STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

THOMAS G. GLAZIER, JR., Complainant, vs. CITY OF NORTH LAS VEGAS; NORTH LAS VEGAS POLICE DEPARTMENT, Respondents.	ITEM NO. 624A CASE NO. A1-045876

For Complainant: Harold P. Gewerter, Esq.
Harold P. Gewerter, Esq., LTD

For Respondents: Malani L. Kotchka, Esq.
Smith & Kotchka

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This matter came on before the State of Nevada Local Government Employee-Management Relations Board ("Board") for Hearing, deliberations, and decision, noticed pursuant to NRS and NAC Chapters 288, NRS Chapter 233B, as well as Nevada's Open Meeting Laws, finds, concludes, and orders as follows:

I. Procedural History

On January 9, 2006, Complainant Thomas G. Glazier, Jr. ("Glazier") filed a complaint with the Board alleging prohibited labor practices by the City of North Las Vegas ("City") and the North Las Vegas Police Department ("Police Department").

The City and the Police Department filed a Motion to Dismiss. An Opposition was filed as well as Reply Points and Authorities. On April 4, 2006, the Board denied the Motion to Dismiss, and deferred the matter for exhaustion of the parties' contractual grievance process.

A status report was filed with the Board on May 31, 2006, and this matter proceeded through the Board's administrative process.

This matter was scheduled for hearing and heard on September 6, 2006, and September 7, 2006. After the hearing, both parties filed Post-Hearing Briefs and Supplemental Post-Hearing Briefs.

II. Statement of Facts/Discussion of Testimony & Exhibits.

Glazier is employed with the Police Department; however, since July 31, 2006, he is on administrative leave concerning an incident that happened in 2005. Transcript of 9-6-06 hearing ("Tr."), p. 54 and p. 344. He graduated from high school in 1981. Tr. p. 55. He was in the military from 1981 to 1984; and was a military police officer. Tr. p. 55. Thereafter, he was hired by EG&G for special projects involving clearance, security, and law enforcement, which included work at Area 51. Tr. p. 55. In 1988, he was hired as police officer with North Las Vegas. Tr. p. 55. He has served as a SWAT officer, a field training officer, and as an academy TAC officer which required him to train police recruits. Tr. p. 55. He was assigned as an honor guard member. Tr. p. 56. Ultimately, he was promoted in 2001 to police sergeant, and he retained his honor guard status. Tr. p. 56. He claims to have received extensive training in supervisory-related issues. Tr. p. 56. He has also been an administrative sergeant and a patrol sergeant. Tr. p. 56.

He feels his current administrative leave is retaliatory by the Police Chief. Tr. p. 56. Over a year ago, there was a minor incident with an officer he was supervising and a "truthfulness" issue arose, which matter was investigated. Tr. p. 56-7. This matter, however, is on hold until the Board's proceedings are concluded. Tr. p. 57. He testified that his family has a history of being career police officers. Tr. p. 57. Glazier tested for sergeant on six different occasions before he was ultimately promoted to sergeant. Tr. p. 57. He has also tested for the lieutenant position, but was not appointed. Id.

He married Laura Glazier ("Laura") in April 1997, divorced her in June 2001, and they have a 7 ½ year old child. Tr. p. 58. He first met Capt. Tony Scott ("Scott") in 1988 when he was patrol officer, and Scott has been in his chain of command. Tr. p. 58-9. Laura was employed with the Police Department, as a dispatch supervisor as well as a dispatcher in field training, at the same time Scott and Glazier were also employed there. Tr. p. 60. Marital

problems began in February 2000, and Laura moved out of their home in April 2000. Tr. p. 61-2. Coworker, Joann Preston, told Glazier that Scott and Laura were "hanging out for months." Tr. p. 62. Glazier told Laura he was aware of her relationship with Scott. Tr. p. 63. She did not deny the relationship with Scott and said it had been ongoing for awhile. Tr. p. 64. During this time frame, Scott was also married. Tr. p. 64. Laura and Glazier were divorced on June 7, 2001. Tr. p. 66. He did not confront Scott about the affair because he did not want to "ruffle any feathers." Tr. p. 67-8. He believes Scott was promoted to lieutenant in approximately 2002. Tr. 69.

