COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place: Room 503
Boston, MA 02108

JOHN HACKETT,
Appellant

v. D-06-191

DEPARTMENT OF STATE POLICE,
Respondent

Appellant's Attorney:	Joseph P. Kittredge, Esq. Rafanelli & Kittredge 1 Keefe Road Acton, MA 01720
Respondent's Attorney:	Michael B. Halpin, Esq. Office of the Chief Legal Counsel Department of State Police 470 Worcester Road Framingham, MA 01702
Commissioner:	John E. Taylor

DECISION

Pursuant to G.L. c. 31 § 43, and c. 22C § 3, as amended by Chapter 43 of the Acts of 2002, the Appellant John Hackett (hereinafter "Hackett" or "Appellant"), is appealing the discipline imposed on him by the Department of State Police (hereinafter "State Police" or "Respondent"). The appeal was timely filed. A full hearing was held on January 9, and January 25, 2007 at the offices of the Civil Service Commission (hereinafter "Commission"). Upon written motion of

the Appellant, a public hearing was conducted. Five (5) audiotapes were made of the hearing and are held at the Commission office.

FINDINGS OF FACT:

Fourteen (14) Exhibits were entered into evidence at the hearing. Based on the documents submitted into evidence and the testimony of:

For the Appointing Authority:

- Detective Lieutenant Thomas Soutier, Internal Affairs Section of State Police

For the Appellant:

- Sergeant Rick Brown, State Police
- Loretta Whitcomb**,** Secretary, State Police
- Sergeant John Hackett, Appellant

I make the following findings of fact:

1. The Appellant has been a uniformed member of the State Police since July 21, 1986. He was promoted to the rank of Sergeant in June of 1997, and was assigned full time to the State Police Academy in New Braintree, Massachusetts in January of 2000. (Exhibit 4, Testimony of Appellant)
2. The Appellant is a member of the State Police Association of Massachusetts, the collective bargaining agent for noncommissioned Massachusetts State Police Officers. In 2001 or 2002, Appellant was elected to the Union position of Barracks Representative. (Testimony of Appellant)
3. The Appellant has no history of discipline before the instant matter. (Testimony of Appellant)

4. On or about October 15, 1999, the Appellant was approved by the State Police for outside employment with the Massachusetts Criminal Justice Training Council (hereinafter "MCJTC"). Appellant executed a contract with the MCJTC requiring that he not "claim or accept compensation from any other source, whether public or private, for the same services and time spans." (Exhibit 13)
5. In October 1999, a Side Letter of Agreement was negotiated between the State Police Association of Massachusetts and the Commonwealth of Massachusetts (hereinafter "Side Letter of Agreement"). The Side Letter of Agreement states in relevant part, "No employee may work more than a total of sixteen and one-half (16.5) hours in any twenty-four (24) hour period or more than ninety-nine and one-half (99.5) hours in one (1) week. …Work shall be defined to include hours actually worked during regularly scheduled duty, overtime, court time and Paid Details…No employee shall receive any compensation for any hours worked in excess of the limits provided herein unless such hours of work have been approved by the Colonel or his/her designee." (Exhibit 6)
6. Sergeant Rick Brown (hereinafter "Sgt. Brown"), former Vice President of the Appellant's Union and a twenty-five (25) year veteran of the State Police, testified that he had participated in the negotiation of the Side Letter of Agreement, which superseded Department rules and regulations regarding the number of hours that could be worked by an officer per week. (Testimony of Sgt. Brown)
7. Sgt. Brown also testified that working hours and hours of pay are two different things: hours paid are not necessarily hours worked. If an officer worked a detail, he was paid in a four hour block, meaning that for every minute up to four hours he worked, he was paid for four hours regardless of whether he was there for the entire four hours. Similarly, for any amount

of time an officer worked a detail for over four hours, he was compensated for eight hours, again regardless of the amount of time that he was there between four and eight hours. (Testimony of Sgt. Brown, Testimony of Appellant)

