

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

5 TIMOTHY FRABBIELE,)
6 Complainant,) ITEM NO. 680H
7 vs.) CASE NO. A1-045929
8 CITY OF NORTH LAS VEGAS; NORTH)
9 LAS VEGAS POLICE DEPARTMENT AND) **ORDER**
10 ASSOCIATION,)
11 Respondent.)

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 22nd day of April, 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 On February 1, 2010 this Board dismissed Complainant Timothy Frabbiele's complaint
21 after the evidence produced at the hearing indicated that Frabbiele's complaint had been filed
22 beyond the six-month limitations period set forth in NRS 288.110(4). On March 2, 2010 this
23 Board denied Frabbiele's petition for a re-hearing.

24 After Frabbiele's complaint was dismissed on February 1, 2010, Respondent City of
25 North Las Vegas and North Las Vegas Police Department (collectively "Department") filed a
26 motion seeking partial recovery of costs and attorneys fees pursuant to NRS 288.110(6) which
27 permits the Board to award reasonable costs, which may include attorneys' fees, to the prevailing
28 party. The decision of whether or not to award costs and fees is left to the Board's discretion.

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When the Board decided this case, it did so on a procedural basis, i.e. that Frabbiele's complaint had not been filed within the six-month limitation period and the Board did not reach the merits of Frabbiele's complaint. It was not clear whether or not the Department would be permitted to assert the affirmative defense of the statute of limitations until the Board granted consent to do so, which occurred only after the close of the hearing and after submission of post-hearing briefs.


For the foregoing reasons the Board determines that an award of costs or fees is not warranted in this case.

Accordingly, Respondent's Motion for Costs and Attorneys' Fees is Denied.

DATED this 22nd day of April, 2010.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: 
SEATON J. CURRAN, ESQ., Chairman

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

BY: 
SANDRA MASTERS, Board Member

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7 vs.)

8 CITY OF NORTH LAS VEGAS; NORTH)
9 LAS VEGAS POLICE DEPARTMENT AND)
10 NORTH LAS VEGAS POLICE OFFICERS)
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

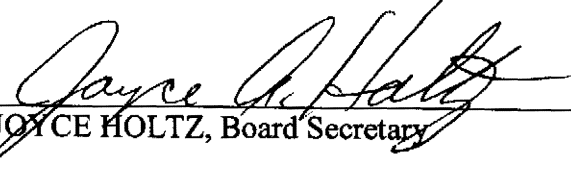
15 John Dean Harper, Esq.

16 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
17 April 22, 2010.

18 A copy of said order is attached hereto.

19 DATED this 23rd day of April, 2010.

20 LOCAL GOVERNMENT EMPLOYEE-
21 MANAGEMENT RELATIONS BOARD

22 BY 
23 JOYCE HOLTZ, Board Secretary

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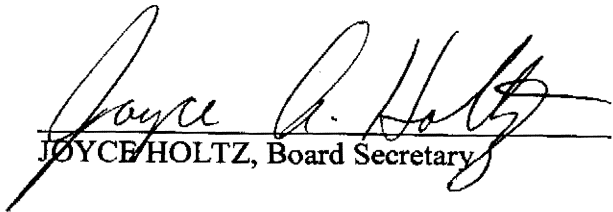
1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Local Government Employee-Management
3 Relations Board, and that on the 23rd day of April, 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
11 1700 Bank of America Plaza
12 300 South Fourth Street
13 Las Vegas, NV 89101

14 John Dean Harper, Esq.
15 9330 W. Lake Mead Blvd. Suite 200
16 Las Vegas, NV 89134

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JOYCE HOLTZ, Board Secretary