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June 27, 2013

VIA UPS (OVERNIGHT)

Ronald F. Talarico, Esquire
Arbitrator
2150 Koppers Building
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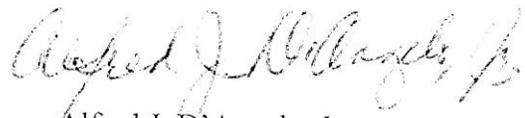
William J. Einhorn, Esquire
111 Banbury Way
Wayne, PA 19087

Re: Commonwealth of Pennsylvania and
Pennsylvania State Troopers Association
Act 111 Interest Arbitration

Dear Ron and Bill:

Enclosed please find the signed Award with the Commonwealth of
Pennsylvania's Dissent attached.

Sincerely,



Alfred J. D'Angelo, Jr.

AJD:bl

Enclosure

ADMINISTRATIVE

The undersigned arbitrators were duty appointed as the Board of Arbitration pursuant to the provisions of Section 4(b) of the Act of June 24, 1968, P. L. 237, as amended, 43 P.S. §217.4(b) (Act 111) and the procedures of the Philadelphia Regional Office of the American Arbitration Association. Ronald F. Talarico, Esquire, was mutually selected by the parties to be the impartial Interest Arbitration Board Chairman pursuant to the provisions of Act 111 of the Commonwealth of Pennsylvania (the Act of June 24, 1968; P.L. 237, No. 111; 43 P.S. 217 et seq.) relative to collective bargaining and arbitration for policemen and firemen in the Commonwealth of Pennsylvania.

The undersigned members of the Board of Arbitration were convened to resolve a series of issues in dispute between the Commonwealth of Pennsylvania and Pennsylvania State Troopers Association relating to the terms and conditions of the parties' collective bargaining agreement as of July 1, 2012. Both parties waived any and all time limits contained within Act No. 111, including those relating to the conduct of the hearing and the issuance of an Award thereafter.

Evidentiary hearings were held in Camp Hill, Cumberland County, Pennsylvania on October 29, 2012; November 26, 2012; November 29, 2012; December 4, 2012; December 12, 2012; December 13, 2012; December 19, 2012; December 20, 2012 and January 7, 2013 at which time both parties were afforded a full and complete opportunity to present any evidence they deemed appropriate in support of their respective positions and in rebuttal to the position of the other, to cross examine each other's witnesses, and to make such arguments that they so desired. Executive Sessions of the Board of Arbitration were held on February 15, 2013; February 19, 2013 and March 5, 2013 and at various other times. All of the evidence of the parties and arguments relating thereto was carefully and fully considered.

INTRODUCTION

This dispute occurs during a period of both crossroads and crises for the Pennsylvania State Police as an agency. At the close of testimony, both parties acknowledged a present manpower crises unlike any the State Police has experienced in its 108 year history, with in excess of five hundred (500) vacant positions, and well over 1,000 active Troopers eligible to

retire. Each vacancy means a heavier workload for the current compliment as well as a hole in the fabric of this nations premier law enforcement agency. No relief to this crises is on the horizon.

At the outset of proceedings, both parties asked this Panel to act in a manner which would quell this crisis. The State Police asked this Panel for cost savings sufficient to clear the way toward the hiring of additional Troopers within the constraints of the overall Commonwealth budget. Moreover, at the close of the proceedings, *both* the State Police and the State Troopers Association implored the Panel not to take any actions which would exacerbate the crisis and induce large numbers of Troopers to untimely retire. Simply stated, the parties have given this Panel as unusual, difficult, almost self-contradicting charge to carry out.

What follows here is the result of this Panel's attempt to fulfill both tasks given to it by the parties. This Award makes fundamental changes in the pay schedule of newly hired State Troopers, something never before attempted by an interest arbitration Panel serving the Commonwealth and its employees, along with substantial contract modifications which as a whole, will result in tens of millions of dollars in savings over the course of the next five years – financial savings that the Panel hopes will be invested in the future of the force.

Likewise, our efforts have been focused on preserving the health insurance benefits upon which members of the State Police so greatly rely, but adding commonsense, proven methods and techniques of actual health care cost containment which reflect the best practices of the most efficient and forward thinking industries. The Panel is confident that these measures will place the parties on a long term path to attaining actual expenditure reduction in the area of health care which has proven elusive under outmoded thinking.

