



**State of New Hampshire**  
Public Employee Labor Relations Board

Filed 5/24/18 r.g.  
Case No. G-0202-5

**Unfair Labor Practice Complaint**

1. **Charging Party:** State Employees' Association of NH, Inc., SEIU Local 1984  
 Representative: Gary Snyder Title: General Counsel  
 Address: 207 North Main Street, Concord, NH 03301  
 E-Mail Address: gsnyder@seiu1984.org Telephone 603-271-6384
  
2. **Respondent:** NH Liquor Commission  
 Representative: Rosemary Wiant Title: Attorney IV  
 Address: 50 Storrs Street, Concord, NH 03301  
 E-Mail Address: rosemary.wiant@liquor.nh.gov Telephone (603) 230-7093
  
3. **Public Employer:** NH Liquor Commission  
 Representative: Rosemary Wiant Title: Attorney IV  
 Address: 50 Storrs Street, Concord, NH 03301  
 E-Mail Address: rosemary.wiant@liquor.nh.gov Telephone (603) 230-7093

4. **Details of the Charge:** In separately numbered paragraphs in the space below, or in an attachment, specify in detail the specific provisions of RSA 273-A:5 allegedly violated and provide a complete statement of supporting facts, such as names, dates, times, places, and other information required under Pub 201.02 (b).

See attached.

5. **Remedy Requested:** Reinstatement of Garrett Boes. Cessation of all union animus  
pertaining to the restriction, coercion, and/or interference with union activity and/or union  
administration for the SEA and its members.
6. **Collective Bargaining Agreement:** The charging party is required to file an electronic copy of the current and other applicable collective bargaining agreement or a statement that such agreement(s) are already on file with the PELRB. Pub 201.02 (d)(1) and (2).
7. **Answer to Complaint:** The respondent shall file its answer at [pelrb@nh.gov](mailto:pelrb@nh.gov) within fifteen days of the date the complaint was filed at the PELRB electronically. In accordance with Pub 201.03 the respondent shall clearly and concisely answer the allegations in the complaint, paragraph by paragraph, and shall specifically deny or admit each allegation in the complaint and explain each allegation about which the respondent has knowledge.
8. **Posting of Complaint:** The public employer shall post and display copies of any complaint filed by it or against it or delivered to it at locations where such employees who might be directly affected by the board's disposition of the complaint work not later than the date on which it files its answer or on which it receives the answer of the charged party, or not later than 15 days after the receipt of the complaint if no answer to the complaint is to be filed.

## Execution of Complaint:

State of New Hampshire  
County of Merrimack

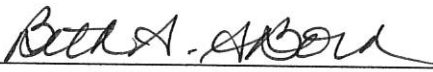
Gary Snyder  
\_\_\_\_\_, first being duly sworn, does depose and say that I am the  
complaining party and the allegations in this complaint are true to the best of my knowledge,  
information and belief.

Date: May 24, 2018

  
\_\_\_\_\_  
(Complaining Party Signature)

Gary Snyder  
\_\_\_\_\_  
(Print or type name)

Subscribed and sworn to before me this 24th day of May, 2018.

  
\_\_\_\_\_  
(Notary Public/Justice of the Peace)  
My Commission Expires: 9/27/2022

## Certificate of Service

I hereby certify that on May 24, 2018 (date) a copy of this complaint was  
provided by electronic mail if available and by regular mail or hand delivery to:

Rosemary Wiant, Esq.


\_\_\_\_\_  
(Name of Representative for Respondent)

And

Same

\_\_\_\_\_  
(Name of Representative for Public Employer)

Date: May 24, 2018

  
\_\_\_\_\_  
Signature  
Gary Snyder  
\_\_\_\_\_  
Print or type name

New Hampshire Public Employee Labor Relations Board  
2 ½ Beacon St., Suite 200, Concord, New Hampshire 03301  
603 271-2587 • [www.nh.gov/pelrb](http://www.nh.gov/pelrb) • [pelrb@nh.gov](mailto:pelrb@nh.gov)

