STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF RHODE ISLAND STATE LABOR RELATIONS BOARD -AND- WARWICK SCHOOL COMMITTEE	CASE NO: ULP-5941

DECISION AND ORDER OF DISMISSAL

TRAVEL OF CASE

The above entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter "Board"), as an Unfair Labor Practice Complaint (hereinafter "Complaint"), issued by the Board against the Warwick School Committee (hereinafter "Employer"), based upon an Unfair Labor Practice Charge (hereinafter "Charge") dated November 18, 2008, and filed on November 20, 2008 by the Warwick Independent School Employees' Union (WISE) (hereinafter "Union.").

The Charge alleged violations of R.I.G.L. 28-7-13 (3) (6) (7) and (10) as follows:

> "The School and the Union are parties to a collective bargaining agreement, and are in the process of negotiating a successor agreement. On or about November 13, 2008, the Chairman of the Warwick School Committee, Christopher Friel, published a letter in the Warwick Beacon, in which he, (1) deliberately publicized details of contract negotiations contrary to the Parties' agreement, (2) misrepresented the position of the WISE Union in those negotiations relative to certain contract proposals, and (3) made false statements implicating the Union leadership, especially WISE Union President Cherie Nickerson and the Union Executive Board were not protecting the best interests of Union members and intentionally obstructing negotiations. These actions were taken to undermine negotiations and to maliciously demean the Union leadership in the eyes of its membership, in an effort to coerce and intimidate Union leadership and members in exercising their legally protected rights."

In lieu of the informal conference, the parties submitted written position statements. On February 3, 2009, the Board issued its Complaint alleging: "The Employer violated RIGL 28-7-13 (3) (6) (7) and (10) when School Committee member Christopher Friel wrote a letter for publication to the Warwick Beacon, which contained false information intended to undermine the Union leadership

and was an effort to intimidate and coerce both union members and union leadership, while they were exercising their statutory rights to engage in collective bargaining." The Employer filed its response to the Complaint on February 6, 2009.

The formal hearing was originally scheduled for August 18, 2009, but was postponed until October 22, 2009. Representatives from the Union and the Employer were present at the hearings and had full opportunity to examine and cross-examine witnesses and to submit documentary evidence. Upon conclusion of the formal hearing, both the Union and the Employer filed briefs on December 28, 2009. The Board reviewed the matter at its meeting in January 2010 and voted, preliminarily, on the merits of the matter. Unfortunately, due to a vacancy on the Board, neither a motion to uphold the charge, nor a motion to dismiss the charge on substantive grounds was sustained. The vote was 3-3 on each motion.

DISCUSSION

In this case, the Board finds itself once again in the position of having a deadlocked Board for the purposes of voting, due to a vacancy on the Board.[1] The vote of the Board is deadlocked on the substantive issue of the allegation of unfair labor practice. Unfortunately, the Board has no mechanism to deal with deadlocked opposing motions. The Board's enabling act does not provide for alternate members who can be utilized for breaking tie votes. Thus, without a majority to support either a motion to uphold the charge or a motion to dismiss the charge for substantive grounds, the Board has no choice but to dismiss the within matter on procedural grounds. Thus, the complaint is being dismissed due to the inability of motions to sustain sufficient votes for passage.

FINDINGS OF FACT

1) The Warwick School is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.
2) The Union is a labor organization, which exists and is constituted for the purpose, in whole or in part, of collective bargaining and of dealing with

[1] While this result was once rare, deadlocked votes have become more common since the vacancy of the 7th position, due to death of a member, in January 2009.

employers in grievances or other mutual aid or protection and, as such, is a "Labor Organization" within the meaning of the Rhode Island State Labor Relations Act.

3) On November 18, 2008, the Union filed a charge with the Board alleging unfair labor practices.

4) The Charge was processed and on February 3, 2009, the Board issued its complaint.

5) A formal hearing was held on October 22, 2009 and the parties had a full and fair opportunity to present their respective positions.

6) On January 10, 2010 the Board considered the matter and was unable to arrive at anything other than a deadlocked vote.

CONCLUSIONS OF LAW

1) Since neither a motion to uphold a charge of unfair labor practice nor a motion to dismiss the complaint for cause has carried, the within matter must be dismissed on procedural grounds.

ORDER

1) The Unfair Labor Practice Charge and Complaint in this matter are hereby dismissed.

RHODE ISLAND STATE LABOR RELATIONS BOARD

Walter J. Lanni, Chairman

Frank Montanaro, Member

Gerald S. Goldstein, Member (Dissent)

Ellen L. Jordan, Member (Dissent)

John R. Capobianco, Member

Elizabeth S. Dolan, Member (Dissent)

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: AUGUST 16, 2010

By: _____
Robyn H. Golden, Administrator

ULP-5941

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NOTICE OF RIGHT TO APPEAL AGENCY DECISION PURSUANT TO R.I.G.L. 42-35-12

Please take note that parties aggrieved by the within decision of the RI State Labor Relations Board, in the matter of Case No. ULP-5941 dated August 16, 2010 may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after **August 16, 2010**.

Reference is hereby made to the appellate procedures set forth in R.I.G.L. 28-7-29.

Dated: August 16, 2010

By: Robyn H. Golden
Robyn H. Golden, Administrator