Finally, the Panel believes that this Award provides a balance between the need to provide for those upon whom society relies for its very protection and the realities of the current economic recovery. In doing so, the Panel has followed the imperatives agreed upon by both parties for an Award which produces sufficient savings to repopulate the depleted manpower of the force, while at the same time refraining from actions which would exacerbate the effects of the current retirement bubble crises which cannot be ignored. Toward those ends, after numerous Executive Sessions, and based upon the Board's full and complete review of said evidence and arguments, the following Award is hereby issued:

AWARD

By this Award, the current collective bargaining agreement between the Commonwealth of Pennsylvania and the Pennsylvania State Trooper Association shall be modified as follows:

1. **Article 52. Term of Agreement**

The term of the new agreement shall be for **five (5) years** commencing July 1, 2012 through June 30, 2017. All aspects of this Award shall be made retroactive to July 1, 2012, except where specifically indicated otherwise.

2. **Article 4. Salaries**

- (a) Effective July 1, 2013, the current provisions of Article 4, Section 7 shall be redesignated as Article 4, Section 7 (a). There then shall be added a new section 7 (b) added which provides:

For members hired after July 1, 2013, the wage progression from Step S to Step E shall be as follows:

Step S	75% of the Step E Rate
Step A	80% of the Step E Rate
Step B	85% of the Step E Rate
Step C	90% of the Step E Rate
Step D	95% of the Step E Rate
Step E	100% (Base Salary)

- (b) Article 4 shall be amended as follows:

Section 1. shall be amended to provide:

Effective July 1, 2012, the base pay rates of Troopers in the State Police Pay Schedule shall be increased by 1.0%

Section 2. shall be amended to provide:

Effective July 1, 2013, the base pay rates of Troopers in the State Police Pay Schedule shall be increased by 2.0%

Section 3. shall be amended to provide:

Effective July 1, 2014, the base pay rates of Troopers in the State Police Pay Schedule shall be increased by 2.5%

Section 4. shall be amended to provide a new Subsection (a):

Effective July 1, 2015, the base pay rates of Troopers in the State Police Pay Schedule shall be increased by 2.5%

Section 4. shall be further amended to provide a new Subsection (b):

Effective July 1, 2016, the base pay rates of Troopers in the State Police Pay Schedule shall be increased by 3.0%

- (c) Effective July 1, 2013, Article 4, Section 10 shall be amended to add to the present provisions the following:

Each Trooper 1st Class shall be paid an annual Master Trooper differential of 3% above the Step E rate upon commencement of their 23rd year of credited service.

3. **Article 6. Scheduling**

Section 3. The following new provision shall be added to this section:

This provision shall not apply where the member voluntarily changes his/her shift after the schedule is posted and thereafter works a shift with fewer than eight (8) hours off (said eight (8) hour period including any call time that may occur) which would not have occurred but for the voluntary change in shift. This forgoing exception shall not prevail when a member is called in pursuant to Article 9, Call Time.

4. **Article 9. Call Time** Article 9, Call Time, shall be amended to add the following at the first Paragraph:

However, when the member is called into work but the call in is cancelled before the member leaves

his/her home, the member will be paid for actual time from the original call in to the cancellation but in thirty (30) minute increments.

5. **Article 11. Holidays**

Section 1. Effective July 1, 2013 Section 1. shall be amended to eliminate Primary Election Day as a Holiday.

6. **Article 12. Personal Days**

Effective upon the issuance of this Award, Article 12, Section 1 shall be amended to add as the second sentence:

Each calendar year, each member shall be entitled to designate one (1) day of their annual personal leave allotment as an emergency day personal leave day which shall not be denied.

7. **Article 17. Section 2. PSTA Scholarship Fund**

Effective upon the issuance of this Award, the Commonwealth shall have the right to cease annual finding for the Line of Duty Death Scholarship fund. The residue of the existing account shall be deposited into the Health and Welfare Fund.

8. **Articles 19 and 20. Health Care**

The existing provisions of Article 19 shall be amended by the addition of a new Section 6. which shall provide:

- (a) Between the date of this Award and October 31, 2013, the parties, through their respective representatives on this arbitration panel, shall reach agreement on the parameters of a disease management program which shall include (a) annual health risk assessments and biometric screenings (height, weight, blood pressure, non-fasting cholesterol and glucose level) for members; and (b) health coaching and health management for participants at risk for serious and/or chronic diseases and conditions. If the parties are unable to agree upon the parameters of such a program by

October 31, 2013 the Panel shall reconvene to establish the parameters of such a program.

The program shall be communicated to employees at least 60 days in advance of the effective date of the program (with a target start date within the first half of calendar year 2014).

