

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAURIE BISCH ,

Complainant,

vs.

THE LAS VEGAS METROPOLITAN
POLICE DEPARTMENT; and LAS VEGAS
POLICE PROTECTIVE ASSOCIATION,

Respondents.

ITEM NO. 705 B

CASE NO. A1-045955

ORDER

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

For Respondent Las Vegas
Metropolitan Police Department: Nick D. Crosby, Esq.
Marquis & Aurbach

For Respondent Las Vegas
Police Protective Association: Kathryn Werner Collins, Esq.

This matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board"), on July 21, 2010 for consideration and decision pursuant to the provisions of the Local Government Employee-Management Relations Act ("the Act"); NAC Chapter 288, NRS chapter 233B, and was properly noticed pursuant to Nevada's open meeting laws.

Complainant Laurie Bisch ("Bisch") has asserted four claims in this proceeding. First, Bisch asserts that Respondent Las Vegas Police Protective Association ("Association") breached its duty of fair representation to her when it declined to represent her in disciplinary proceedings. Next, Bisch asserts that Respondent Las Vegas Metropolitan Police Department ("Metro") committed a prohibited labor practice when it unilaterally changed the terms and conditions of her employment related to discipline and discharge. Finally, Bisch asserts that she was the victim of political discrimination due to her candidacy for the office of Clark County Sherriff in 2006, and her intention to run for office again in the 2010 elections. This final claim is really two

1 claims as it is asserted separately against both the Association and against Metro, alleging that
2 the Association violated NRS 288.270(2)(c) and that Metro violated NRS 288.270(1)(f).
3 Respondents have denied Bisch's allegations.

4 The Board conducted a hearing on this matter on April 20, and 21, 2010. In lieu of
5 closing arguments, the parties submitted post-hearing briefs. Complainant's post-hearing brief
6 was submitted on June 16, 2010 and Respondents' post hearing briefs were submitted on June
7 18, 2010.

8 Summary of Evidence

9 On June 20, 2008, a 17-year old girl named Valentine Insana was bitten by Bisch's dog.
10 Valentine was a friend of Bisch's daughter, Lindsey. Bisch went with Valentine and Lindsey to
11 a UMC Quick Care facility to obtain medical treatment for the bite after Bisch had repeatedly
12 attempted to contact Valentine's mother, but was unable to reach her. Apparently out of concern
13 over whether Valentine would be able to receive medical treatment without parental consent, it
14 was agreed that Valentine would be presented as Lindsey, who was 18 at the time.

15 At the Quick Care facility, Valentine was treated for the dog bite under the name of
16 Lindsey Bisch. Bisch filled out paperwork while at the Quick Care facility that listed Valentine's
17 name as Lindsey, and listed Valentine's birth date as Lindsey's. Bisch directly paid the costs of
18 treatment.

19 Shortly thereafter, on October 15, 2008, Valentine's mother, Jacqueline Insana, submitted
20 a complaint to Metro about Bisch and the medical treatment that was obtained for Valentine. The
21 complaint submitted to Metro included an allegation that the use of Lindsey's name was
22 necessary so that Bisch could make a claim for the treatment on her insurance. The complaint
23 was investigated by Metro's Internal Affairs division. After investigating the complaint, and
24 determining that no such insurance claim had ever been made by Bisch, Metro disciplined Bisch
25 with what ultimately turned out to be a written reprimand for "conduct unbecoming an
26 employee." Ex. 5.

27 Before concluding the investigation, Internal Affairs interviewed Bisch. Bisch asked the
28 Las Vegas Police Protective Association to represent her during the Internal Affairs interview.

1 Bisch is a member of the Association, and has been throughout her career with Metro, with the
2 exception of a brief interlude in 2006. The Association advised Bisch that it would not represent
3 her in the event that she chose to be represented by private legal counsel, according to its bylaws.
4 On the morning of Bisch's Internal Affairs interview, the Executive Director of the Association,
5 Chris Collins, appeared at Internal Affairs for Bisch's interview. Bisch arrived at that interview
6 with a private attorney who had agreed to represent Bisch. Bisch wanted both her attorney and
7 the Association to represent her. Following what was described as a "heated conversation"
8 between Collins and Bisch's attorney, Collins departed leaving Bisch's representation solely in
9 the hands of her attorney.

