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HOT SHEET

May 13, 2004

LABOR COMMITTEE WINS HUGE ARBITRATION AWARD! RULING RETROACTIVE TO OCTOBER 1, 2001!

Today, the FOP's attorney, Mr. Harold Vaught, Esq. received official notice that years of foresight and patience has been rewarded with the retroactive restoration of the more generous provisions of the Collective Bargaining Agreement's Article 30, Overtime/Compensatory Time. The award requires the City to recalculate all overtime and compensatory time earned since October 1, 2001 by FOP members under the more lucrative formula negotiated by the Union more than 20 years ago.

The newly restored Contract Language provides that all hours worked outside the basic workweek and the basic workday shall be deemed overtime hours. This language also provided that leave taken during a workday or workweek counted as hours worked for the purposes of calculating overtime. FOP members of the MPD enjoyed this generous benefit until 1996.

In 1996 the Financial Control Board (created by the Congress) issued a ruling invalidating any Collective Bargaining Agreement language that provided overtime compensation in a fashion more generous than the minimum requirements of the Fair Labor Standards Act (FLSA).

Most D.C. unions gave up the language contained in their Collective Bargaining Agreements that provided more than the FLSA minimums, in contract negotiations subsequent to the Control Board's order. The FOP/MPD Labor Committee fought to keep the more lucrative language, on the advice of Gary Hankins (first Chairman of the MPD Labor Committee). Although not employed by the Union, he was consulted by its leadership when the FOP entered into negotiations after the 1996 order. The Union's position was that the Article 30 provisions would be restored when the Financial Control Board went out of existence.

The Control Board expired in the year 2000 but the Congress extended their order's provisions in the District Fiscal Year (FY) 2001 budget. The language was contained in a section entitled, "Section 156". The FY 2001 budget expired on September 30, 2001. The Union waited until after September 30, 2001. Then Chairman G.G. Neill approached Chief Ramsey to demand that Article 30 be restored and its members be compensated more generously for overtime hours worked. Chief Ramsey refused.

The City took the position that Section 156 of the FY 2001 budget

remained in effect until the Congress would repeal it. The FOP tasked its consultant and attorneys to work to develop a grievance on the matter. It was decided to seek clarification from the Congress on whether Section 156 expired on September 30, 2001, or not. On May 15, 2003 Congressman Chaka Fattah (Ranking Member of the D.C. Appropriations Committee of the House of Representatives) wrote a letter to the City Administrator advising the City that Section 156 expired on September 30, 2001.

Congressman Fattah's letter provided the proof that the Union was seeking to support its grievance. Upon obtaining a copy of the letter, Chairman Gregory Greene signed a class grievance demanding that Article 30 be restored to effectiveness, retroactive to September 30, 2001. Chief Ramsey denied the grievance and the FOP filed for arbitration.

After months of research preparation a hearing was held on March 19, 2004, before seasoned arbitrator Louis Aronin. Mr. Aronin was selected from a panel supplied by the Federal Mediation and Conciliation Service.

The Union received his ruling today (it is reprinted on the opposite side of this HotSheet). Under the ruling the Department must audit the records of all our members who worked on or after October 1, 2001 and then recalculate all of the overtime they earned through the day when the calculation is completed. The overtime must be recalculated in accordance with the more lucrative provisions of the now restored language in Article 30 of the Labor Agreement.

The City may appeal the award to the Public Employee Relations Board (PERB). We believe they will appeal. Chief Ramsey has a history of appealing rulings lost by the Department. The PERB usually supports arbitrator's decision absent some proof that the ruling goes against the law. Should the PERB sustain our award. The City may appeal to court for a review. They have also done this in the past. The Courts nearly always favor arbitrators and the PERB's decisions.

"The victory is ours, says Chairman Greene. "We will defend our win in all courts", he added. The chances of overturning it are small and the retroactive nature of the awards means your overtime money is piling up in the retroactive bank. "They can pay us now, or they can pay us later. But, THEY WILL PAY!", said GI.

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**RETROACTIVE FLSA ARBITRATION AWARD WORTH
MILLIONS OF DOLLARS TO FOP MEMBERS WHO WERE
DENIED PAY UNDER THE UNION CONTRACT.
FOP MEMBERS WHO HAVE EARNED OVERTIME
SINCE SEPTEMBER 30, 2001 TO SEE THEIR PAY
RECALCULATED UNDER THE MORE GENEROUS
LABOR AGREEMENT PROVISIONS**

AWARD

Based on the evidence, the parties' briefs, and the discussion set forth above, the undersigned makes the following Award:

- 1 . The grievance, dated June 17, 2002, is timely filed.**
- 2. The provisions contained in Article 30, Sections 1 through 5 inclusive, which were suspended pursuant to the Order of the Fiscal Control Board and Section 156 of the Appropriations Act for FY 2001, become fully operative on and after September 30, 2001.**
- 3. Employees entitled to compensation under Article 30, Sections 1 through 5 inclusive, on and after September 30, 2001, shall be made whole for all such entitlements.**
- 4. Since the Employer/Agency is not the prevailing party, it is responsible for all of the Arbitrator's compensation and expenses.**

May 11, 2004

**Louis Aronin
Arbitrator**