Glazier achieved high scores on his yearly evaluation (June 2002 - June 2003). Tr. p. 70. There is a notation on the form to "keep up the good work" which was apparently the comment by then Capt. Joe Chronister. Tr. p. 71. He achieved high scores in the 2003-2004 evaluation, but not as high as the previous year. Tr. p. 71-2. This latter form was signed by Scott, whereas the first one was not signed by Scott. Tr. p. 71-2. Scott indicated on this 2003/04 form that he would have reduced two of Glazier's evaluation ratings. Tr. at 74. Scott also sat on the promotional panel which determined whether Glazier was to be promoted to lieutenant. Tr. at 76.

Glazier testified regarding an altercation he had with Laura in August, 2004. Tr. p. 78-9. Thereafter, his position changed with the Police Department. Tr. 79. He was a patrol sergeant, but was reassigned to administrative sergeant at a new area command station. Tr. p. 80. Glazier's pay was affected by the change in his position because a patrol sergeant is granted a 1/2 hour overtime allowance to prepare for the briefing process and this ½ hour allowance equates to roughly 16 days, and about $500 a month or $6,000 per year. Tr. p. 82. Glazier testified that his days off also changed with the position change. The administrative sergeant's position had a work week of Monday through Thursday. Thus, Glazier no longer had Thursday with his child; Thursday being one of his child visitation days. Tr. p. 83. Glazier testified that he previously enjoyed Thursday, Friday, and Saturday off. Tr. p. 83. Concerning the Northwest Area Command, even though Scott would be in command, Glazier stated he wanted to go to that command site as it was six minutes from his house, four minutes from his son's school, it was a

better/newer building than the one where he was currently assigned, and it would have an exercise facility inside. Tr. p. 183-84. Glazier believes that Scott was disciplined or admonished once for using an inappropriate word in the presence of a homosexual. Tr. p. 196-87.

In January, 2005, Glazier was given a 40-hour suspension but the arbitrator reduced it to a 20-hour suspension after Glazier filed a grievance. Tr. p. 84. After he filed that grievance, he stated he heard threats that his career was over. Tr. p. 84. He confronted Chief Paresi, who stated that there would be a level playing field with promotions and that the "biggest factor as to whether or not you get promoted is what Capt. Scott has to say about your performance in the Northwest Area Command." Tr. p. 86-7. At that time, Scott was still having the affair with Laura. Id.

In January 2005, Glazier testified that he picked up Laura's pager and saw that it contained numerous messages from Scott; some containing "I love you" messages. Tr. p. 87-8. From those messages, Glazier believes they started seeing each other in 1997. Tr. p. 89-90. Scott called Glazier at home on February 10, 2005, to talk to him about the pager incident. Tr. p. 91-2. The lieutenant's examination was shortly thereafter. Tr. p. 92. The form requesting Glazier's promotion contained Scott's signature and handwritten note of "meets minimum qualifications." Tr. p. 93-4. Neither Scott nor Chronister informed him that he did not meet the minimum qualifications to test or advance to lieutenant's position. Tr. p. 95.

Because of a scheduling issue, and an ultimatum from Scott, Glazier resigned from the Honor Guard in May 2005. Tr. p. 97-9. Glazier had received several complimentary letters from individuals concerning his time in the Honor Guard as well as regarding his handling of various situations.

In May 2004, there was a disciplinary board action against Glazier for a racial comment. Tr. p. 109, also Tr. p. 137-38. Allegedly, Glazier made a comment about no African-Americans being present at a certain outdoor event (Tr. p. 110-11); and an individual who overheard the statement filed a complaint. Tr. p. 111. Scott sat on the panel determining Glazier's discipline without disclosing that he (Scott) was still having an affair with Laura. Tr. p. 114. The

discipline was a 40-hour suspension without pay. Tr. p. 138. After a grievance on the matter, Glazier received "back pay for two days out of the 40-hour suspension." Id.

Scott also investigated the truthfulness of Glazier's memo concerning a football game played during the lunch break, during which one of the officers cut his head requiring stitches. Tr. p. 116. The investigation stopped because allegedly enough officers concurred with Glazier's rendition of the facts, i.e., that the game was being played during the lunch break and not while the officers should have been at the range. Tr. p. 117. Two other officers were at the range at the same time and their involvement was not investigated. Tr. p. 118.

At the time of this incident, Glazier was allegedly at the top of the list for promotion to lieutenant. Tr. p. 119. He was not, however, promoted. Id. See also Exhibit 9.

