

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

Thomas Ralph,
Appellant

v.

D-04-110

Town of Webster,
Respondent

Appellant's Attorney

James Simpson, Jr., Esq.
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Boston, MA 02110

Respondent's Attorney

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Commissioner

John J. Guerin, Jr.

DECISION

Pursuant to the provisions of M.G.L. c. 31, § 43 the Appellant, Thomas Ralph, is appealing the decision of the Respondent, Town of Webster, to demote him from the position of Deputy Chief of Police to Patrolman. The appeal was timely filed. A hearing on the parties' cross motions for summary decision was held on September 16, 2004 at the offices of the Civil Service Commission. The motions before the Commission raised the issue as to whether the Appellant, as Deputy Chief of Police, was entitled to all of the protections of a tenured civil service employee under M.G.L. c. 31. One tape was made of the hearing.

Additionally, the Appellant filed a § 42 complaint, pursuant to M.G.L. c. 31, asserting the Appellant's civil service status and rights in claiming a proper

administrative hearing was not conducted in accordance with § 41. The complaint was timely filed. To provide for the possibility that the ruling on the Motions for Summary Decision favored the Appellant and validated his § 42 complaint, a hearing was held on this complaint on the same day, September 16, 2004. One tape was made of that hearing, as well. A ruling on the Motions for Summary Decision favoring the Respondent could be dispositive and render the § 42 complaint moot. Post Hearing Briefs relative to the § 42 complaint were submitted by both parties.

FINDINGS OF FACT:

Based on the parties' motions, memoranda and the documents entered into evidence (Joint Exhibits 1 – 8), I make the following findings of fact:

1. On March 4, 1996, the Appellant was appointed to the position of permanent full-time police officer with the Webster Police Department from Certification List No. 951394. (Exhibit 2.2)
2. On August 2, 1999, the Appellant was promotionally appointed to the position of permanent full-time sergeant with the Webster Police Department from Certification List No. 990669, which appointment became effective August 15, 1999. (Exhibit 2.3)
3. On August 10, 2001, Chief Richard Bergeron of the Webster Police Department sent a memorandum to Mark Stankiewicz, Webster's former Town Administrator, requesting his favorable consideration in the creation of a Deputy Chief's position. (Exhibit 2.B)
4. On August 30, 2001, Attorney Everett Marder of Kopelman and Paige, P.C., wrote a letter to Mark Stankiewicz advising the Town Administrator how to create a permanent position of Deputy Police Chief that would be exempt from civil service law. (Exhibits 1.A)
5. On October 1, 2001, at a Board of Selectmen meeting, Chief Richard Bergeron approached the Board to explain his desire to create a position of Deputy Chief of Police outside of the civil service system and temporary in that, if the Town could not afford to keep the position, it could be eliminated. (Exhibit 2.6)

6. On October 15, 2001, at the Annual Town Meeting, two articles with respect to the creation of the position of Deputy Chief were voted on and approved:
 - a. Article 21, which transferred \$3,900.00 from the Police Department Salary Account to fund the position of Deputy Chief of Police. (Exhibit 2.7)
 - b. Article 36, which authorized the Board of Selectmen to petition the General Court to establish the position of Temporary Deputy Chief and to exempt that position from the Civil Service. (Exhibits 3 and 4)
7. On October 29, 2001, at a Board of Selectmen meeting, "it was VOTED to request the Town Administrator appoint [the Appellant] to the position of temporary Deputy Police Chief." (Exhibit 5)
8. On November 5, 2001, Mark Stankiewicz wrote a letter to the Appellant informing him that he was "hereby appointed as Acting Temporary Deputy Chief for the Webster Police Department," which "shall be effective October 28, 2001." (Exhibit 1.B)
9. The November 5th letter from Mark Stankiewicz notified the Appellant that "before you can be sworn in as Acting Temporary Deputy Chief, you should request and receive approval for a leave of absence from civil service under G.L. c. 31, § 37." (Exhibit 1.B)
10. On November 8, 2001, Mark Dowgiewicz, Chairman of the Board of Selectmen, wrote letters to State Senator Richard Moore and State Representative Paul Kujawski requesting their "assistance in petitioning the General Court to enact legislation to exempt the position of deputy chief of police in the Town of Webster from the provisions of the Civil Service Law." (Exhibits 1.C and 1.D)
11. On December 6, 2001, Mark Stankiewicz sent a letter to the Human Resources Division (HRD) requesting a one-year leave of absence for the Appellant, so that the Appellant could assume the position of Acting Deputy Police Chief, pursuant to M.G.L. c. 31, § 37. (Exhibit 2.4)
12. On January 14, 2002, Sally McNeely, Deputy Director of the Civil Service Unit with the HRD, sent a letter to Mark Stankiewicz that indicated that the Personnel Administrator had approved the Appellant's leave of absence. (Exhibit 2.4)

