 36-37).

27. The Appellant has not shown or demonstrated any conflict between the relevant employment policies of the MWTP and the Employee Handbook. Both provide for the discipline up to discharge of an employee for on duty violations, such as identified here. (Exhibits 2 & 9)

28. The union knew of the random drug testing of its members who held Commercial Drivers Licenses (CDL) by the DOT for a "significant period of time" prior to the positive testing of the Appellant. (Testimony of Michael Gagliardi)

29. In the 17 years that Michael Gagliardi had represented employees/members of his union he has never filed a grievance on behalf of an employee for the taking of urine sample for drug testing. (Testimony of Michael Gagliardi)

30. Michael Sheehan, Superintendent of the MWTP testified that on May 14, 2008, the Appellant was disciplined by him in the form of an Employee Warning Notice for "Failure to

monitor the water level while filling the corrosion inhibitor batch tank causing some of the new plant equipment to become submerged." (Exhibit 5, testimony of Sheehan)

31. The testimony of both Sheehan and McCarthy was both knowledgeable and forthright. Their answers were responsive and appropriate. They both exhibited sincerity, confidence and a good memory. They did not conjecture, embellish or amplify their responses beyond their knowledge. They were both unhesitant in providing testimony that was clear, detailed and consistent. They did not waiver or modify their testimony under cross-examination. Their demeanor, body language including eye contact, phrasing and word choice had all the indicia of accuracy and reliability. I find no indication of any bias against the Appellant. I find them to be reliable and credible witnesses. (Demeanor of Mr. Sheehan and Ms. McCarthy)

32. The testimony of Gagliardi was polite, poised and professional. He seems like a knowledgeable and experienced witness. However, his motive to help the Appellant, a member of his union was obvious. His desire to focus on procedural details of the CBA and by reference the CFR, over substantiated material facts was the consistent thrust of his testimony. He believes the CBA supersedes the Employee Handbook on the issue of drug testing. He seems to believe that the CBA should be wielded as a significant procedural obstacle for the City to overcome, in the implementation of random drug testing. I find Gagliardi to be a highly motivated and interested party, seeking a favorable result for the Appellant, a member of his union. He gave some substantive testimony regarding the Appellant's history with the use of drugs. He described his involvement in the negotiation of a "Last Chance Agreement" regarding Appellant's incident in 2004 on drug–related criminal charges and advising the Appellant to reject said agreement as well as the City's offer of its Employment Assistance Program to the Appellant. Otherwise, his

testimony contained very little based on his first-hand knowledge of relevant material or substantive facts. (Demeanor and Testimony of Michael Gagliardi)

33. On September 16, 2004 the Appellant was placed on administrative leave by the Director of Public Works, for pending drug related criminal charges. Sheehan was aware of this matter at the time, by hearing about it from others and that it was "in the news". (Exhibit 8; Testimony of Michael Gagliardi and Michael Sheehan)

34. As a result of administrative leave due to the criminal charges, he was offered a one-year Last Chance Agreement of settlement/rehabilitation through the Employee Assistance Program of the City. (Exhibit 7, Testimony of Michael Gagliardi and Colleen McCarthy)

35. The Appellant has offered no qualified evidence to show that the methods or procedures used by the City of Methuen or Occupational Drug Testing, LLC in the collection of urine samples and the testing of the same for the presence of drugs on July 2, 2008 were flawed. (Testimony and exhibits)

36. The Appellant knew, by virtue of the "Last Chance Agreement", negotiated and possibly rejected by the Appellant or the union on his behalf in 2004, that his alleged drug –related misconduct could result in termination. Gagliardi believes the Agreement was negotiated but not fully executed but McCarthy believes that it was executed and in place for 1 year, from 11/24/2004 to 11/24/2005. (Testimony of Michael Gagliardi and Colleen McCarthy, Exhibit 7)