In June 2005, Glazier filed a complaint against Scott. Tr. p. 120. Glazier testified that Laura and Scott were doing everything possible to make Glazier's personal life uncomfortable, i.e., Scott using Laura as an agent to interfere in his personal life and prevent his promotion (Tr. p. 124); and in essence paying him back for making a complaint against Scott. Tr. p. 124. Laura and Glazier's divorce had been amicable until July 2005: at which time, Laura hired an attorney regarding child support and child custody. Tr. p. 122-23. Glazier stated that he waited to file the complaint against Scott because he felt to do so would be career "suicide." Tr. p. 126. Glazier also testified that he filed a grievance against the Police Department claiming they had violated their collective bargaining agreement ("CBA") as it pertained to the process for promotions. Tr. p. 127. Originally, the lieutenant's promotion position was posted as a 100% assessment by an assessment center to determine the order of candidates for promotion. Tr. p. 127. After Glazier received the first position for promotion, the Police Department added an oral board examination requirement in order to qualify for the promotion. Tr. p. 127. According to Glazier, the Police Department is also required to record the testing procedures which they failed to do in this instance and other instances with testing for promotions. Tr. p. 127. He also stated that "a person of equal rank to the position that you are testing for is supposed to be sitting on" the oral board, and this was likewise not done. Tr. p. 127-28. Glazier simply felt the CBA was

violated and the oral board was used as a "smoke screen" to bypass him for promotion. Tr. p. 128.

On cross-examination, Glazier acknowledged receiving a written reprimand in March 2002. Tr. p. 131-32. As a result, he met with Lt. Noahr regarding "officer's perceptions [of Glazier] and helped to fine-tune [Glazier's] personal skills to have a more positive effect in this area." Tr. p. 132. He also stated that he received a memo from Chief Paresi regarding the officers' standards of conduct, and that discrimination and sexual harassment would not be tolerated. Tr. p. 133. He also acknowledged receipt of emails from Lt. Noahr regarding offensive comments during briefing. Id. Glazier did attend training on harassment and hostile work environment on December 4, 2002. Tr. p. 134. He also admitted to discipline for offensive comments made to Kim Ford, i.e., a two-day suspension. Tr. p. 136. Glazier was required to take additional classes on harassment, managing diversity, and interpersonal communication. Tr. p. 137.

Scott allegedly told Glazier in January 2005 that he had done a good job in his administrative position; and that he would welcome him back in the administrative position but he still needed to work in areas other than patrol. Tr. p. 140-41. Glazier testified that he told Scott that he needed to work in patrol because he was a single parent and other positions require a person being on a stand-by status. Tr. p.141-42 and p. 145.

Glazier further admitted that if "two promotions are to be made they can be made from among the top seven names." Tr. p. 144-45. He also recalled an individual that had placed No. 1 but had not received the promotion. Tr. p. 145. As a matter of fact, for a sergeant position, they picked the 5th place individual to become a sergeant and thereafter promoted the individuals who placed No. 1 and 2. Id. at 148.

Glazier did tell Officers Flynn, Reed, and Aker if he was passed over for the lieutenant position, he was going to expose the relationship between Scott and Laura. Tr. p. 158. Scott was eventually reassigned, and Glazier was no longer under his command. Tr. p. 162-63. He stated that his meeting with the Human Resources Dept. in January 2006 became "hostile" concerning a complaint he wished to file. Tr. p. 163.

Glazier denied making various racial and/or sexual comments, but did admit to uttering a joke about a 1965 Chevy and a dispatcher. Tr. p. 169. Glazier also admitted that Sgt. Jackson, Sgt. DiMauro, and Sgt. Hanks were all promoted to Lieutenant and that all had "served in special assignments other than just as patrol sergeants." Tr. p. 171. He also admitted that as an administrative sergeant, he could have occasionally worked as a relief sergeant or during special events and earned extra money. Tr. p. 172-73.

Scott was also a witness at the hearing. He testified that he has been with the Police Department since August 1985; and he is currently a Captain. Tr. p. 198. More specifically, he was promoted to a field training officer in approximately 1990, promoted to a sergeant in approximately 1992, promoted to lieutenant in summer 1997, and promoted to captain in 2002. Tr. p. 198. He admits to being in the chain of command for Glazier. Tr. p. 199. He claims he was not on "unfriendly" terms with Glazier, but they were "not social or anything." Id. He claims to have met Laura when she was a secretary in the late 1990s. He claims to have started the affair with her in late spring 2000. Tr. p. 200. He knew that she was married, and he himself was still married. Id. He stated the affair was an "on again - off again" relationship. Tr. p. 201. He did not tell anyone of this affair, and he did not believe it violated the Police Department or the City's policy. Tr. p. 202. He admits to be involved in a disciplinary proceeding with Glazier in spring 2004. Tr. p. 203.