13. On August 13, 2002, Acting Governor Jane Swift signed into law An Act Exempting the Position of Deputy Chief of Police in the Town of Webster from the Civil Service Law, (Chapter 273 of the Acts of 2002) which stated:
 - a. Section 1: “The town of Webster may establish the position of deputy chief of police, which shall be exempt from chapter 31 of the General Laws.”
 - b. Section 1A: “Section 1 of this act shall not impair the civil service status of any incumbent holding the position of deputy chief of police in the town of Webster on the effective date of this act.”
 - c. Section 2: “This act shall take effect upon its passage.” (Exhibits 1.F and 2.8)
14. The language used in Section 1A of An Act Exempting the Position of Deputy Chief of Police in the Town of Webster Chapter 273 of the Acts of 2002 is standard, boilerplate language that is used by the General Court when exempting any position from civil service, and was not intended to bestow civil service status on the Appellant as Deputy Chief. (Exhibit 6)
15. When the Town of Braintree sought to exempt the position of Deputy Chief of Police from the civil service law, the legislation stated, “The provisions of section 1 shall not impair the civil service status of any person holding the position of deputy police chief in said town on the effective date of this act.” Chapter 72 of the Acts of 2004. (Exhibit 6)
16. When the Town of Chelmsford sought to exempt the position of Deputy Chief of Police from the civil service law, the legislation stated, “The provisions of Section one shall not impair the civil service status of any person holding the position of deputy police chief in said town on the effective date of this act.” Chapter 4 of the Acts of 2004. (Exhibit 6)
17. When the Town of Milford sought to exempt the position of Deputy Chief of Police from the civil service law, the legislation stated, “Section 1 shall not impair the civil service status of any incumbent holding the position of deputy chief of police in the town of Milford on the effective date of this act.” Chapter 159 of the Acts of 2003. (Exhibit 6)

18. When the Town of Milton sought to exempt the position of Deputy Chief of Police from the civil service law, the legislation stated, "The provisions of section 1 shall not impair the civil service status of the person holding the position of deputy chief of police in the town of Milton on the effective date of this act." Chapter 156 of the Acts of 1999. (Exhibit 6)
19. When the Town of Reading sought to exempt the position of Police Chief from the civil service law, the legislation stated, "The provisions of section 1 shall not impair the civil service status of any person holding the position of chief of police in said town on the effective date of this act." Chapter 192 of the Acts of 2004. (Exhibit 6)
20. When the Town of East Longmeadow sought to exempt the position of Police Chief from the civil service law, the legislation stated, "Section 1 of this act shall not impair the civil service status of any person holding the position of chief of police in the town of East Longmeadow on the effective date of this act." Chapter 11 of the Acts of 2004. (Exhibit 6)
21. On October 24, 2002, Mark Stankiewicz wrote a letter to the Appellant stating that he had recently "received a copy of the Legislative Act exempting the position of Deputy Chief of Police in the Town of Webster from the Civil Service Law" and "[a]s the appointing authority for the Town of Webster, I hereby appoint you to the position of Deputy Chief of Police, effective today, October 24, 2002." (Exhibits 1.G and 2.9)
22. By a letter dated November 17, 2003, Robin Leal, the Town Administrator, notified the Appellant that he was being demoted from his position as Deputy Chief of the Webster Police Department to Sergeant. (Appointing Authority's Post Hearing Memorandum - Exhibit 1)
23. By a letter dated November 19, 2003, the Appellant, through his attorney, James Simpson, demanded that the Appointing Authority follow the civil service procedures as outlined in M.G.L. c. 31, §§ 41-45 before the demotion could become effective. (Appointing Authority's Post Hearing Memorandum - Exhibit 2)