37. The Appellant chose not to testify at this Commission hearing.

38. The Appellant, if he had testified, could have offered first hand rebuttal testimony regarding such issues as: his use of cocaine; his behavior at the time of the test sample-taking;

his admission to the use of cocaine on the night before the test sample-taking; the test sample-taking process in the van; the on-duty incident of negligence/inattention, for which he received a written warning; his arrest on drug charges resulting in his administrative leave, Last Chance Agreement and EAP rehabilitation participation; or any other issue. Given the posture of the evidence at this Commission hearing when the City rested; I draw an adverse inference against the Appellant; that is, that if he had testified here and had been examined by the City's counsel, his testimony on balance would have been unfavorable to the success of his appeal. (Testimony and exhibits, reasonable inferences)

CONCLUSION

The issue before the Commission is whether the City of Methuen had just cause to terminate the Appellant's employment. I conclude that the City has demonstrated by a preponderance of the credible evidence in the record, that it had just cause to terminate the Appellant's employment.

The Civil Service Commission must decide whether "there was reasonable justification for the action taken by the appointing authority in the circumstances found by the commission to have existed when the appointing authority made its decision." *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-728 (Mass. App. Ct. 2003) (citing *Watertown v. Arria*, 16 Mass. App. Ct. 331, 334 (Mass. App. Ct. 1983)). Reasonable justification indicates the Appointing Authority's action was taken "upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law." *Brackett v. Civil Serv. Comm'n*, 447 Mass. 233, 241 (Mass. 2006) (*citing Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex*, 262 Mass. 477, 482, 160 N.E. 427 (1928)). The

Commission determines justification for discipline by inquiring, "whether the employee has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service." *Murray v. Second Dist. Ct. of E. Middlesex,* 389 Mass. 508, 514 (1983); *see School Comm. of Brockton v. Civil Serv. Comm'n*, 43 Mass. App. Ct. 486, 488 (1997).

Under G.L. c. 31, § 43, the Commission must affirm the Appointing Authority's decision if the Commission decides, using a preponderance of evidence standard, if there was a just cause for the Appointing Authority's action. Mass. Gen. Laws ch. 31, § 43. The preponderance of evidence standard is satisfied when "it is made to appear more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or minds of the tribunal notwithstanding any doubts that may still linger there." *Tucker v. Pearlstein*, 334 Mass. 33, 35-36 (Mass. 1956).

The Appellant has offered no reliable and qualified evidence to refute positive test result for cocaine indicating his ingestion of an illegal controlled substance and the presence of that substance in his system during work hours. The positive tests result of DOT approved Occupational Drug Testing, LLC showing the presence of cocaine in Appellant's urine while he was on duty were independently corroborated by the Appellant's admission shortly after the test results, to both Colleen McCarthy and Raymond DiFiore that he had ingested cocaine at a party the night before the random drug test. The positive test result was further corroborated by the Appellant's unusual behavior at the time of the random sample taking. At that time, Ms. McCarthy had the opportunity to personally observe the Appellant when told he was to be tested. He appeared: "apprehensive" "nervous", "anxious", "fidgety and pacing ..." He insisted on returning back into the plant while at the drug testing van "to check some levels". He was

accompanied by Jill Stackelin, as required, when he re-entered the plant. He returned outside the plant shortly thereafter and was walking around in a circle for a period of approximately 45 minutes, continuing to act: "apprehensive" "nervous", "anxious" and "fidgety". "His behavior was noteworthy."

The Appellant offered no evidence showing or demonstrating that the ingestion of cocaine at that time was somehow legally justified or excusable. The Appellant offered no evidence to refute the reasons for termination. The reasons stated in the letter for termination was: failure of a DOT regulated drug test as per the union contract or CBA and City Ordinance and also for engaging in unprofessional conduct while on duty.

The evidence supports the conclusion that the Appellant ingested cocaine, an illegal controlled substance, either while on duty or shortly before reporting for duty. The Appellant admitted to the ingestion of cocaine the night before the taking of the test sample. The positive test result is in conformity with that admission. His admission, supported by his state of mind or his unusually nervous behavior at the time of the taking of the test sample also corroborates the positive test result.

However, the City also had the Appellant's past discipline of a warning notice for on the job negligence or inattention which caused damage to City equipment on May 14, 2008. Inattention or negligence in the performance of duties is both a disciplinary matter and possibly could be behavior related to drug usage. The City also had the information regarding the Appellant's arrest for criminal drug offenses in September, 2004. The Appellant was placed on administrative leave pending the resolution of the criminal charges. He also negotiated with the City, a one-year "Last Chance Agreement" involving rehabilitative treatment prescribed by the "Employee Assistance Program" as a result of the criminal charges and his administrative leave.