The affair was ultimately discovered by the Police Department while he was on vacation. Individuals left messages for him at that time concerning the complaint filed by Glazier regarding the affair between Scott and Laura. Tr. p. 208. He cannot recall who left the messages. Scott was questioned about the "Interdepartment Relationship" policy (Exhibit 1). He states it was in effect during part of his relationship with Laura. Tr. p. 210. He stated that he had two counts sustained against him as a result of the internal investigation, i.e., unprofessional conduct and personal use of the Police Department's computer and paging system. Tr. p. 216. Exhibit "Y" contained the specific findings on this investigation. Tr. p. 218. He was also ordered to end the affair with Laura, and was suspended for 36 hours without pay. Tr. p. 222-23.

The 36 hours, however, was removed from his accumulated vacation time. Id. The discipline against him was not grieved. Tr. p. 222.

He admits that Glazier ranked No. 1 on the sergeant list for promotion while he was having an affair with Laura and in Glazier's chain of command. Tr. p. 225-26. He admitted that he issued an evaluation on Glazier during the time that he was still having the affair with Laura, that may not have been as favorable to Glazier as the others' evaluations. Tr. p. 227-28, p. 238. He further stated that he "still socialize[s] with Laura Glazier" but does not "have a sexual relationship with her." Tr. p. 231. He also stated that he did call Glazier at Laura's request after an altercation between Glazier and Laura, and this call occurred while he was in Glazier's chain of command. Tr. p. 236. Scott also stated that he is aware that Laura was disciplined in 2003, but was still promoted. Tr. p. 248.

The hearing was reconvened on September 7, 2006. Scott continued testifying stating that he made Glazier an administrative sergeant because of his organizational skills. Tr. p. 257-58. He stated that Glazier did not want to become an administrative sergeant because of financial reasons. Tr. p. 263. He also stated that he assisted with Glazier's child custody issue by changing the work schedule so that Glazier would only miss one day with his child, i.e., Thursdays. Tr. p. 264. He also stated that Glazier's replacement would now start receiving "holiday pay" whereas Glazier was not entitled to it when he held that position. Tr. p. 265. Scott took Laura to San Diego in approximately April or May, 2005, which was the same time that Glazier was studying for his lieutenant examination. Tr. p. 267. Scott did sit on Glazier's "interview panel" for the lieutenant promotion. Tr. 270-71.

On cross-examination, Scott stated that Glazier and Laura had separated by the time the affair commenced. Tr. p. 275. He also testified that he did call Glazier when Laura was promoted to supervisor, indicating that he [Scott] had nothing to do with the promotion. Tr. p. 278.

Police Chief Mark S. Paresi ("Paresi") was the next witness. He has been Chief of Police since June 2002. Tr. p. 347. Prior to the current position, he stated he was Assistant Chief for the Portland, Oregon Police Department. Tr. p. 347. He was appointed to the current position by

the North Las Vegas City Manager. Id. He admits to being the ultimate arbitrator for the discipline of subordinates. Tr. p. 348. Minor disciplinary matters are handled by his subordinates. Tr. p. 348-49.

Paresi stated that the Police Department's policy manual has been updated recently, but the policy concerning interdepartment relationships has remained "consistent." Tr. p. 349-50. He stated he first became aware of the Scott and Laura relationship when he interviewed Glazier in June 2005. Tr. p. 351-52. He also claims to have heard a rumor regarding the relationship at an earlier time but he did not investigate it. Tr. p. 352. He admitted that the Police Department is not only bound by its policy but also by the North Las Vegas' code of ethics. Tr. p. 355. Paresi described discipline as follows:

> . . . corrective is to assist the employee in learning from the experience. That is why in all discipline we provide training to address the specific issue addressed in the discipline, and punitive is just like the word. It's mean to hurt someone.