10 At the conclusion of the Internal Affairs investigation, a Report of Complaint was issued
11 which included a finding that Bisch had committed a felony violation of NRS 205.463, a finding
12 that would have warranted a termination of Bisch's employment with Metro. (See Tr. 4/20/2010,
13 p. 144-145). This finding was based upon a legal opinion that the Internal Affairs detective had
14 obtained from the District Attorney's office.

15 It fell to Sgt. Kenneth Romane to discipline Bisch. Sgt. Romane disagreed with the
16 findings in the Report of Complaint, and before imposing any discipline on Bisch, Sgt. Romane
17 challenged the felony finding, which, after some consultation with Human Resources and his
18 superiors was then removed from the Report of Complaint. The final Adjudication of Complaint
19 (AOC) included only a finding that Bisch had "engaged in conduct unbecoming an employee
20 under Civil Service Rule 510.2G." Ex. 5. This is the finding that resulted in the written
21 reprimand.

22 Bisch grieved her written reprimand with partial success. At the Step 2 level, some of the
23 negative language in the AOC was removed, but the written reprimand was not entirely pulled
24 back. Bisch then filed her complaint with this Board on June 3, 2009.

25 Analysis

26 Our inquiry is limited to whether or not the Association or Metro acted contrary to the
27 provisions of the Act in this instance. As the complainant, Bisch bears the burden to establish
28 that a violation of the Act has occurred. Each of Bisch's four claims are discussed separately.

1 Breach of the Duty of Fair Representation By the Association

2 “The duty of fair representation requires that when the union represents or negotiates on
3 behalf of a union member, it must conduct itself in a manner that is not ‘arbitrary,
4 discriminatory, or in bad faith.’” Weiner v. Beatty, 121 Nev. 243, 249, 116 P.3d 829,
5 833 (2005). A union’s actions are arbitrary only if the union’s conduct can be fairly characterized
6 as so far outside a “wide range of reasonableness that it is wholly ‘irrational’ or ‘arbitrary.’”
7 Marquez v. Screen Actors Guild, Inc., 525 U.S. 33, 45 (1998). In order to prove discriminatory
8 actions, a complainant must “deduce substantial evidence of discrimination that is intentional,
9 severe, and unrelated to legitimate union objectives.” Amalgamated Ass’n of St., Elec. Ry. and
10 Motor Coach Emp. of America v. Lockridge, 403 U.S. 274, 301 (1971). In order to show “bad
11 faith,” a complainant must present “substantial evidence of fraud, deceitful action or dishonest
12 conduct.” Id at 299.

13 Bisch’s evidence against the Association in this case does not establish a breach of the
14 duty of fair representation. Bisch claims that the union abandoned her immediately prior to her
15 Internal Affairs interview. The Association responds that it was simply following its own policy
16 to refrain from representing a member when the member has retained private legal counsel.

17 Bisch’s claims are based in part upon an interpretation of NRS 289.080 as imposing an
18 affirmative duty on the Association to represent her even when she has retained private counsel.
19 This appears to be an argument that the Association failed to perform a ministerial act, which
20 would constitute a breach of the duty of fair representation. Nevada Service Employees
21 Union/SEIU Local 1107 v. Orr, 121 Nev. 675, 680, 119 P.3d 1259, 1263, n.10 (2005).

22 The Association disputes Bisch’s interpretation of NRS 289.080, asserting that the
23 statute grants the permissive right to a peace officer to have two representatives present, but does
24 not compel involuntary representation by an employee organization. Bisch did not present any
25 authority, beyond the statute itself, that holds that NRS 289.080 imposes a ministerial obligation
26 on the Association. Given the arguments of the Association, the most that Bisch could show is
27 that NRS 289.080 may be susceptible to more than one interpretation. We do not think that an
28 ambiguous statute can fairly impose a ministerial obligation on a union absent an authoritative

1 interpretation of that statute; an interpretation which this Board is not empowered to provide. see
2 NRS 289.120. Thus, we cannot find that the Association failed to perform a ministerial act.