The current health reimbursement account shall continue in effect with a base annual (calendar year) Commonwealth contribution of \$300 per employee. However, employee participation in the disease management program (completion of health risk assessment and biometric screening between January 1st and April 30th of each year after program implementation) and compliance with health coaching and counseling (where indicated) shall earn the employee an additional HRA contribution of \$50 in the following year.

Should an employee fail either to (a) complete the annual health risk assessment and biometric screening by the required deadlines in each applicable calendar year (after initiation of the program), or (b) participate in health coaching/counseling when required to do so under the disease management program, the employee shall lose \$50 of the next calendar year's HRA contribution.

- (b) Effective August 1, 2013, the current prescription drug program shall be changed (1) to provide coverage only for prescription drugs and supplies that are necessary to treat medical conditions and to exclude prescription drugs and supplies to treat lifestyle and cosmetic conditions; (2) to limit mail order prescriptions to a 90-day rather than 180-day supply; and (3) to require dispensing of generic drugs where (a) a chemically-equivalent generic drug is available in the place of a brand name drug and (b) the

prescribing physician has indicated on the prescription that substitution of a generic drug is permissible. If the prescribing physician has indicated that substitution of a generic drug is permissible and the member/patient requests that the brand name drug be dispensed, the member/patient shall be responsible for the brand drug copayment as well as an ancillary charge equal to the difference between the ingredient cost of the brand name drug and the generic drug.

9. **Article 26. Discipline**

1. The first paragraph of Article 26, Section 7 shall be amended by replacing “one hundred and eighty (180) calendar days” with “one hundred and twenty (120) calendar days.
2. Article 26, Section 7. (c) shall be amended to read as follows:

Subsection (i): The Department Disciplinary Officer shall seek to issue a Notice of Disciplinary Penalty, if any, in all non-court-martial cases within sixty (60) days of issuance of the DAR, but in no case shall such notice be issued more than ninety (90) days from issuance of the DAR.

Subsection (ii): The Department Disciplinary Officer shall seek to issue a Notice of Disciplinary Penalty, if any, in all court-martial cases within ninety (90) days of issuance of the DAR, but in no case shall such notice be issued more than one hundred twenty (120) days from the issuance of the DAR.

10. **Article 38. Transfers**

Change current Section 3 to 3(a) and introduce Section 3 (a) with: “Except as provided in 3(b) below . . .”

Then add the following as Section 3 (b):

Irrespective of seniority, the PSP, on a temporary basis, can involuntarily transfer a member intratrop when the member is the subject on an EEO, administrative or criminal investigation which brings the member into actual conflict with other members at the work location to the extent that it would interfere with the function of the work location. For the

duration of such involuntary transfer, should the distance between the member's place of residence and his/her station is greater than 25 miles, the member shall be provided with transportation or a travel allowance equal to the IRS rate applicable in Pennsylvania for all miles in excess of 25 miles each way.

11. **Article 39. Badge, Retirement ID, Honorable Discharge Upon Retirement**

Article 39, shall be amended to provide a new Section 3, which shall provide:

On a prospective basis, and not affecting any litigation which is in progress or which has been completed, the Honorable Discharge Provisions of the Collective Bargaining Agreement shall not be applicable to separations occurring prior to December 24, 2008. Members who retire must be notified in writing within thirty (30) days of the first calendar month following retirement of grant or denial of Honorable Discharge.

12. **Article 48. Leave Donation Program**

Article 48, Section (2) (f) shall be amended to add:

Upon exhaustion of the current 60 day donated leave cap, a member may request an additional donation of up to 30 days which shall be allowed at the discretion of the Commissioner, which request shall not be unreasonably denied. Members shall not be required to exhaust personal days before being eligible to access the Leave Donation Program.

13. Delete current Article 46 and replace with new Article 46 – “Limited Duty”

A. **Section 1. Work-Related Limited Duty**

- i. All Side Letters regarding work-related limited duty dated prior to May 1, 2013 are modified as follows:
- ii. Members currently or in the future who are on work-related limited duty shall be limited to the lesser of: (i) the length of the illness/injury requiring limited duty or (ii) completion of twenty-five (25) years of service.
- iii. Where the member completes his/her twenty-fifth (25th) year of service while on limited duty, the member shall be separated from employment.
- iv. A member who is placed on Limited Duty after twenty-five (25)

years of service, shall be removed from limited duty after the earlier of: (i) the length of the illness/injury requiring limited duty or (ii) one (1) year after which he/she shall be separated from employment.

14. **Article 46. Non-Work-Related Disabilities**

Article 46, shall be amended to add the following:

Members placed into a permanent limited duty status shall not be guaranteed entitlement of continuing Limited Duty beyond the date that they reach 25 years of creditable service.