24. By a letter dated November 26, 2003, Robin Leal stated that “While the Town does not agree that your position is covered by civil service” she notified the Appellant that she was contemplating a demotion from his position as Deputy Chief of Police to Sergeant and that he could request a hearing before the Appointing Authority. (Appointing Authority’s Post Hearing Memorandum - Exhibit 3)
25. On December 9, 2003 the Appointing Authority held a hearing concerning the demotion of the Appellant. (Appellant’s Post Hearing Memorandum - Exhibit C)
26. By a letter dated December 15, 2003, Robin Leal notified the Appellant that on December 9, 2003, after the hearing, she had received the anticipated report from Judge Barton following his review of the operations of the Webster Police Department. Included in the report were indications that the Appellant may have violated certain rules and regulations of the Webster Police Department in addition to those violations attributed to him from the December 9 hearing. No final decision had yet been rendered based on that hearing. (Appointing Authority’s Post Hearing Memorandum - Exhibit 4)
27. The December 15, 2003 letter informed the Appellant that Robin Leal was “reopening” the Appellant’s hearing to include Judge Barton’s report. The letter also revised the contemplated discipline “to include possible termination” and stated that the “reopened” hearing would convene on December 30, 2003. (Appointing Authority’s Post Hearing Memorandum - Exhibit 4)
28. The parties twice agreed to reschedule the hearing, which finally took place on March 10, 2004. (Appointing Authority’s Post Hearing Memorandum - Exhibit 5)
29. By a letter dated March 3, 2004, Robin Leal notified the Appellant of the hearing scheduled for March 10, 2003 and of the specific charges against him. (Appointing Authority’s Post Hearing Memorandum - Exhibit 7)
30. The March 10, 2004 hearing was held and then continued to March 16, 2004. (Appointing Authority’s Post Hearing Memorandum - Exhibit 8)
31. On April 1, 2004, Robin Leal wrote a letter to the Appellant which constituted “the decision of the Appointing Authority regarding the specification of charges

letters dated November 17, 2003, December 15, 2003, and March 3, 2004.”
(Exhibit 2.10)

32. In the April 1st letter, Robin Leal indicated that the reason for the disciplinary action against the Appellant were allegations of “skewing the process for a civil service exam; failure to follow policies and procedures; failure to investigate; insubordination; and engaging in cover-up/negligence regarding excessive use of force.” (Exhibit 2.10)
33. In her final decision following the elongated hearing process, Robin Leal found “that collectively, as well as individually, these charges are sufficient to justify, and require, your demotion” from the position of Deputy Chief to the position of patrolman. (Exhibit 2.10)
34. On April 6, 2004, the Appellant filed with the Commission an appeal of his demotion pursuant to M.G.L. c. 31 § 43 as well as a complaint in accordance with M.G.L. c. 31 § 42. (Administrative Notice)
35. On August 16, 2004, both parties submitted Motions for Summary Decision on the issue as to whether the Appellant, as Deputy Chief of Police, is entitled to all of the protections of a tenured civil service employee under M.G.L. c. 31.

CONCLUSION:

Both parties submitted motions for summary decision regarding the issue as to whether the Appellant, as Deputy Chief of Police, was entitled to all of the protections of a tenured civil service employee under M.G.L. c. 31. Pursuant to 801 CMR § 1.01(7)(h), “When a Party is of the opinion there is no genuine issue of fact relating to all or part of a claim or defense and he is entitled to prevail as a matter of law, the Party may move, with or without supporting affidavits, for summary decision on the claim or defense. If the motion is granted as to part of a claim or defense that is not dispositive of the case, further proceedings shall be held on the remaining issues.”

Following an extensive investigation into the practices and conduct of the Webster Police Department, Town Administrator Robin Leal, in her capacity as the Appointing Authority, determined that it was appropriate to release the Appellant from

his position as Deputy Chief and reinstate him as a Patrolman. Subsequent to Ms. Leal's decision, the Appellant filed both (1) an appeal of "just cause" determination and (2) an appeal of procedure in determining "just cause" to the Civil Service Commission. Before the Commission can rule whether the Appointing Authority followed the appropriate procedures and whether "just cause" existed for the discipline, the Commission must first determine whether it has jurisdiction over the appeals. On September 16, 2004, the Commission held a hearing on that matter.