3 Failure to perform a ministerial obligation is only one of many ways for a complainant to
4 show a breach of the duty of fair representation. Even non-ministerial acts may be arbitrary,
5 discriminatory or in bad faith and the Board looks to the evidence to determine if Bisch has
6 established any breach of the duty under these criteria.

7 The Association's actions were not arbitrary. The Association presented evidence that it
8 has an established policy in its bylaws to refrain from representation when an individual has
9 retained a private attorney as Bisch did in this case. Ex. 36, p. 13. Evidence was also presented
10 to the Board that the Association has consistently refrained from representation when the
11 member retains private counsel in other matters apart from Bisch's Internal Affairs investigation.
12 Tr. 4/21/10, pp. 356-357; Tr. 4/21/10, pp. 492-494; Ex. 50.

13 Under this policy, the Association does not leave an employee without representation, as
14 it only applies when an employee is actually represented by private counsel. Collins testified
15 that he had advised Bisch of the Association's bylaws prior to the Internal Affairs interview. He
16 also testified that he was not entirely sure if Bisch would be represented by private counsel at the
17 interview, so he went to the scheduled interview and was prepared to represent Bisch in the event
18 that she did not have private counsel. (Tr. 4/21/10, p. 499). Only when it became apparent that
19 Bisch did in fact have private counsel did Collins leave. Because the Association acted at all
20 times to ensure that Bisch was represented in the Internal Affairs investigation, we cannot say
21 that its conduct was so far outside of the range of reasonableness to be "irrational." Thus, it was
22 not arbitrary.

23 Nor were the Association's actions discriminatory under its duty of fair representation.
24 The practice of deferring representation to private counsel was not adopted specifically for
25 Bisch's case, nor was it applied only to Bisch. The Association's actions in this case resulted
26 from a straightforward application of its previously-enacted bylaws. There is no evidence that it
27 was intentionally directed towards Officer Bisch. There was no evidence that the Association's
28 actions were "severe" because, as discussed above, Bisch was represented at all times during the

1 Internal Affairs investigation by an attorney. Nor is there evidence that the Association's actions
2 were unrelated to legitimate union objectives. While the Association did not endorse Bisch's
3 candidacy for Sheriff in 2006, there is no reason to suppose that the previous endorsement of a
4 different candidate affected the Association's decisions. In other words, there was no evidence
5 of discrimination by the Association.

6 Finally, there was no evidence presented at the hearing indicating fraud, deceitful action
7 or dishonesty on the part of the Association. To the contrary, the Association was very forthright
8 towards Bisch when explaining its bylaws and intention to refrain from representation should she
9 elect to be represented by a private attorney. Therefore, we conclude that the Association did not
10 breach its duty of fair representation to Officer Bisch in this case.

11 Although the Association did not represent Bisch in the grievance she filed challenging
12 her discipline, there is insufficient evidence to determine how this came about or what the
13 Association's actions were in this situation, therefore this does not establish a breach on the part
14 of the Association.

15 Unilateral Change

16 Under the unilateral change doctrine, an employer violates the Act by making a unilateral
17 change to a term or condition of employment without first bargaining in good faith over the
18 relevant term. Local Joint Executive Bd. of Las Vegas v. N.L.R.B., 540 F.3d 1072 (9th Cir.
19 2008); City of Reno v. Reno Police Protective Ass'n, 118 Nev. 889, 59 P.3d 1212 (2002).
20 Disciplinary procedures are a term of employment for which bargaining is mandatory. NRS
21 288.150(2)(i).

22 Even if the disciplinary procedures are not included within a collective bargaining
23 agreement, a complainant may still establish a unilateral change by showing a departure from an
24 established practice. City of Reno at 900, 59 P.3d at 1120. In this case, the disciplinary
25 procedures are not directly addressed in the collective bargaining agreement, and are established
26 by Metro's regulations and policies. These regulations may form the basis for an established
27 practice, and a departure from these regulations may constitute a unilateral change under City of
28 Reno.

1 The unilateral change doctrine does not prevent an employer from imposing discipline –
2 it only requires an employer to adhere to the established, uniform procedure when handling
3 disciplinary matters. In order to establish a violation of the Act under a unilateral change theory,
4 a Complainant must establish what the terms and conditions of employment were before the
5 alleged change, and then establish what the terms and conditions of employment were after the
6 change, and then compare the two. Golden Stevedoring Co., 335 N.L.R.B. 410,t435 (2001).