15. All other existing terms and provisions of the parties' agreement not otherwise modified by this Award shall remain in effect as is.

16. Any and all demands and issues in dispute by either party not specifically incorporated in this Award are hereby denied and rejected.

17. The pre-existing collective bargaining agreement is herein incorporated by reference and its provisions shall remain viable and unchanged except as modified herein or by subsequent mutual agreement between the parties.

18. **Integrated Award**

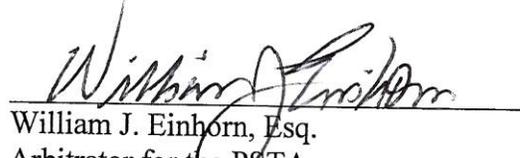
The Parties shall prepare a new collective bargaining agreement which accurately reflects the modifications this Award imposes on the pre-existing collective bargaining agreement and shall distribute the same to the Union within ninety (90) days from the execution of this Award. The new collective bargaining agreement in addition to implementing the provisions of the Award set forth above shall edit the current collective bargaining agreement in order to eliminate inaccurate section references, incomplete material, incorrect grammar and/or outdated language. In the event that the parties are unable to agree on any specific provision of the collective bargaining agreement in conformance with this Award, any disputes between the parties over language shall be resolved by the Board of Arbitration. It is the specific intent of the Board of Arbitration that no right or benefit to either party shall be added or diminished by the writing of the new collective bargaining agreement as mandated by this paragraph.

19. With regard to the various items awarded or denied, the Board of Arbitration may not have been in unanimous accord on each. However, at least a majority of the Board concurred with each awarded item and to the denial of all others.

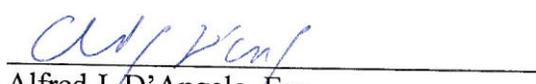
Date 6/24/13


Ronald F. Talarico, Esq.
Chair

Date 6/25/13


William J. Einhorn, Esq.
Arbitrator for the PSTA

Date 6/26/13


Alfred J. D'Angelo, Esq.
Arbitrator for the Commonwealth
Dissenting, see attached

IN THE MATTER OF THE ACT 111)	
OF 1968 ARBITRATION)	
)	
between)	AAA Case No.
)	14 360 L 000387 12
COMMONWEALTH OF PENNSYLVANIA)	
)	
and)	
)	
PENNSYLVANIA STATE TROOPERS)	
ASSOCIATION)	

DISSENT OF THE COMMONWEALTH OF PENNSYLVANIA

The undersigned, appointed as the Commonwealth Arbitrator, dissents from the Award for the reasons set forth below.

The decision of the Neutral, as assented to by the Union-appointed arbitrator is an affront to the intent of Act 111; is incompatible with the evidence presented; and completely at variance with the economic distress confronted by the Commonwealth in the post-stimulus era, distress which has forced the Commonwealth to trim over three billion dollars in spending since 2011.

Since 2011, all Commonwealth employees in the Executive branch, including those who are covered by bargaining and/or interest arbitration, have had at least one year where salaries have been frozen. Approximately 80,000 Executive branch employees also pay a portion of the Health Care premiums.

The above facts were undisputed at the Act 111 hearing covering nine (9) days. Yet the Neutral has ignored this background, ignored all evidence of comparatives of surrounding states, and misused the process to issue his own, unsubstantiated award which will

now must be funded by taxpayers who suffer under the same economic distress experienced by the Commonwealth as a whole.

Act 111 was intended to be an extension of collective bargaining. It was not intended as a device to be hijacked by a renegade arbitrator to the long-term detriment of the Commonwealth.

The Award begins by asserting that the PSP has a manpower crisis, apparently to set up a premise to justify the issuance of a one-sided award. The evidence did show a need for additional Trooper classes – classes that were announced by both the Governor and the Legislature well before the process was completed. With respect to this “crisis,” the Union argued and presented testimony that if a premium co-pay were imposed upon those eligible to retire, thereby requiring such co-pays for their retiree medical, that there would be a rush of retirement to avoid the retiree co-pays. The Commonwealth agreed and therefore proposed that any Trooper who is within five (5) years of retirement eligibility would not pay any retiree premium co-pay: a simple solution to a simple problem.

Yet, the Neutral has rejected this solution and, contrary to the evidence of surrounding states, and contrary to the Union’s own evidence, has reached the following Health Care award:

- Virtually no change in the richest plan in existence for any surrounding state;
- No change in the Prescription co-pay;
- Refusal to move administration of the Plan from Highmark to PEBTF, a ministerial change which would save the Commonwealth over two million dollars per year; and
- An increase to the Troopers Health Reimbursement Account – an account which evidence shows they do

not need because of the paucity of co-pays under the rich plan maintained by the Neutral.