8. Both the Appellant and Sgt. Brown testified that since the provisions of the Side Letter of Agreement stated that "work shall be defined as hours actually worked," as long as the Appellant's hours worked did not overlap with regularly scheduled work, the Appellant would not be in violation of the State Police Paid Details Agreement (hereinafter "ADM-25"). (Testimony of Appellant, Testimony of Sgt. Brown, Exhibit 1)
9. ADM-25 states in part: "*Overlapping Detail hours with scheduled working hours is strictly prohibited*. No member may work more than a total of sixteen and one half (16.5) hours in any twenty-four (24) hour period. No member shall work more than forty-two (42) hours in any seventy-two (72) hour period. Work shall be defined to include regularly scheduled duty, overtime, court time and details." (Exhibit 1, Page 3)
10. In 2000, Appellant was assigned as the evening shift supervisor at the State Police Academy. The evening shift is approximately an eight (8) hour shift from about 3:00 p.m. to about 11:00 p.m. (Testimony of Appellant)
11. At that time, the Appellant also worked overtime and paid details on a number of occasions in addition to his regular duty pay. He was never late for duty, and never failed to work a shift as a result of working overtime or a paid detail. (Testimony of Appellant)
12. The Appellant testified that working in excess of 16.5 hours was a common practice within the Department. When others were found to have violated the 16.5 hour rule, they were not subjected to discipline and were merely required to give back accrued time equal to the amount of time that exceeded the rule. (Testimony of Appellant)

13. The Appellant denied that he had violated the 16.5 hour rule in March, April, and May of 2003 when he was working extra details and overtime at Logan Airport because he believed the rule had been suspended at Logan Airport after September 11, 2001. (Testimony of Appellant)
14. The State Police's on line payroll system, known as "Paystation," requires each employee to enter and certify their hours of work. Although the Appellant approved other Academy employees' Paystation records, he could not approve his own. Loretta Whitcomb (hereinafter "Ms. Whitcomb"), the State Police Academy Secretary testified that she approved and submitted Appellant's Paystation records. (Testimony of Ms. Whitcomb, Testimony of Appellant, Exhibits 4 and 5)
15. In July 2004, Major Thomas McGilvray of the Division of Standards and Training discovered what appeared to be a violation of ADM-25 while reviewing the Appellant's Paystation entries. Lieutenant Daniel Viel (hereinafter "Lt. Viel") was then assigned to investigate the Appellant's past attendance reports, overtime reports, and record of paid details. (Testimony of Lieutenant Thomas Soutier)
16. In August 2004, the Appellant learned from Lt. Viel that he was being investigated. No superior had ever informed the Appellant that he could not overlap hours. (Testimony of Appellant)
17. On or about August 6, 2004, Lt. Viel reviewed the Appellant's Paystation entries for the week ending August 7, 2004. He discovered that the Appellant had changed the entry for August 3, 2004 from a "Regular Worked Day" to "VAC-Vacation with pay" and the entry for August 6, 2004 from a "Regular Worked Day" to "PER-Personal day paid." (Exhibit 4)

18. Lieutenant Thomas Soutier (hereinafter "Lt. Soutier"), a member of the State Police's Internal Affairs Unit, was assigned to further investigate Appellant. Lt. Soutier testified that when he reviewed the Appellant's pay records from January 1, 2003 through September 1, 2004, he discovered numerous violations—including instances in which the Appellant was assigned to an overtime shift on the same date he was assigned to a paid detail. (Testimony of Lt. Soutier)
19. Soutier became concerned that the Appellant was overlapping his detail hours with scheduled work hours and working in excess of 16.5 hours in a 24-hour period. (Testimony of Lt. Soutier)
20. Lt. Soutier also examined the Appellant's employment with the MCJTC. He found that the Appellant had received compensation for 8 hours of work for the MCJTC on January 7, 2004, certifying that he worked from 7:30 a.m. to 3:30 p.m. On that same day, the Appellant also received 8 or 8.5 hours of compensation from the State Police for his shift from 3:00 p.m. through 11:30 p.m. On April 28, 2004, the Appellant again received compensation for 8 hours of work for the MCJTC, certifying that he worked from 7:30 a.m. to 3:30 p.m., although he received 8 or 8.5 hours of compensation from the State Police from 3:00 p.m. through 11:30 p.m. on that same day. (Exhibit 4)
21. The Appellant stated that it was MCJTC practice to sign and submit a blank voucher, which would be later completed by an MCJTC staffer. The Appellant stated his MCJTC shifts always began well before 8:00 a.m., and that he worked shifts between 6:00 a.m. and 2:00 p.m., or 7:00 a.m. and 3:00 pm. The Appellant testified that he was able to begin his regular shift with State Police on time at 3:00 p.m. (Testimony of Appellant)