7 Bisch asserts that her discipline was contrary to Regulation 4/101.19 because Bisch's
8 actions were not related to the scope of her employment or the operations of the police
9 department. However, Bisch was not disciplined for any violation of Regulation 4/101.19.
10 Bisch's discipline was based upon a different rule – Civil Service Rule 510.2. Ex. 5. This rule
11 listed a number of actions as grounds for imposing discipline, including “misconduct” which is
12 defined as “...not only improper action by an employee in his official capacity, but also any
13 conduct by an employee unconnected with his official duties, tending to bring the Department
14 into public discredit...” Ex. 21.

15 At least as early as November of 2006, Metro had adopted a Disciplinary Decision Guide
16 which sets forth a standardized matrix for imposing discipline. This Guide states that for “any
17 conduct or performance issues... where the supervisor believes a written record of discipline is
18 necessary...” the corresponding level of discipline for a first offense is a written reprimand. Ex.
19 20, p. 18.

20 It appears from the evidence that the basis for imposing discipline on Bisch is established
21 by Ex. 20, and the corresponding level of discipline is established by the Disciplinary Decision
22 Guide in Ex. 21. These were the disciplinary procedures prior to alleged change and because
23 Metro adhered to these same procedures when imposing discipline on Bisch, they are the same
24 after the alleged change. Because the disciplinary procedures were not changed in Bisch's case,
25 there cannot be a unilateral change by the employer.

26
27 Political Discrimination By the Association
28

1 NRS 288.270(2)(c) prohibits an employee organization from discriminating because of
2 political reasons.

3 In order to prove political discrimination an aggrieved employee must make a showing
4 sufficient to support the inference that political reasons were a motivating factor in the
5 employer's, or the union's, decision. Once this is established, the burden shifts to the employer,
6 or to the union, to demonstrate that the same action would have taken place even in the absence
7 of the political activity. Padilla-Garcia v. Guillermo Rodriguez, 212 F.3d 69 (1st Cir. 2000). The
8 aggrieved employee must then prove that the legitimate explanation offered by the employer or
9 the union is pre-text for unlawful discrimination. City of Reno at 101-102, 715 P.2d at 1323
10 (stating test to analyze claims based on discrimination due to protected conduct).

11 Bisch did not raise an inference that political reasons were a motivating factor for any of
12 the Association's actions. The Association presented substantial evidence that the policy stated
13 in its bylaws of not providing representation concurrently with private counsel, is uniformly
14 applied. It was applied the same to Bisch, who was a candidate for political office, as it was
15 applied in a number of other cases. There is no evidence to suppose that political reasons were a
16 motivating factor behind the Association's conduct.

17 Bisch did present evidence that the Board of the Las Vegas Metropolitan Police Health
18 and Welfare Trust were informed of the accusations against Bisch at a board meeting on
19 November 13, 2008, and that at a subsequent board meeting one of the board members, Tom
20 Reid, made a motion to file a police report against Bisch and to request a refund from Bisch for
21 the costs to the Trust. Bisch also asserts that Reid approached other trustees who had abstained
22 from the vote asking "how could you abstain from voting? Don't you realize she has political
23 aspirations?" Even if we accept this as true, however, this conduct is not chargeable to the
24 Association and does not change our conclusion.

25 ///

26 ///

27 ///

28 Political Discrimination by Metro

1 NRS 288.270(1)(f) prohibits discrimination by an employer due to political reasons.
2 Political discrimination against an employer is analyzed under the same City of Reno framework.

3 As to Metro, we find that Bisch does present sufficient evidence to at least support an
4 inference that political reasons were a motivating factor in her discipline. It is not disputed by the
5 parties that Bisch had run for the office of Clark County Sheriff in 2006. Nor was it disputed that
6 Bisch was contemplating another run for the same office in 2010. It was not disputed that Bisch
7 suffered an adverse employment action when she was disciplined through the written reprimand.