The Neutral did award two changes regarding Health Care but even here he did not listen to the evidence or just unexplainably reached a backward conclusion.

The Union, in an effort to forestall imposition of premium co-pay, offered expert testimony concerning the economic and health value of Disease Management/Wellness Programs and the importance of everyone's participation. The expert testified of the importance of using a carrot/stick approach to insure full participation by the Plan participants. The Commonwealth testified that PSTA members have refused to participate in Highmark's wellness program. The Commonwealth also evidenced that 70% of PEBTF's 80,000 participants participate in its wellness/disease management program where the carrot/stick is to reduce the participants' premium share from 3% of salary to 1.5% of salary.

Yet, the Neutral apparently did not hear this testimony or chose simply to ignore it. His solution is not to mandate Trooper participation in a disease management/wellness program but rather, once it is implemented, that if they do not participate they will not receive the \$50 HRA increase which the Neutral awarded. In other words, there is no stick and the Troopers can maintain the status quo of a Rolls Royce Plan with a \$300 HRA (which most Troopers cannot even spend) and not have to participate in a disease management/wellness program to be implemented. This is not a competent result.

The second Health Care change authored by the Neutral is to mandate use of generic drugs – sort of. Virtually all prescription plans by 2013 require that generics, where they exist, be substituted for Brand drugs which are no longer patent protected. If the patient insists upon the Brand drug, he/she pays the cost differential. Here, the Neutral has gutted this change by inserting that it only applies if the physician writes on the prescription that substitution of the

generic is permissible. This requirement will likely result in no significant increase in generic utilization.

The Neutral's overall award regarding Health Care is not merely one-sided, it is so completely out of the main stream for private and public sector health care plans as to be intolerable.

Salaries.

With respect to salaries (and Term of the Agreement), the Union proposed in its issues a two-year agreement seeking a reasonable (undefined) General Wage Increase. The Commonwealth proposed a four-year Agreement to follow the pattern established in prior bargaining and Act 111 Commonwealth Awards. The Act 111 pattern (Game; Rangers; Capitol Police) was no increase in Year 1 and 5.5% total general wage increases plus increment over the remaining three years.

Here, the Neutral refused to impose a zero in Year 1, and totaled 11% plus increment (which increment payments he elongated from that in the expired contract) for a five (5) year term.

He did, for new hires only, smooth out the steps for Troopers during their first five (5) years of employment until they reach 100% of base salary. This will save the Commonwealth cumulatively about \$9 million over the five years in contrast to the cumulative cost in excess of \$100 million for the increases above.

The salary award occurred with virtually no panel discussion. While the panel did discuss operational issues, health care issues, and the new-hire progression, it did not discuss increases to the salary schedule, at least not in the presence of the undersigned.

No review of economic comparators was discussed – comparators which invariably would not support the Neutral’s fiat. The Neutral clearly decided that neither the evidence nor the process mattered and he was going to reach an apparently pre-determined result irrespective of the impact it had upon the Commonwealth or upon the taxpayers who do not enjoy free health care, free retiree health care and who are not getting 11% plus increment (5%) over five years.

Operational Issues

The Commonwealth presented evidence for change in several operational and administrative issues. The Commonwealth and Union-appointed arbitrators met and were able to discuss and reach agreement on some of these issues whether it be by changes reflected in the Award or by the Commonwealth dropping the issue.

The unresolved issues were submitted to the Neutral including but not limited to:

Court Scheduling

Change of schedule with less than 24-hours’ notice

Definition of discipline for processing grievances

Non-work-related Disability

Holidays

Sick Leave

The Neutral’s Award with respect to these unresolved issues (as it did with Health Care and Salaries) merely adopted the Union position.¹

¹ The one change awarded by the Neutral was to eliminate Primary Election Day as a Holiday. Even here, the Neutral chose a Holiday for which Troopers are not paid time and one-half to work.

CONCLUSION

Act 111 hearings are criticized because Unions often believe they are better off with a panel and that a Neutral will award a contract with terms better than could have been negotiated. The Neutral's Award herein certainly validates that concept. Why would PSTA ever truly negotiate a contract when a Neutral as here may merely ignore evidence and process and will resolve all disputed issues in its favor no matter how one-sided the award may be?

For these reasons I dissent with respect to the Health Care and Salary issues; the Term of the Agreement; the Award on personal days; and non-work-related disabilities.


ALFRED J. D'ANGELO, JR.

Commonwealth-Appointed Arbitrator