

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS

In the Matter of:

TOWN OF AYER

and

AYER POLICE SUPERVISORS  
ASSOCIATION, NEPBA LOCAL 32

Case No.: MUP-23-9968

Date Issued: August 1, 2023

COMPLAINT OF PROHIBITED PRACTICE

On April 7, 2023, the Ayer Police Supervisors Association, NEPBA Local 32 (Union) filed a charge of prohibited practice (Charge) with the Department of Labor Relations (DLR) alleging that the Town of Ayer (Town) had violated Sections 10(a)(3), 10(a)(5) and, derivatively, 10(a)(1) of Massachusetts General Laws, Chapter 150E (the Law). Pursuant to Section 11 of the Law and Section 15.05 of the DLR's Regulations, I conducted an investigation on July 11, 2023.<sup>1</sup> Based upon the information adduced at the investigation, I find probable cause to believe that the Town violated the Law as alleged in the Charge. Therefore, this Complaint of Prohibited Practice shall issue, and the parties will have the opportunity to be heard for the purpose of determining the following allegations:

COUNT I

1. The Town is a public employer within the meaning of Section 1 of the Law.
2. The Union is an employee organization within the meaning of Section 1 of the Law.

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<sup>1</sup>I conducted the investigation remotely via WebEx video conference.

3. The Union is the exclusive bargaining representative for all police sergeants that the Town employs in its Police Department (Department).
4. Brian Gill (Gill) is the Department's Chief of Police.
5. On January 25, 2022, the Town promoted David Lansing (Lansing) from patrol officer to sergeant.
6. On April 8, 2022, the Town promoted Jennifer Bigelow (Bigelow) from patrol officer to Deputy Chief of the Department.
7. On April 10, 2022, during roll call at the switch over between the evening shift and overnight shift, Lansing addressed the patrol officers present about what he perceived to be their low morale resulting from Bigelow's promotion to Deputy Chief; encouraged the patrol officers present to candidly express any concerns about Bigelow's promotion to Deputy Chief; and then encouraged the patrol officers present to support Bigelow.
8. On or around August 4, 2022, Bigelow filed a complaint against Lansing for the conduct described in paragraph 7.
9. On or around August 10, 2022, Gill assigned Bigelow to investigate her complaint against Lansing.
10. On or around October 4, 2022, Bigelow sustained her complaint against Lansing.
11. On November 28, 2022, the Town demoted Lansing from sergeant to patrol officer.
12. The conduct described in paragraph 7 is concerted, protected activity within the meaning of Section 2 of the Law.
13. The Town was aware of the conduct described in paragraph 7.
14. The Town took the action described in paragraph 11 to penalize Lansing for the conduct described in paragraph 7.
15. By the conduct described in paragraphs 11 and 14, the Town has retaliated against Lansing for engaging in concerted, protected activity in violation of Section 10(a)(3) of the Law.

16. By the conduct described in paragraphs 11 and 14, the Town has derivatively interfered with, restrained, or coerced its employees in the exercise of their rights guaranteed under Section 2 of the Law in violation of Section 10(a)(1) of the Law.

## COUNT II

17. The allegations in paragraphs 1 – 9 are re-alleged.

18. The Department maintains a Professional Standards Policy that provides for impartial Professional Standards Investigations.

19. Prior to the event referred to in paragraph 9, the Town did not appoint complainants to investigate their own complaints.

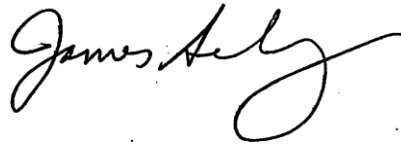
20. The procedures for conducting disciplinary investigations are a mandatory subject of bargaining.

21. The Town did not give the Union prior notice and an opportunity to bargain to resolution or impasse over the decision to change the procedures for conducting disciplinary investigations by appointing a complainant to investigate her own complaint and the impacts of that decision on employees' terms and conditions of employment.

22. By the conduct described in paragraphs 9 and 21, the Town has failed to bargain in good faith by changing the procedures for conducting disciplinary investigations by appointing a complainant to investigate her own complaint without giving the Union prior notice and an opportunity to bargain to resolution or impasse over the decision to change the procedures and the impacts of that decision on employees' terms and conditions of employment in violation of Section 10(a)(5) of the Law.

23. By the conduct described in paragraphs 9 and 21, the Town has derivatively interfered with, restrained, or coerced its employees in the exercise of their rights guaranteed under Section 2 of the Law in violation of Section 10(a)(1) of the Law.

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A handwritten signature in black ink, appearing to read "James Sunkenberg". The signature is fluid and cursive, with a large, looping initial "J".

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JAMES SUNKENBERG, ESQ.  
INVESTIGATOR