8 Bisch also established a nexus between her political activity and her discipline through
9 the testimony of Sgt. Romane. Sgt. Romane testified that when he met with Internal Affairs
10 Detective Jared Grimmett, who told Sgt. Romane: "Dude, I am telling you right now, this is a
11 tower caper." Tr. 4/20/10, p. 10. Romane testified that his understanding of the term "tower
12 caper" referred to a matter that comes from a "bigwig" on the Department wants something
13 looked at. Tr. 4/20/10, p. 11. As the process wore on, Romane's attempts to give Bisch a
14 contact report instead of a written reprimand were obstructed by those higher in the chain of
15 command. Tr. 4/20/10 pp. 11-179. This is sufficient to support the inference that Bisch's
16 political activity was a motivating factor in her discipline.

17 However, the inference is only an inference; it is not conclusive. It shifts the burden to
18 Metro to provide a legitimate explanation for its actions.

19 Metro asserts that it could have taken the same action against Bisch regardless of
20 political activity because it is merely responding to and investigating a complaint that it
21 received from a citizen, and any irregularities or unfounded findings were weeded out through
22 the disciplinary process – in other words that the process worked. We agree with Metro that this
23 presents a legitimate explanation.

24 Metro presented substantial evidence that the disciplinary action against Bisch began
25 when it received a complaint submitted on October 15, 2008 by Jaqueline Insana. The
26 complaint, as received by Metro, alleged that Bisch had committed insurance fraud. (Ex. 10, p.
27 3). Upon receipt of the complaint, Detective Jared Grimmett properly began investigating the
28 allegations that had been made against Bisch. When it became apparent that no insurance claim

1 had ever been made, the insurance fraud allegation was dropped. During the investigation, it did
2 come out that Bisch had filled out paperwork at the Quick Care facility that listed Lindsey's
3 name and birth date on the paperwork for Valentine. (Ex. 11, p. 9.) Bisch confirmed at the
4 hearing that this did occur. Tr. 4/21/10, pp. 385-387. Detective Grimmitt contacted the District
5 Attorney's office to discuss the allegations against Bisch and he obtained an opinion that Bisch
6 had acted in violation of NRS 205.463. Tr. 4/21/10, pp. 533-535. Based upon this legal opinion
7 the final disposition reported that Bisch had committed a felony, an offense which would have
8 warranted termination under Metro's Disciplinary Decision Guide. Ex. 20, p. 20.

9 The felony finding was challenged by Sgt. Romane and was pulled back, leaving only the
10 "conduct unbecoming" finding and resulting in the written reprimand. Bisch grievance her written
11 reprimand and as a result the AOC was modified to remove language that states: "Rather than
12 being forthright and truthful about the situation, you excused your actions with the intent to
13 obtain care for an injured minor," "Although no criminal charges were filed in this incident, the
14 failure to report the dog bite violated a Las Vegas City Ordinance," and "Because the minor took
15 on the identity of Lindsey Bisch, she also assumed Lindsey Bisch's medical history and known
16 allergies." Ex. 8.

17 This evidence supports Metro's argument that the discipline was for legitimate reasons
18 and not for political reasons because Metro did not initiate the complaint, it merely received and
19 investigated it. The felony findings were based upon a legal opinion, and were pulled back
20 before discipline was imposed, other negative language was removed through the grievance
21 process and the remaining findings which supported the conduct unbecoming charge, that Bisch
22 did represent Valentine as Lindsey to the medical staff, was confirmed by Bisch at the hearing.
23 Thus, Metro has met its burden.

24 Under City of Reno, the burden then shifts back to Bisch to demonstrate that Metro's
25 proffered legitimate explanation is not the true reason for its actions and is instead mere pre-text
26 for unlawful discrimination.

27 Bisch acknowledged that she did not have any evidence of the Sheriff's involvement in
28 her disciplinary proceedings. Tr. 4/21/10, pp. 431-432. Nor can we find other evidence to

1 support a finding of political discrimination. As Metro points out, had it been out to get Bisch for
2 political reasons, it could have insisted upon the legal opinion it received from the District
3 Attorney's office, or the failure to report the dog bite findings, to try to impose a more severe
4 form of discipline on Bisch. Ultimately, Bisch does not satisfy her obligation to demonstrate that
5 Metro's explanation was pre-text for political discrimination.