22. Sgt. Brown, in testifying that he also had been employed by the MCJTC, said that blank time sheets are signed by an employee and later filled in by the MCJTC staff without the employee seeing the final version. (Testimony of Sgt. Brown)
23. On December 20, 2004, Soutier submitted a multi-volume report of his investigation on the Appellant's work hours. The report stated that Appellant sought and received compensation for paid details that overlapped with his scheduled work hours on at least thirty-three (33) separate occasions between January 9, 2003 and July 20, 2004. (Exhibit 4, Testimony of Lt. Soutier)
24. The State Police charged the Appellant with submitting false pay records on August 6, 2004, when he changed his work status on Tuesday, August 3, 2004 from a "Regular Worked Day" to a "Vacation with pay" and when he changed his work status on August 6, 2004 from a "Regular Worked Day" to "Personal day paid" — in an effort to avoid a violation of the 16.5 hour rule. Without the alterations made on August 6, 2004, the Appellant's Paystation Report would have provided further evidence of violations of ADM-25 and the 16.5 hour rule. (Testimony of Soutier; Exhibit 4)
25. The Appellant admits that he altered his Paystation Report *after* being informed of the investigation, but denies that he altered the Paystation Time Entry Report to conceal misconduct. (Testimony of Appellant)
26. The Appellant testified that he believed all of the records were accurate and that the overlapping hours were the result of contractual minimums (4 hour/ 8 hours) instead of actual conflicts in working hours. The Appellant further testified that he did not know the overlaps in question were a violation of the State Police's policy, since he was not informed of this prior to August 2004. (Testimony of Appellant, Exhibit 4)

27. On December 5, 2005, Captain Arthur McLaughlin (hereinafter "Cpt. McLaughlin"), Executive Officer with State Police Headquarters Troop E, sent a memorandum to all personnel within the State Police Department regarding compensation for paid details. The memorandum stated that an officer who had been released from a detail after working eight (8) hours, was paid for eleven (11) hours, and only should have been paid for the eight (8) hours worked. The memorandum further stated: "beginning immediately, should a detail assignment conclude prior to the anticipated end time, officers will be paid according to the guidelines of ADM-25." (Exhibit 10)

28. On or about July 19, 2006, the Appellant was formally charged and tried before a State Police Trial Board, ("Trial Board") appointed by the State Police. He was found guilty of violating Rule 5.1 (Violation of Rules), Rule 5.3 (General Conduct), Rule 5.4 (Conformance to Laws), and Rule 5.27 (Truthfulness) of the Rules and Regulations for the governance of the Department of State Police. Appellant's violations included:

    a. Overlapping paid detail hours with scheduled work hours on thirty-three (33) separate occasions between January 9, 2003 and July 20, 2004, in violation of ADM-25 and Rule 5.1.

    b. Working more than sixteen and one-half (16.5) hours in a twenty-four (24) hour period on eighteen (18) separate occasions, in violation of ADM-25 and Rule 5.1.

    c. Failing to accurately record arrival and departure times and actual hours worked on departmental forms, in violation of ADM-25 and Rule 5.1.

    d. Claiming and accepting compensation, on two (2) separate occasions, for hours of work during which he was also paid for the same hours of work from another source, in

violation of the terms of the written contract with the MCJTC, G. L. c. 268A, §7(b), Rule 5.3, and Rule 5.4.

e. Knowingly submitting a false Paystation Report for the week of August 7, 2004, in violation of Rule 5.27.