In March 1996, the Appellant was appointed to the position of full time permanent police officer. In August 1999, the Appellant was promoted to the position of full time permanent sergeant with the Webster Police Department. At this point, the Appellant was clearly a tenured civil service employee entitled to all of the protections under M.G.L. c. 31. In August 2001, Chief Richard Bergeron began discussions with then Town Administrator Mark Stankiewicz about creating the position of Deputy Chief of Police, which would be exempt from the civil service law. In October 2001, at the Annual Town Meeting it was voted on and approved that the Town would petition the General Court to establish the position of Deputy Chief of Police in the Town of Webster, which would be exempt from the civil service law. In November 2001, Mr. Stankiewicz appointed the Appellant to the position of Acting Temporary Deputy Chief and notified the Appellant that before he could be sworn in, he should request and receive approval for a leave of absence from civil service under M.G.L. c. 31, § 37. As the position of Acting Temporary Deputy Chief was not covered by the civil service law, the Appellant was advised to seek a leave of absence to preserve his civil service status while he served in the non-civil service position pursuant to M.G.L. c. 31, § 37. In January 2002, the HRD approved the Appellant's request for a leave of absence.

In 2002, the General Court began working on legislation that would create the position of Deputy Chief of Police in the Town of Webster, which would be exempt from the civil service law. When drafting the legislation, it is evident that the legislators used former acts, which exempted specific positions from the civil service law, as a template. As stated in the findings of facts (#13-20), many of the earlier acts that exempted certain

positions from civil service protections use the same or similar language as the act passed with regards to the position of Deputy Chief in the Town of Webster. The commonality of the acts is the “grandfather clause” that states “this act shall not impair the civil service status of any incumbent holding the position.” The purpose of the “grandfather clause” is to preserve the civil service status of an employee whose position was once governed by the civil service law but is now being exempted. The position of Deputy Chief of Police with the Town of Webster was not governed by the civil service law as it did not exist prior to the passage of the legislative act and, therefore, there was no incumbent in the position whose civil service status was being impaired. The language used in Section 1A An Act Exempting the Position of Deputy Chief of Police in the Town of Webster (Chapter 273 of the Acts of 2002) is standard, boilerplate language that is used by the General Court when exempting any position from civil service, and was not intended to bestow civil service status on the Appellant as Deputy Chief. Following the passage of the act, Mr. Stankiewicz appointed the Appellant to the position of Deputy Chief of Police. As the Appellant was not appointed until two months after the act went into effect, the Appellant’s new position was, by definition, exempt from the civil service law.

It would run counter to legislative intent and the civil service law to confer civil service status on the Appellant as Deputy Chief of Police. The “grandfather clause” states that “this act shall not impair the civil service status of any incumbent holding the position;” thus, it only preserves existing civil service status without granting any additional status. Prior to the passage of the legislative act and the Appellant’s subsequent appointment in October 2002, the Appellant was serving as Acting Temporary Deputy Chief which is not subject to the protections of the civil service law. Section 41 protects only tenured civil service employees from dismissal with out just cause. See M.G.L. c. 31, § 41. A tenured employee is “a civil service employee who is employed following (1) an original appointment to a position on a permanent basis and the actual performance of the duties of such position for the probationary period required by law or (2), a promotional appointment on a permanent basis.” M.G.L. c. 31, § 1. A promotional appointment in the official service must be made pursuant to M.G.L. c. 31, § 7, which requires that a candidate for a promotion not within the same departmental unit

be made from a certification list that was established as a result of an examination. See M.G.L. c. 31, § 7. The Appellant never took a competitive civil service examination for the position of Deputy Chief of Police, nor was he ever listed on a certification list for appointment to that position, as would be required for any promotional appointment pursuant to M.G.L. c. 31, §§ 7-8. The Appellant was not appointed permanently to the position of Deputy Chief of Police until October 24, 2002, more than two months after the Act exempting the position of Deputy Chief of Police was passed.

While the Appellant never possessed civil service status as Deputy Chief of Police in the Town of Webster—precisely because he was not appointed to the permanent position of Deputy Chief until after the General Court passed Chapter 273 of the Acts of 2002, which exempted the position from the civil service law—he retained his civil service status as a permanent full time Sergeant, as he had applied for, and had been granted, a leave of absence from *that* position from the HRD. See Dallas v. Comm’r of Pub. Health, 1 Mass. App. Ct. 768, 771 (1974). However, it is critical at this point to note that the leave of absence was only effective for *one year* and *expired* on January 14, 2003.