6 Based upon the foregoing, the Board makes the following findings of fact and conclusions
7 of law.

8 **FINDINGS OF FACT**

- 9 1. The Association's Bylaw No. 9.03(b) states: "Nothing herein is intended to preclude a
10 member from employing the services of his or her personal choice of counsel, at the
11 member's own expense, for assistance in other than labor relations and contract matters.
12 A member's selection of his or her own counsel, shall act as a waiver of any rights and
13 privileges outlined in this Bylaw for that particular matter. Ex. 36., p. 13.
- 14 2. The Association uniformly applies the policy stated in Bylaw No. 9.03(b).
- 15 3. Chris Collins appeared at Laurie Bisch's Internal Affairs interview and was prepared and
16 ready to represent Bisch.
- 17 4. Bisch appeared at her Internal Affairs interview with a private attorney to represent her.
- 18 5. The Association did not represent Bisch at the Internal Affairs interview pursuant to its
19 Bylaws.
- 20 6. At no point during the Internal Affairs interview was Bisch left without competent
21 representation.
- 22 7. Bisch was not disciplined for violating the Department's policy on truthfulness.
- 23 8. Bisch was disciplined for acting against Civil Service Rule 510.2(G).
- 24 9. Metro's Disciplinary Decision Guide was adopted at least as early as November of 2006.
- 25 10. Prior to Bisch's discipline the procedures for discipline were Metro's policies and
26 regulations including those specified in Exhibits 20 and 21.
- 27 11. After Bisch's discipline the procedures for discipline were the same policies and
28 regulation.

- 1 12. There was no change to Metro's disciplinary procedures when they applied to Bisch.
- 2 13. Bisch was a candidate for the office of Clark County Sheriff in 2006, and at the time of
3 her discipline was intending to run for the same office in 2010.
- 4 14. The written reprimand that Metro gave Bisch was an adverse employment action.
- 5 15. Detective Grimmert told Sgt. Romane that Bisch's Internal Affairs investigation was a
6 "tower caper."
- 7 16. The Internal Affairs investigation was not initiated by Metro, but was in response to a
8 civilian complaint submitted by Jacqueline Insana.
- 9 17. The civilian complaint contained allegations that Bisch had used her Department
10 insurance to obtain medical treatment for Valentine Insana.
- 11 18. Internal Affairs investigated the complaint and determined that Bisch did not commit any
12 act of insurance fraud, and did not submit any claim for treatment to any insurance
13 policy.
- 14 19. The finding that Bisch had committed a felony was based upon a legal opinion that
15 Detective Grimmert had obtained from the Clark County District Attorney's Office.
- 16 20. Before imposing any discipline on Bisch, Sgt. Romane challenged the felony finding,
17 which was pulled back and removed from the AOC.
- 18 21. The AOC under which Bisch was disciplined found only a violation of Policy 510.2(G).
- 19 22. Bisch challenged her discipline under the bargained-for grievance process, which resulted
20 in the removal of some negative language from the AOC.
- 21 23. Bisch presented no evidence of the Sheriff's involvement in her Internal Affairs
22 investigation or her discipline.
- 23 24. If any of the foregoing findings is more appropriately construed a conclusion of law, it
24 may be so construed.
- 25
- 26
- 27
- 28

CONCLUSIONS OF LAW

- 1 1. The Board is authorized to hear and determine complaints arising under the Local
2 Government Employee-Management Relations Act.
- 3 2. The Board has jurisdiction over the parties and the subject matters of the Complaint on
4 file herein pursuant to the provisions of NRS Chapter 288.
- 5 3. A bargaining agent owes a duty of fair representation to the employees that it represents
6 and it is a prohibited labor practice for a bargaining agent to breach its duty.
- 7 4. The Association's conduct in this case was not so far outside of a wide range of
8 reasonableness as to be irrational or arbitrary.
- 9 5. The Association's conduct was not discriminatory because its policy was uniformly
10 applied to all members and not only to Bisch.
- 11 6. The Association's conduct was not in bad faith.
- 12 7. The Association did not breach its duty of fair representation to Bisch.
- 13 8. Disciplinary and discharge procedures are a mandatory subject of bargaining.
- 14 9. A unilateral change to a mandatory subject of bargaining is a prohibited labor practice.
- 15 10. There was no change to the disciplinary procedures in Bisch's case. Metro applied the
16 pre-existing procedures contained in Exhibits 20 and 21 to Bisch.
- 17 11. Metro did not unilaterally change the disciplinary procedures in this case.
- 18 12. It is a prohibited labor practice under NRS 288.270(2)(c) for a union to discriminate due
19 to political reasons.
- 20 13. Bisch did not establish an inference that the Association's actions were motivated by her
21 political activities, as stated above.
- 22 14. The Association did not discriminate against Bisch due to her political activities.
- 23
- 24
- 25
- 26
- 27
- 28