(Exhibits 2, 3, 7, and 8)

29. On or about July 26, 2006, the Appellant received notice of his discipline as determined by the Trial Board. It recommended that:

a. Appellant forfeit 85 hours of accrued vacation time for the thirty-three (33) separate occasions he violated ADM -25 and Rule 5.1 by overlapping paid detail hours with scheduled work hours.

b. Appellant be precluded from working paid details for one (1) year for working more than sixteen and one-half (16.5) hours in a twenty-four (24) hour period on eighteen (18) separate occasions in violation of ADM-25 and Rule 5.1.

c. Appellant be precluded from working paid details for one (1) year (concurrent with the recommendation made concerning his violations of the 16.5 hour Rule) for failing to accurately record arrival and departure times and actual hours worked on Departmental forms in violation of ADM-25 and Rule 5.1.

d. Appellant be precluded from working for the MCJTC or any successor agency for one (1) year and additionally that Appellant be suspended, without pay for sixty (60) days for claiming and accepting compensation, on two (2) separate occasions, for hours of work during which he was also paid for the same hours of work from another source in violation of the terms of a written contract with the MCJTC and in violation of Rule 5.3.

e. Appellant be removed from the current eligibility list for promotion to the rank of Lieutenant and, additionally, that he be suspended, without pay for sixty (60) days (concurrent with the recommended suspension for his violations of Rule 5.3) for violating G. L. c. 268A, §7(b) by claiming and accepting compensation, on two (2) separate occasions, for hours of work during which he was also paid for the same hours of work from another source in violation of the terms of a written contract with the MCJTC and in violation of Rule 5.4.

f. Appellant be removed from the current eligibility list for promotion to the rank of Lieutenant and, additionally, that he be suspended, without pay for sixty (60) days (concurrent with the recommended suspension for his violations of Rules 5.3 and 5.4) for knowingly submitting a false Paystation Report for the week of August 7, 2004 in violation of Rule 5.27.

(Exhibits 7 and 8)

30. On August 2, 2006, Appellant filed his timely appeal with the Commission.

31. On August 7, 2006, Cpt. McLaughlin sent another memorandum to all personnel regarding maximum weekly hours. This memorandum states:

> "It is reasonable to assume that a number of Troop E officers will be flagged as being 'perceived' to be in violation of the 1999 Side Letter of Agreement, when, in fact, they are in compliance. (Work shall be defined to include hours actually worked during regularly scheduled duty, overtime, court time, and paid details—85 hour maximum work week)."
> (Exhibit 9)

32. On January 9, 2007 and January 25, 2007, a full hearing was held at the Commission offices.

ARGUMENT

Respondent submitted a Motion to Dismiss, arguing the Commission's jurisdiction over this matter is governed by G.L. c. 22C, §13, which grants any person aggrieved by a finding of the

Trial Board a right of appeal under §§41-45 of c. 31. Respondent also argues that the Colonel's power through the Trial Board to impose discipline is governed by G. L. c. 22C, as well as the Rules and Regulations of the State Police, and is not subject to the authority of the Commission. The Appellant opposed the Motion, maintaining that all discipline imposed by the Trial Board may be appealed to the Commission.

The Commission rejects the Respondent's argument, and denies the Motion to Dismiss. In a recent case, the State Police argued that the Commission lacked jurisdiction over the disciplinary authority of the Trial Board. *See* Comm. of Mass. Dep't of State Police *v*. Reilly, Suffolk Sup. Ct., No. 06-2349E (March 31, 2008); Comm. of Mass. Dep't of State Police *v*. Hicks, Suffolk Sup. Ct., No. 07-3766A (July 25, 2008). In Reilly, the State Police argued that the 2002 amendment of G.L. c. 22C, §13, which provided appellate recourse to the Commission for the first time (previously it had been to the District Court), left the Colonel with the ultimate authority to determine disciplinary sanctions. The State Police submitted that the "only intent (or result) of the 2002 amendment of [G.L. c. 22] Section 13 was to create an unbiased forum [i.e., the Commission] for an aggrieved member to voice a complaint." The State Police acknowledged that the 2002 amendment entitles a trooper to a hearing before the Commission, but as quoted above, it submitted the appellate remedy is limited to the hearing itself, that it provides no authority in the Commission to alter the Colonel's discipline.

