

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

5 TIMOTHY FRABBIELE,)

6 Complainant,)

7 vs.)

8 CITY OF NORTH LAS VEGAS; NORTH)
9 LAS VEGAS POLICE DEPARTMENT AND)
ASSOCIATION,)

10 Respondent.)

ITEM NO. 680G

CASE NO. A1-045929

ORDER

11 For Complainant: Adam Levine, Esq.
12 Law Offices of Daniel Marks

13 For Respondents: Malani L. Kotchka, Esq.
14 Lionel Sawyer & Collins

15 John Dean Harper, Esq.

16 On the 1st day of March, 2010, this matter came on before the State of Nevada, Local
17 Government Employee-Management Relations Board ("Board"), for consideration and decision
18 pursuant to the provisions of the NRS and NAC chapters 288, NRS chapter 233B, and was
19 properly noticed pursuant to Nevada's open meeting laws.

20 Complainant Timothy Frabbiele has filed a Petition for Rehearing following the Board's
21 entry of a final order on February 1, 2010 in favor of Respondents City of North Las Vegas and
22 North Las Vegas Police Department (collectively "City"). We have considered all of the
23 arguments raised in the Petition for Rehearing and we find the arguments to be unpersuasive in
24 this case.

25 Regardless of whether Frabbiele is correct that the City unilaterally changed the terms
26 and conditions of employment, the complaint is still time-barred. If the City did change a term
27 and condition of Frabbiele's employment, it could have done so no later than September 5, 2007.
28 At that time the disciplinary process was complete and any alleged change to the disciplinary

1 process would have already been in effect. The only remaining question that must be answered
2 by the Board is to determine when Frabbiele knew, or should have known, that the City was
3 treating him as a probationary employee. See *Cone v. Nevada Service Employees Union*, 116
4 Nev. 473, 477, 998 P.2d 1178, n.2 (2000); *State of Nevada Local Government Employee-*
5 *Management Relations Board and John Strahan v. Washoe County Sheriff's Supervisory*
6 *Deputies Association*, Case No. 48708 (Nev. 2008). The Board has already determined that
7 Frabbiele knew, or should have known, that he was being non-confirmed on September 10, 2007
8 when he received personnel order 07-348. This personnel order specifies that Frabbiele's
9 employment is being "non-confirmed." (Exhibit 13). The "non-confirmation" language clearly
10 refers to the City's Civil Service Ordinance. North Las Vegas Municipal Code § 2.68.290(D)
11 (authorizing non-confirmation of probationary employees). Thus, personnel order 07-348, which
12 was provided to Frabbiele on September 10, 2007 is sufficient to give him notice that he was
13 non-confirmed as a probationary employee and therefore any alleged prohibited practice related
14 to his treatment as a probationary employee occurred on or before September 10, 2007.

15 The tolling arguments raised in the Petition concern events that pre-date personnel order
16 07-348, and therefore cannot be the basis for tolling the limitations period after September 10,
17 2007. We also find that actions of North Las Vegas Police Officers Association in not processing
18 Frabbiele's claims did not toll the statute of limitations as to his claims against the City.

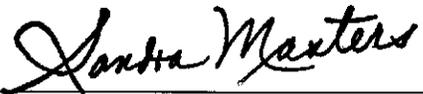
19 Accordingly, Complainant's Petition for Rehearing is Denied.

20 DATED this 2nd day of March, 2010.

21 LOCAL GOVERNMENT EMPLOYEE-
22 MANAGEMENT RELATIONS BOARD

23 BY: 
24 SEATON J. CURRAN, ESQ., Chairman

25 BY: 
26 JAMES E. WILKERSON, SR., Vice-Chairman

27 BY: 
28 SANDRA MASTERS, Board Member

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11 ASSOCIATION,

12 Respondent.

CASE NO. A1-045929

NOTICE OF ENTRY OF ORDER

12 To: Adam Levine, Esq.
13 To: Malani L. Kotchka, Esq.
14 Lionel Sawyer & Collins
15 John Dean Harper, Esq.

16 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
17 March 2, 2010.

18 A copy of said order is attached hereto.

19 DATED this 2nd day of March, 2010.

20 LOCAL GOVERNMENT EMPLOYEE-
21 MANAGEMENT RELATIONS BOARD

22 BY 
23 JOYCE HOLTZ, Board Secretary
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1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Local Government Employee-Management
3 Relations Board, and that on the 2nd day of March, 2010, I served a copy of the foregoing

4 ORDER by mailing a copy thereof, postage prepaid to:

5 Adam Levine, Esq.
6 Law Offices of Daniel Marks
7 530 S. Las Vegas Blvd., #300
8 Las Vegas, NV 89101

9 Malani L. Kotchka, Esq.
10 Lionel Sawyer & Collins
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16 Las Vegas, NV 89134

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JOYCE HOLTZ, Board Secretary