



State of New Hampshire  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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SEA/SEIU Local 1984		*
		*
	Petitioner	*
and		*
		*
State of New Hampshire, Dept. of Corrections ,		*
		*
	Respondent	*
_____		*

Case No. S-0376-13  
Decision No. 2004-126

ORDER

The members of the tribunal assigned to the above-captioned matter convened at the Offices of the Public Employee Labor Relations Board in Concord, New Hampshire on August 13, 2004 for the purpose of considering pending motions filed by the Respondent and assented to by the Complainant. The members undertook the following:

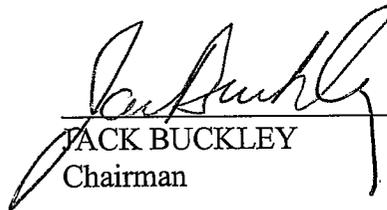
1. They reviewed the Motion to Seal by which both parties requested that the contents of the companion Motion to Recuse be sealed, regardless of determination and subject to opening for any appropriate appeal.
2. They agreed to comply with the request of counsel that the motions be sealed.
3. They reviewed the Motion to Recuse and for Hearing De Novo by which both parties requested that the impaneled members recuse themselves from continued involvement in these proceedings based upon extra-judicial comments made by members of the panel following the close of evidence for that day. These comments were inadvertently recorded on the audio tape customarily made of evidentiary proceedings when the hearing was recessed for the day and the tape machine was not turned off.
4. They considered the substance of the extra-judicial remarks and determined that said remarks did not bear on their ability to impartially hear the remainder of the evidence as they were stated in jest and that none bore on the evidence presented to that point in the proceedings. They also determined the extra-judicial remarks to be inappropriate under the circumstances and of a nature that to proceed in this matter

would not serve the purposes of the agency nor contribute to the improvement of the agency's position as a respected impartial adjudicator of labor relations complaints.

It is hereby ordered that:

- (A) The Motion for Sealing pleadings and the Motion for Recusal and For Hearing De Novo are granted;
- (B) a new panel of Board members shall be assigned to conduct a new hearing on the matters presented by the parties' pleadings;
- (C) as Attorney Mitchell consulted with this panel as legal counsel to make determinations on these motions, he shall not participate in the substantive conduct of any future hearings before the Board in this matter;
- (D) the pleadings and proceedings to date shall not be discussed with any member of the new panel of Board members who shall be assigned in this case; and
- (E) this matter shall be scheduled for an evidentiary hearing in due course.

Signed this 20th day of August, 2004.

  
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JACK BUCKLEY  
Chairman

By unanimous vote. Chairman Jack Buckley presiding with Board Members Seymour Osman and E. Vincent Hall also voting.

Distribution:

Lorri Hayes, Esq.  
John Vinson, Esq.