The Superior Court held that the Commission may alter the disciplinary actions of the Trial Board under G.L. c. 22C §13. The Court stated that the State Police's statutory interpretation would result in troopers having substantially less protection from alleged administrative error they previously had. Further, there is no support in the statutory text or in the legislative history of the 2002 amendment for the State Police's position. G.L. c. 22C, §13 was filed on behalf of

the State Police Association of Massachusetts, which represents all state troopers holding the rank of Trooper or Sergeant. The statute's purpose is for the greater protection for Troopers and Sergeants of review by the Commission, and in so doing the Commission has been granted statutory authority to modify disciplinary decisions of the State Police.

If the Commission decides to modify a penalty, it must provide an explanation because such decision is subject to reversal if unsupported by the facts or based upon an incorrect conclusion of law. Faria *v.* Third Bristol Div. of the Dist. Ct. Dep't. 14 Mass. App. Ct. 985, 987 (1982); Police Comm'r of Boston *v.* Civil Serv. Comm'n, 39 Mass. App. Ct. 594, 602 (1996). When the Commission modifies an action taken by the appointing authority, it must remember that the power to modify penalties is granted to ensure that employees are treated in a uniform and equitable manner, in accordance with the need to protect employees from partisan and political control. Police Comm'r of Boston at 600. *See* Falmouth *v.* Civ. Serv. Comm'n, 61 Mass. App. Ct. 796, 801 (2000).

The role of the Commission is to determine "whether the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority." Cambridge *v.* Civ. Serv. Comm'n, 43 Mass. App. Ct. 300, 304 (1997*). See* Watertown *v.* Arria, 16 Mass. App. Ct. 331 (1983); McIsaac *v.* Civ. Serv. Comm'n, 38 Mass. App. Ct. 473, 477 (1995); Police Dep't of Boston *v.* Collins, 48 Mass. App. Ct. 411 (2000); Leominster *v.* Stratton, 58 Mass. App. Ct. 726, 728 (2003). An action is "justified" when it is done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind; guided by common sense and by correct rules of law." Cambridge at 304, *quoting* Selectmen of Wakefield *v.* Judge of First Dist. Ct. of E. Middlesex, 262 Mass. 477, 482 (1928); Commissioners of Civ. Serv. *v.* Mun. Ct. of the City of Boston, 359 Mass. 211, 214

(1971). 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); School Comm. of Brockton *v.* Civ. Serv. Comm'n, 43 Mass. App. Ct. 486, 488 (1997). The Appointing Authority's burden of proof is one of a preponderance of the evidence which is established "if 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 (1956). In reviewing an appeal under G.L. c. 31, §43, if the Commission finds by a preponderance of the evidence that there was just cause for an action taken against an appellant, the Commission shall affirm the action of the appointing authority. Falmouth at 800.

The issue for the Commission is "not whether it would have 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 circumstances found by the commission to have existed when the Appointing Authority made its decision." Watertown at 334. *See* Commissioners of Civ. Serv. *v.* Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and Leominster at 727-728.

Based on the testimony presented at the hearing, and the exhibits submitted by the parties, the Commission finds that reasonable justification does not exist for the actions taken by the State Police against the Appellant.

Respondent asserted that the Appellant's seeking and accepting hourly compensation from the Department and the MCJTC for the same hours of alleged service, on the same day, is a violation

of the contract he executed with the MCJTC and Rule 5.3 (General Conduct) of the Department's Rules & Regulations. Respondent also alleged that Appellant's seeking and accepting hourly compensation from two public sources for the same hours of alleged service, on the same day, is also a violation of G.L., c. 268A (State Ethics Law), which permits his outside employment but does not allow him to receive hourly compensation from two public sources for the same hours on the same day. However, a review of the record demonstrates that the Respondent did not conclusively prove that the Appellant was seeking and accepting hourly compensation from two public sources, the State Police and the MCJTC, for the same hours of alleged service, on the same day. Rather, Brown and the Appellant's credible testimony established that there is a difference between hours of work and hours of pay. Although Soutier testified that his review of the Appellant's pay records raised concerns that he was overlapping his detail hours with scheduled work hours and working in excess of 16.5 hours in a 24 hour period, and his December 2004 report of investigation concluded that Appellant sought and received compensation for paid details that overlapped with his scheduled work hours on at least thirty-three (33) separate occasions between January 9, 2003 and July 20, 2004, the evidence presented at the hearing showed that the *hours worked appeared to be taken from hours paid, not the actual hours Appellant was at work.* It is of note and supportive of Appellant's argument that the State Police's failed to inform the Appellant that his overlapping pay was not permitted by ADM-25. The Respondent sent a letter to all State Police personnel clarifying that work shall be defined as hours actually worked, *after* the Appellant was disciplined.

