

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
3 RELATIONS BOARD
4

5 LAS VEGAS POLICE PROTECTIVE
6 ASSOCIATION METRO, INC.,

7 Complainant,

8 vs.

9 LAS VEGAS METROPOLITAN POLICE
10 DEPARTMENT,

11 Respondent.

ITEM NO. 589

CASE NO. A1-045807

ORDER

12 For Complainant: John Dean Harper, Esq.
Kathryn A. Werner, Esq.

13 For Respondent: James T. Winkler, Esq.
14 Littler Mendelson

15 On July 12, 2004, Complainant Las Vegas Police Protective Association Metro, Inc. (the
16 "Association") filed with the Local Government Employee-Management Relations Board
17 ("Board") a complaint against Las Vegas Metropolitan Police Department ("LVMPD"). In its
18 complaint, the Association alleges that the LVMPD failed to bargain in good faith under NRS
19 288.270(1)(e) when it changed the pay rates and/or incentives for corrections officers assigned to
20 the Tucker Holding Facility in Laughlin, Nevada. The Association alleges that the prohibited
21 practices occurred sometime in July 2003, when the LVMPD "*sua sponte*, and without warning
22 . . discontinued paying the corrections officers assigned to the Tucker Holding Facility the 17 ½
23 hours of additional pay per pay period." The Association further alleges that it was "not apprised
24 of the above discontinuing of pay until sometime in late January of 2004."

25 On August 4, 2004, the LVMPD filed a motion to dismiss based on, *inter alia*, the
26 Associations' failure to file its complaint with this Board within the six-month statute of

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1 limitations set forth at NRS 288.110(4).¹ The Association filed its opposition on September 8,
2 2004, and asserted that the six-month statute of limitations was tolled under the doctrine of
3 "equitable tolling". The Association specifically contended that some of the corrections officers
4 affected by the alleged prohibited practice had retained private counsel to review the issue and
5 thus were diligent in pursuing their claims.

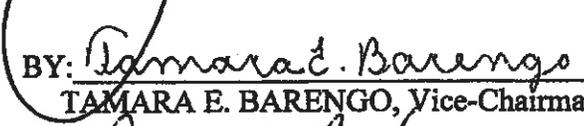
6 This matter was scheduled for deliberations pursuant to Nevada's Open Meeting Law and
7 the Board conducted such deliberations on November 3, 2004.

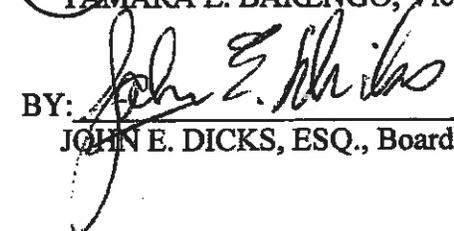
8 BASED upon the arguments raised in the above-described documents filed by the parties
9 and good cause appearing there from, IT IS HEREBY ORDERED, ADJUDGED AND
10 DECREED that the LVMPD's motion to dismiss is GRANTED and the complaint in this matter
11 is dismissed with prejudice as it was not timely filed as required by NRS 288.110(4), i.e., within
12 six (6) months from the date of the occurrence which is the subject of the complaint. Moreover,
13 we reject the Association's assertion that, despite the statutory bar, the circumstances here
14 demonstrate that consideration of its complaint is warranted under the doctrine of equitable
15 tolling.

16 DATED this 4th day of November, 2004.

17 LOCAL GOVERNMENT EMPLOYEE-
18 MANAGEMENT RELATIONS BOARD

19 BY: 
20 JANET TROST, ESQ., Chairman

21 BY: 
22 TAMARA E. BARENGO, Vice-Chairman

23 BY: 
24 JOHN E. DICKS, ESQ., Board Member
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28 ¹Based on our decision that NRS 288.110(4) requires dismissal of the complaint, we decline to
address the additional basis for dismissal asserted by the LVMPD, i.e., that the Association failed
to exhaust its contractual remedies.