On January 14, 2002, the Appellant was granted a one-year leave of absence. On October 24, 2002 the Appellant accepted the permanent position of Deputy Chief. And on November 4, 2002, the Appointing Authority informed the HRD that the Appellant accepted appointment to Deputy Chief, which was exempt from the civil service law. The Appellant’s leave of absence expired January 14, 2003. M.G.L. c. 31, § 37 states that “If a person shall fail to return to his civil service position at or before completion of the period for which the leave of absence has been granted . . . the appointing authority shall, within fourteen days after the completion of such period, give such person a written notice setting forth the pertinent facts of the case and informing him that his employment in such position is terminated.” While the October 24, 2002 letter does not state that the Appellant is “terminated from his position” it offers him a new, different permanent full time position. When the Appellant accepts he is indirectly allowing for his termination from his prior position as Sergeant as he cannot possibly perform both. Section 37 also

states, "The appointing authority shall file with the administrator a copy of such notice which shall state the date on which the employment of such person should be recorded as having terminated." The Appointing Authority's November 4, 2002 letter to the HRD informed the HRD that the Appellant was now Deputy Chief and thus exempt from civil service.

When the Appointing Authority offered the Appellant the position of Deputy Chief, it indirectly was terminating him from his position as Sergeant. When the Appellant voluntarily accepted the new permanent position as Deputy Chief, he indirectly accepted the termination as Sergeant. The Appellant was "entitled to civil service protection so long as he remained in the position he held" as Sergeant. McCarthy v. Civil Serv. Comm'n, 32 Mass. App. Ct. 166, 170 (1992). "He lost such protection when he voluntarily accepted promotion . . . to a different and concededly unprotected job. Discharge from that non-civil service position did not entitle him to invoke civil service rights. . . . There is no suggestion in this language, however, that a transferee's civil service protection was intended to survive bona fide changes in position . . . such as [the Appellant's] promotion to the quite different job" Id. at 170-71. "Our construction . . . is consistent with the general principle that civil service rights are not personal but inhere in the position." Id. at 171. "[The Appellant] presented no public policy support for his strained interpretation of the statute, which would provide him with the unique and dubious privilege of enjoying civil service protection in a non-civil service position that he did not have to satisfy civil service requirements to obtain." Id. "[A]t the time [the Appellant] was discharged from his . . . position, [he] had no civil service rights requiring a just-cause hearing. The Civil Service Commission therefore correctly declined jurisdiction over his unjust-discharge appeal." Id. at 172.

The Commission finds that, when the Appellant accepted the promotion to the permanent Deputy Chief position in October 2002, he indirectly was terminated from his position of Sergeant. The Commission also finds that the November 2002 letter from the Appointing Authority regarding the Appellant's new position as Deputy Chief was the

Appointing Authority's statutory required notice of termination of the Appellant from his position as Sergeant.

In Hart v. Dep't of Environmental Mgmt., 11 MCSR 58, the Commission dismissed a termination appeal for lack of jurisdiction when the Appellant failed to return to his position after his leave of absence expired. The Appellant in that case had an approved leave of absence until February 4, 1996. In August 1996, the Appointing Authority informed the Appellant that it was contemplating his discharge. By a letter dated September 4, 1996, the Appointing Authority discharged the Appellant. The Appellant filed an appeal with this Commission, but it was dismissed. "Whether the Appellant here is deemed to be terminated for his failure to return to work after an authorized leave of absence—within the meaning of section 37, or whether he is deemed to be on an unauthorized leave within the meaning of section 38, he does not have recourse to appeal to the Civil Service Commission under section 43." Id. "[T]he Appellant was terminated for his failure to return after an authorized leave . . . [and] his failure to return after the authorized leave provides sufficient basis to terminate under section 37." Id.

Similar to the Appellant in Hart, the Appellant in the instant case failed to return to his position as sergeant after his one-year leave of absence expired, thus the Appointing Authority had sufficient basis to terminate him. Again, section 37 states, "If a person shall fail to return to his civil service position at or before completion of the period for which a leave of absence has been granted . . . the appointing authority shall, within fourteen days after the completion of such period, give such person a written notice setting forth the pertinent facts . . . and informing him that his employment in such position is considered to be terminated." M.G.L. c. 31, § 37. In Hart, the Appellant was **not** notified within 14 days after the completion of the leave of absence that he was terminated, yet the Commission did not take issue with that. In the instant case, although the Appellant was never specifically informed that he was terminated as Sergeant, it is very much implied from the offer and acceptance of the position of Deputy Chief.