Tr. p. 357. He then stated that "taking away someone's pay" would not be punitive if done using "the progressive standard" explained above. Id. At the meeting with Glazier regarding the Scott-Laura relationship, Paresi stated that Glazier asked him why he had not been promoted, but he did not provide an answer because he "did not feel that [he needed] to explain it to him at that point." Tr. p. 367. Paresi was then questioned about Exhibits 19-1 and 19-2, i.e., emails to Ms. Desordi concerning Glazier seeking an appointment with Paresi. Tr. p. 371. Paresi admitted that no meeting was ever scheduled as a result of the emails. Tr. p. 372. In addition to the 36-hour suspension and mandated attendance at an ethics class, Paresi stated he gave Scott a "last chance agreement," i.e., if he violated any aspect of the directive, he would be fired. Tr. p. 375-76. Significantly, Paresi stated that he did not modify this directive either "in writing" or "verbally" after September 22, 2005. Tr. p. 376. However, upon further questioning, he stated that he did modify it "verbally." Tr. p. 377. The modification was that Scott could interact with Laura in a daily business relationship capacity. Tr. p. 378-79. When asked if he was aware of Scott's current off-duty relationship with Laura, he stated that he was not aware of the same, and that it "would certainly be grounds to take a look" at the matter. Tr. p. 379-80.

Substantial questioning followed concerning the refusal to produce the "last chance agreement" and the fact that it was not mentioned previously in testimony or in documents. Tr. p. 387-97. It was also noted that Glazier received a 40-hour suspension, which was the second discipline in Paresi's "tenure" and it involved verbal remarks to a female and about "brothers" riding "quads" but yet Scott received only a 36-hour suspension for having had a long-term affair with a fellow officer's spouse/co-worker, having participated in discipline and promotion events concerning Glazier during the affair which gave the appearance of impropriety, and using the Department's equipment for personal use. Tr. p. 406-7.

Paresi testified that Glazier was given the 40-hour suspension for the offensive remark concerning a female traveling to Disneyland as a "progressive" form of discipline because of other unprofessional conduct incidents occurring previously. Tr. p. 445. Paresi testified that Glazier was originally taking 20 hours off and taking 20 hours off his accumulated annual leave. Tr. p. 446. Glazier, as indicated above, grieved the matter and was reimbursed two-days of pay. Id. Paresi stated that he felt he "had a significant issue on [his] hands with a supervisor in relation to females and minorities" and that Glazier "had missed the significance of the corrective measures we had taken and the interaction that we had had consequently to his behavior." Tr. p. 447. He then stated that Glazier did not receive the promotion to lieutenant because he "did not feel that Tom was fit to be a lieutenant . . . based on his behavior toward women . . . I feel he is a racist. He is condescending, and he is sexist, and he poses a liability to my organization." Tr. p. 449-50. Paresi stated he has promoted certain officers who were not on the top of the promotion list, and when considering who to promote, "I look for the character of the individual, his or her ability to lead the organization, their integrity, their administrative skills." Tr. p. 452.

Paresi also stated that he informed Glazier not to go to the media or start a federal investigation, but to allow the Police Department to do their job and investigate the allegations. Tr. p. 455. When questioned about Laura's promotion, he stated that she had been working "from a ground-floor worker in the heart of the organization to a supervisor's position, and that she had gone to college" and that she was the "only one that applied for the position." Tr. p. 457.

He also testified that Laura was not in Scott's chain of command at the time of their affair. Tr. p. 464.

Assistant Chief Joseph Chronister ("Chronister") was the next witness at the hearing. He has been with the Police Department for 17 years. Tr. p. 495. He was on the panel for the lieutenant promotion in 2005. Tr. p. 496. Seven individuals applied for the promotion; and they were all interviewed as well as their superiors. Id. He believed that the panel felt Glazier should either be "last or next to last" on the promotion list. Tr. p. 497. Glazier's deficiencies included deficiencies in personal skills, leadership skills, and his interactions with subordinates and peers. Tr. p. 497-98. He testified that individuals who "placed first on the assessment testing [had] been passed over" previously. Tr. p. 500. He was aware of Glazier receiving discipline in 2002, 2003, and 2004. Tr. p. 503.

He stated that it was his intention to begin an internal affairs investigation regarding Scott as soon as the meeting with the Chief and Glazier had concluded. Tr. p. 506. He confirmed that Laura was disciplined in February 2003, but was promoted in 2005 based upon her supervisor's recommendation and the fact that no one else applied. Tr. p. 509. Glazier's reassignment to the Northwest Area Command was not meant to "punish" Glazier. Tr. p. 511. He stated that Glazier's replacement as an administrative sergeant did indeed receive different pay but that it was because he could work holidays, which Glazier did not; and that he was the president of the Association, which Glazier was not. Tr. p. 512.