- 1 15. It is a prohibited labor practice under NRS 288.270(1)(f) for a local government
2 employer to discriminate for political reasons.
- 3 16. Bisch established an inference that political reasons were a motivating factor behind the
4 written reprimand given by Metro.
- 5 17. Once Bisch has established an inference that political reasons were a motivating factor,
6 Metro bears the burden to prove a legitimate explanation for its actions and that it would
7 have taken the same actions against Bisch regardless of her political activity.
- 8 18. Metro demonstrated a legitimate explanation for its actions because Metro did not initiate
9 the process; it followed its own Policies when investigating Jacqueline Insana's
10 complaint and when imposing discipline on Bisch, and because the felony finding was
11 pulled back before any discipline was ever imposed.
- 12 19. Once Metro proves a legitimate explanation for its actions, the burden shifts back to
13 Bisch to prove that Metro's legitimate explanation is pre-text for unlawful discrimination.
- 14 20. Bisch did not present substantial evidence that Metro's explanation was merely pre-text.
- 15 21. Metro did not discriminate against Bisch for political reasons.
- 16 22. If any of the foregoing conclusions is more appropriately construed a finding of fact, it
17 may be so construed.
- 18 ///
- 19 ///
- 20 ///
- 21 ///
- 22 ///
- 23 ///
- 24 ///
- 25 ///
- 26 ///
- 27 ///
- 28 ///

1 **ORDER**

2 It is hereby ordered that the Board finds in favor of Respondent Las Vegas Police
3 Protective Association on the claims asserted against it in the complaint, as stated within this
4 Order.

5 It is further ordered that the Board finds in favor of Respondent Las Vegas Metropolitan
6 Police Department on the claims asserted against it in the complaint, as stated within this Order.

7 DATED the 26th day of August, 2010.

8 LOCAL GOVERNMENT EMPLOYEE-
9 MANAGEMENT RELATIONS BOARD

10
11 BY: 
SEATON J. CURRAN, ESQ., Chairman

12
13 BY: 
14 SANDRA MASTERS, Vice-Chairman

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

5 LAURIE BISCH ,

6 Complainant,

7 vs.

8 THE LAS VEGAS METROPOLITAN
9 POLICE DEPARTMENT; and LAS VEGAS
10 POLICE PROTECTIVE ASSOCIATION,

11 Respondents.

) CASE NO. A1-045955

) **NOTICE OF ENTRY OF ORDER**

12 To: Adam Levine, Esq.
13 Law Offices of Daniel Marks

14 To: Nick D. Crosby, Esq.
15 Marquis & Aurbach

16 To: Kathryn Werner Collins, Esq.

17 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
18 August 26, 2010.

19 A copy of said order is attached hereto.

20 DATED this 26th day of August, 2010.

21 LOCAL GOVERNMENT EMPLOYEE-
22 MANAGEMENT RELATIONS BOARD

23 BY


24 _____
25 ANDY ANDERSON, Commissioner
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Local Government Employee-Management Relations Board, and that on the 26th day of August, 2010, I served a copy of the foregoing ORDER by mailing a copy thereof, postage prepaid to:

Adam Levine, Esq.
Law Office of Daniel Marks
530 S. Las Vegas Blvd., Ste 300
Las Vegas, NV 89101
Attorney for Complainant

Nick D. Crosby, Esq.
Marquis & Aurbach
10001 Park Run Dr.
Las Vegas, NV 89145
Attorneys for Respondent
Las Vegas Metropolitan Police Dept.

Kathryn Werner Collins, Esq.
9330 W. Lake Mead Blvd., Ste. 200
Las Vegas, NV 89134
Attorneys for Respondent
Las Vegas Police Protective Assn.



ANDY ANDERSON, Commissioner