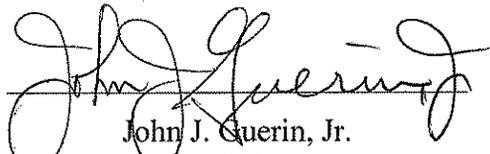
The Commission finds that, when the Appellant accepted the non-civil service position of Deputy Chief, he only held civil service rights to his previous position for a year, thus, the Commission cannot hear the appeal. See McCarthy v. Civil Serv. Comm'n, 32 Mass. App. Ct. 166, 170 (1992). However, the Appointing Authority was then wrong to “reinstate” the Appellant without the approval of the Personnel Administrator. See M.G.L. c. 31, § 46. Section 46 allows a “permanent employee who becomes separated from his position . . . with the approval of the administrator; [to] be reinstated in the same or in another departmental unit in a position having the same title or a lower title in the same series . . .” Id. The Appellant had no civil service rights and he could not be demoted from a non-civil service position to a civil service position. If the Appointing Authority wanted to “relieve” the Appellant of his Deputy Chief position, because it is exempt from the civil service law, this Commission could not review that decision. Because the Appellant’s one-year leave of absence has expired, he has no civil service rights remaining in his former position as Sergeant. Thus, the Appointing Authority can “relieve” the Appellant of his Deputy Chief position, **but** it cannot “reinstate” the Appellant to the position of Patrolman without approval of the Personnel Administrator. See M.G.L. c. 31, § 46. The Commission must dismiss the Appellant’s appeal, as he was not a tenured civil service employee under § 41 or § 42, and the Commission must invalidate his reinstatement as a Patrolman.

When the Appellant was appointed in October 2002 to the permanent position of Deputy Chief, he had no civil service rights as Deputy Chief. The Appellant may have retained his civil service rights in his former position as Sergeant, however, those rights ended on January 14, 2003. Therefore, when the Appellant was “released” of his Deputy Chief position in April 2004, he was without any recourse to the Commission. Although the Appointing Authority “reinstated” the Appellant, it never sought the approval of the Personnel Administrator, which is required before a former permanent employee may be reinstated. The Commission must invalidate the “reinstatement” and the Appointing Authority must seek the approval of the Personnel Administrator before any such reinstatement. The reinstatement statute prohibits reinstatement if the separation has been over five years and there is a suitable eligible list containing the names of two or

more applicants. So the Appointing Authority is required to request reinstatement from the Personnel Administrator before January 14, 2007.

The Commission finds that the Appellant, Thomas Ralph, lacks standing before this Commission to make this appeal. Therefore, the Appointing Authority's Motion for Summary Disposition *is allowed* and the appeal on Docket No. D-04-110 *is dismissed*. Also, the complaint filed pursuant to M.G.L. c. 31 § 42 is considered moot and is *dismissed*. In light of the fact that neither party in the matter was cognizant of, or compliant with, the requirements to reinstate the Appellant to the Civil Service position of Patrolman, the Commission shall not invalidate the reinstatement immediately. In the interest of fairness and justice to both parties, the Commission instead orders that the Appointing Authority seek approval from the Personnel Administrator for said reinstatement within sixty (60) days of the date of this decision.

Civil Service Commission


John J. Guerin, Jr.
Commissioner

By vote of the Civil Service Commission (Chairman Goldblatt, Henderson, Guerin, and Marquis, Commissioners) [Taylor absent] on January 5, 2006.

A true record. Attest:


Commissioner

Either party may file a motion for reconsideration within ten (10) days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with Mass. General Laws Chapter 30A, section 14(1) for the purpose of tolling the time of appeal.

Pursuant to Mass. General Laws Chapter 31, section 44, any party aggrieved by a final decision or order of the Commonwealth may initiate proceedings for judicial review under Mass. General Laws Chapter 30A, section 14 in the Superior Court within thirty (30) days after receipt of such order or decision.

Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice sent to:

James Simpson, Jr., Esq.

Maria Rota, Esq.

John Marra, Esq.