Concerning the officer injured while playing football during a lunch hour, he stated that had the injury occurred during work, both Glazier and Morrison would have been disciplined. Tr. p. 515. Chronister testified that when the Chief told Scott to end his sexual relationship with Laura, that it did not mean he had to terminate a platonic relationship. Tr. p. 523. Chronister stated that he never told Glazier that he would not qualify for a promotion because of his disciplines. Tr. p. 527. Board Member Wilkerson even questioned Chronister as to why Glazier's immediate supervisors "rated him about average" yet his rating of Glazier, as well as the rating by Scott and Chief Paresi, was far lower. Tr. p. 546. Reasons cited included that the rating process is subjective and that some supervisors simply do not want to offend their officers.

Tr. p.546. Chronister then provided two recent incidents in which Glazier "performed exactly as the department would want him to perform in that situation." Tr. p. 549. He stated that Glazier's complaint filed with the Board will not be detrimental to Glazier, or used against him, should he return to the Police Department. Tr. p. 551. Board Member Wilkerson also noted that Exhibit O-2 was Glazier's 2005/2006 evaluation, and that Lt. Jerry Hamilton had "even rated him better this time than he did the last time." Tr. p. 562.

Capt. Victor Dunn ("Dunn") was the next witness. He has been with the Police Department for over 18 years. Tr. p. 566. He stated that Glazier would repeat jokes heard from black entertainers such as Richard Pryor, Eddie Murphy, and the Wayan Brothers; and would use inappropriate words imitating them. Tr. p. 566-67. He also testified to Glazier's remarks to a nurse about Hispanics and African-Americans; and the nurse is married to an African-American. Tr. p. 569. He also recalled a trip to Canada, during which Glazier used "certain racial epithets." Tr. p. 571. He also recalled Glazier mimic the mannerisms of two alleged homosexuals on the Wayan Brothers television show. Tr. p. 572. Concerning the 2004 Martin incident, Dunn stated he told Glazier that he has to "know [his] audience" before saying certain things or acting a certain way. Tr. p. 575. He also offered that he does not think Glazier "realizes a lot of times that this is offensive to certain people." Tr. p. 575-76.

He states he was on the panel that interviewed the top 10 sergeants and the top seven lieutenant candidates. Tr. p. 577. As part of the interview process, the sergeant candidates provided their opinions of the lieutenant candidates; and "[e]veryone ranked [Glazier] last, except a couple of them which ranked him next to last." Id. He said this was important because "unless you have [the] support of your peers and the folks that work with you, you can't succeed." Id. He is aware, however, that Glazier tested No. 1 with the assessment center for the lieutenant promotion. Tr. p. 578. He stated that Glazier was not promoted because of his "disciplinary issues that he had had and performance issues that he had had and the ranking" by his peers. Tr. p. 579.

On cross-examination, Dunn stated that even as a black man himself, he and Glazier "have actually done skits and parodies of Richard Pryor-type jokes." Tr. p. 581. Those skits

included jokes from the Wayan Brothers shows. Tr. p. 582. He does not, however, use the "N" word. Tr. p. 581. He has used the phrase "home boy." Tr. p. 584. He repeated, though, that Glazier "never understood that certain things that he said wasn't acceptable to everyone, and oftentimes when they were said, it wasn't the right time or it was in poor taste." Tr. p. 586. He himself has never been counseled for making inappropriate sexual comments or "racial epithet." Tr. p. 587. He did state that he believes Glazier does have "biases." Tr. p. 595-96. However, he did encourage Glazier to test for lieutenant. Tr. p. 597.

The depositions of Lt. Michael Rose, Lt. Jerry Hamilton ("Hamilton"), and Dave Smith were taken by the parties in lieu of live testimony at the administrative hearing. The parties' post hearing briefs contained significant recitations from the depositions.

FINDINGS OF FACT

1. That Glazier was employed by the Police Department since approximately 1988.

2. That NRS 288.270 provides, in part, that it is a prohibited labor practice for a local governmental employer to discriminate because of personal reasons.

3. The City and the Police Department are local governmental employers.

4. Glazier married Laura while both were employed with the City and the Police Department. They subsequently had a child and later divorced.