According to Colleen McCarthy, this Agreement was in effect from 11/24/2004 to 11/24/2005 and called for random drug testing and the Appellant's termination for any failure to comply with the Agreement. The Appellant was put on notice as a practical matter by this negotiated Agreement that the City could terminate him for any similar subsequent misconduct.

The Appellant, if he had testified, could have offered first hand rebuttal testimony regarding such issues as: his use of cocaine; his behavior at the time of the test sample-taking; his admission to use of cocaine on the night before the test sample-taking; the test sample-taking process in the van; the on-duty incident of negligence/inattention, for which he received a written warning; his arrest on drug charges resulting in his administrative leave, a Last Chance Agreement and EAP rehabilitation participation; or any other issue. Given the posture of the evidence at this Commission hearing when the City rested; an adverse inference against the Appellant is drawn; that is, that if he had testified here and had been examined by the City's counsel, his testimony on balance would have been unfavorable to the success of his appeal.

Having a controlled substance in your system while on duty is substantial evidence of "unfitness" and "unprofessional conduct". It is illegal per se and could adversely affect job performance with serious and deleterious health and safety consequences for fellow employees, the City and the consuming public. The injury, damages and liability on all levels could have been catastrophic. See *Burroughs v. Town of Shrewsbury,* 14 MCSR 132 (2001)

It is a common sense understanding that being on duty in a "safety sensitive" position while having an illegal controlled substance in your system is improper and potentially dangerous. Additionally, the use of a controlled substance under the circumstances found here is a clear employee violation of City policy; whether contained in the Mayor's policy directive, the Employee Handbook or the MWTP policies. These various applicable policies are sufficiently or

specifically referenced and/or incorporated, and are consistent, compatible and unambiguous. In sum, the applicable City policy gives an employee fair notice of proper conduct and discipline resulting from this type of misconduct. Discipline by a public employer is appropriate when an "employee has been guilty of substantial misconduct which adversely affect the public interests..." See e.g. *Murray v. Justices of the Second Dist. Court of E. Middlesex,* 389 Mass. 508, 514, (1983). Accordingly the commission must sustain disciplinary measures when, by a preponderance of evidence, it finds just cause for the action taken by the appointing authority. *Town of Falmouth vs. Civil Service Commission*, 61 Mass. App. Ct. 796, 800, 814, N.E.2d 735 (2004) " [T} he question for the commission is not whether it would acted as the appointing authority had acted, but whether, on the facts found by the commission there was reasonable, justification for the action taken by the appointing authority in the circumstance found to be existed on the appointing authority made its decision. *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-728, 792 N.E.2d 711, *citing*, *Watertown v. Arria*, 16 Mass. App. Ct. 311, 334, 451 N.E.2d 443 (1983).

The termination of the Appellant was justified and supported by a preponderance of the credible evidence in the record. His actions constituted a disregard for the safety of the citizens of both Methuen and Dracut while creating the potential for an extraordinary level of liability to the City. The Appellant's past history with controlled substances and his apparent inability to successfully overcome his drug related problems presents a serious risk for the City; if he were allowed to remain employed. The incident upon which the immediate matter of termination is predicated clearly reflects the unfitness of the Appellant to perform the required duties of a safety –sensitive position.

In sum, the City showed by a preponderance of the credible and persuasive evidence in the record, that it had just cause to terminate the Appellant's employment as a treatment plant operator at the Methuen Water Treatment Plant.

For all of the above, the decision of the City is affirmed and the Appellant's Appeal under Docket No. D1-08-200 is hereby ***dismissed.***

Civil Service Commission,

Daniel M. Henderson
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, McDowell, Stein and Marquis, Commissioners) on January 27, 2011.

A true record. Attest:

Commissioner

Commissioner Marquis was absent on January 27, 2011

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the commission's order or decision.

Notice to:
Peter J. McQuillan, Atty.
S. L. Romano