Although the Respondent presented evidence that the Appellant worked and was paid for working in excess for 16.5 hours, the fact that the Appellant exceeded more than 16.5 hours in a 24 hour period was not proven to be a violation. Rather, Sgt. Brown's credible testimony

indicated that the Side Letter of Agreement altered the plain meaning of the language found in ADM-25 to permit an officer to work over 16.5 hours per day so long as he did not exceed more than ninety-nine and one-half (99.5) hours in one (1) week. No evidence was presented that the Appellant worked in excess of 99.5 hours in a week. Further, the Appellant testified that working in excess of 16.5 hours was a common occurrence within the Department. When others were found to have violated the 16.5 hour rule, they were not subjected to discipline and were merely required to give back accrued time equal to that amount of time that exceeded the rule. Sgt. Brown corroborated this testimony.

The Appellant also testified credibly that he did not violate his contract with the MCJTC. He believed he that he signed and certified the payment voucher forms submitted to the MCJTC for the dates in question when they were blank, and that someone else completed the forms and entered the times. Brown's testimony further supported Appellant's as to the process the MCJTC followed for payment. Based on this testimony, there is not sufficient evidence that the Appellant knowingly submitted false entries or recklessly certified blank voucher forms.

The Commission finds the most difficult issue in this matter to be whether the Appellant violated Rule 5.27 of the Department's Rules and Regulations, requiring members of the Department to be truthful at all times. The Appellant admitted that he altered his Paystation record after being informed of the Respondent's investigation, however, he denied altering the Paystation record to conceal any misconduct. Under Rule 5.27.3, no member of the Department "shall, in the course of his/her duties, execute, file or publish any false written report, minutes, or statements, knowing the same to be false." The evidence did not show that Appellant knowingly and deliberately filed a false Paystation report. However, he did admit to altering the record.

Under Article 5 of the Department's Rules & Regulations, a violation of Rule 5.27.3 is a Class A Offense and can, upon a guilty finding and in accordance with the Department's Discipline Guidelines, result in the imposition of a suspension of not less thirty (30) days if it is a member's first offense**.** The State Police Trial Board recommended that the Appellant be suspended for a period of sixty (60) days for his untruthfulness (to be served concurrently with his other suspensions) and that he be removed from the then current list of eligible persons for promotion to the rank of Lieutenant as warranted by his deliberate misconduct.

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." Here, the State Police has not demonstrated that there was just cause for the discipline imposed. In addressing the Appellant's entire appeal, the Commission pursuant to c. 32 §§41-43 - only has jurisdiction over disciplinary actions involving a termination, suspension, involuntary transfer or punishment duty. Since the Appellant was not hired from a civil service list, the Commission cannot address the issue of the Appellant's removal from the eligibility list for the rank of lieutenant, nor his removal from said list for the period of one year.

In addition to the suspension for a period of sixty (60) days, the State Police ordered the Appellant to forfeit eighty-five (85) hours of accrued time off, which the Commission deems to be the equivalent of an eighty-five (85) hour suspension. This being the Appellant's first instance of discipline, the combination of the sixty days (60) and eighty-five (85) hour suspension discipline should be reduced to a thirty day (30) suspension.

Based on the all reasons listed above, the Appellant's appeal filed under Docket No. D-06-191 is *allowed in part:* his 60-day suspension and forfeiture of eighty-five (85) hours of accrued time off is reduced to a thirty (30) day suspension.

Civil Service Commission

_____
John E. Taylor
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Stein, Taylor [yes] Marquis [no] Commissioners) on January 15, 2009.

A true record. Attest:

_____
Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 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:
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