5. During the Glaziers' marriage, Laura engaged in an affair with Captain Tony Scott. Scott, at the time, was also married.

6. During relevant times in Grazier's career, Scott held a position above Glazier and was in his chain of command.

7. Scott also actively participated in Glazier's promotion process while engaged in the affair with Laura Glazier. Such process was amended, and Glazier was required to participate in an oral board examination.

8. Glazier placed high in his attempts to be promoted to Lieutenant; he was never promoted and he is currently a Sergeant with the Police Department.

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9. Glazier was reassigned to a new area command station, under the command of Scott. This change in assignment impacted Glazier's days off and rate of pay. The officer replacing Glazier received a higher rate of pay than Glazier received.

10. Scott also participated in Glazier's discipline in May 2004, without advising of his relationship with Laura Glazier.

11. Scott was still in Glazier's line of command, and participated in Glazier's promotion process, while Laura Glazier was attempting to modify child support and child custody.

12. Scott admitted that he gave Glazier an evaluation that was more negative than others received by Glazier; and this evaluation was conducted while Scott was still having the affair with Laura Glazier.

13. Chief Paresi testified he learned of the affair from Glazier, but that he had previously heard rumors of the affair.

14. Chief Paresi testified that Scott entered into a "last chance agreement" with the Police Department concerning the Laura Glazier affair while being in Glazier's chain of command, and his failure to disclose the same. Chief Paresi first testified that such an agreement was not modified and that Scott would be fired if he violated the agreement. Such testimony was later modified by Chief Paresi that Scott was allowed to interact with Laura Glazier for business purposes.

15. The Board finds that Glazier was denied promotion to Lieutenant based on the discrimination of Scott and others in Glazier's chain of command because of personal reasons.

16. Should any finding of fact be more properly construed as a conclusion of law, may it be so deemed.

CONCLUSIONS OF LAW

1. The Local Government Employee-Management Relations Board ("Board") has jurisdiction over the parties and the subject matters of the complaint on file herein pursuant to the provisions of NRS Chapter 288.

2. The City of North Las Vegas and the North Las Vegas Police Department are local government employers as defined in NRS 288.060.

3. That Glazier is an employee covered by the provisions of NRS and NAC Chapters 288.

4. That at relevant times in Glazier's career with the Police Department, Scott was in his chain of command while having an affair with Glazier's wife and even participated in the discipline of Glazier.

5. That at relevant times while Glazier was attempting to be promoted to lieutenant, Scott was on the panel considering Glazier's promotion while having an affair with Glazier's wife.

6. That Glazier was denied the promotion to lieutenant although he obtained a high ranking in the selection process; and during this promotion process, Scott never disclosed his affair with Laura Glazier to anyone and that his participation in the process may be influenced by the affair with Laura Glazier.

7. That Glazier was transferred to a new area command, which impacted his days off and his rate of pay; and that Scott was in Glazier's chain of command during this transfer.

8. That the Chief of the Police Department stated he had heard rumors of the Scott-Laura Glazier affair but did nothing until Glazier personally contacted him.

9. That such acts and/or conduct are discrimination based on personal reasons, e.g., the Scott-Laura Glazier affair with the Police Department not acting on the same and further allowing Scott to participate not only in the discipline of Glazier but also participate in the denial of his promotion. Such discimination is a violation of NRS 288.270 and is a prohibited labor practice.

10. Should any conclusion be more properly construed as a finding of fact, may it be so deemed.

DECISION AND ORDER

Based upon the above, the Board hereby orders as follows:

IT IS HEREBY ORDERED that (a) Glazier shall be promoted to lieutenant at the next first opportunity unless there is a good cause for Glazier not to receive the promotion; (b) Glazier shall be compensated with back pay at a rate commensurate with a lieutenant's rate of pay,

together with all other associated benefits, from the date of July 9, 2005, i.e., the date Glazier should have been promoted had it not been for the discriminatory acts and/or conduct of Scott, the Police Department, and the City; and (c) the Police Department and the City shall cease and desist from prohibited and unfair labor practices.

IT IS FURTHER ORDERED that Glazier is hereby awarded attorneys' fees and costs. A detailed and comprehensive motion for such fees and costs shall be filed by Glazier within twenty (20) days from the date of service of this order and the Respondents shall have ten days thereafter to oppose the same. The Board shall make a ruling on the final award.

DATED this 13th day of March, 2007.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member