#### 4. Details of the Charges:

1. The State Employees' Association, Local 1984 (Hereafter "SEA") is the exclusive representative of the State of New Hampshire Liquor Commission employees as described in the Public Employee Labor Relation Board Decision No. 2014-187.
2. The State of New Hampshire violated RSA 273-A:5(a), RSA 273-A:5(b), and RSA 273-A:5(c) when it coerced, interfered with, and retaliated against SEA Union official, Garrett Boes, for his participation in protected, concerted union activity, and further interfered and restricted his participation in the union, as well as interfering with the administration of an employee organization.
3. On February 13, 2018, Executive Councilor Andru Volinsky wrote a letter to Governor Chris Sununu and the Attorney General's office alleging a broad and systematic occurrence of illegal bulk sale transactions at the New Hampshire State Liquor Commission (Hereafter "State"). Among numerous assertions, Mr. Volinsky stated that he personally witnessed a bulk sale on February 3, 2018 at the Keene liquor store, where an employee allegedly processed a bulk sale improperly. Councilor Volinsky identified that store employee as a whistleblower.
4. Garrett Boes (Hereafter "Mr. Boes") was a Keene liquor store employee who worked on February 3, 2018.
5. On February 28, 2018, the State terminated Mr. Boes for alleged violation of commission policies.
6. Primarily, the State asserted in the termination letter that Mr. Boes violated the policy by dividing a large volume sale into three sales, so that the purchasers would not have to file the requisite IRS 8300 form(s), and that he allowed two individuals to enter the stockroom, and further allowed them to take pictures of the inventory.
7. The State terminated Mr. Boes pursuant to Per 1002.08(b)(7), which permits the State to terminate an employee without previous warning for "Violation of a posted or published agency policy or procedure, the text of which warns that violation of same may result in dismissal".
8. In the winter and/or spring of 2017-2018, Federal and State law enforcement agencies, including at least the United States Internal Revenue Service and the New Hampshire Attorney General's office, investigated the State Liquor Commission for potential violation of law regarding large volume (bulk) sales transactions.
9. In response to Mr. Volinsky's letter and investigations, the Liquor Commission provided to the Attorney General's office a statement on April 9, 2018, authored by the Commission's legal counsel, Rosemary Wiant, Esq.
10. In its letter the State denied any wrongdoing.
11. The State contends that when it becomes aware of policy violations, it consistently takes appropriate action, including discipline of employees leading up to termination.
12. However, citing to its own examples, the State mentioned an investigation of multiple policy violations in 2017. Five employees were found to have violated the agency policy concerning Large Volume Sales, but none of those employees were terminated, and the results concerning discipline varied among them.

13. It further stated that the two individuals that Mr. Boes permitted to be in the stockroom of the liquor store were Rich Gulla (President of the SEA) and Executive Councilor Andru Volinsky.
14. The State asserts that Mr. Volinsky attended a union meeting consisting of liquor commission employees where he and one of the members coordinated a bulk sale for February 3, 2018. The union member alleged to have coordinated this sale is in fact Mr. Boes.
15. The State went on to mention that this same employee had just returned to his job following a six-month leave requested by the SEA president.
16. The purpose for the leave was to participate in union activities, focused on organizing members.
17. Mr. Boes is also a union steward, and was named "Member of the Year" for 2017 by the State Employees Association.
18. In late fall, early winter of 2017-2018, the State Employees' Association offered to its members the opportunity to work at the SEA for a limited time as a member organizer. Multiple members applied for the position, and Mr. Boes was selected through a thorough and objective process. On, or about, February 16, 2018, SEA President Rich Gulla sent a message to Mathew Newland of the State, noticing him that the SEA selected Mr. Boes to participate in the Member Organizer program pursuant to Article 3.11.1 of the Collective Bargaining Agreement.
19. Shortly thereafter, President Gulla received a letter from Mr. Newland rejecting the executive leave of Mr. Boes, stating a pending investigation into Mr. Boes as its reason.
20. In light of all the facts above, the State has shown a pattern of interference with Mr. Boes rights as a union member by terminating him for his work and participation in union activities with and on behalf of the State Employees' Association.
21. The State acknowledged in its memo to the attorney general's office that Mr. Boes had a history of union activity, including a six-month leave, where he worked for the SEA. It further asserted that Mr. Boes raised his concerns over large volume sales at a Union meeting that Executive Councilor Andru Volinsky attended. Although Mr. Boes and the SEA disagree with the State's characterization of that meeting, we would agree that Mr. Boes raised concerns to, among others, Mr. Volinsky at that meeting, and that gave rise to Mr. Volinsky's further investigation of the matter.
22. Perhaps most importantly, the State admits in its memo that of 5 employees investigated and found to have violated the large volume sales policy (the same policy Mr. Boes allegedly violated), all received a lesser form of discipline than Mr. Boes.
23. In fact, at least one other employee was involved in the February 3, 2018 large volume sale transaction, but Mr. Boes was the only person to be disciplined or even accused of a policy violation.
24. It is thus clear that the State had an ulterior motive in terminating Mr. Boes, when others guilty of the same policy infractions have faced far less severe consequences. This readily apparent disparate treatment is not a coincidence. Mr. Boes was targeted as the direct result of his union participation, including, but not limited to, his work as a steward, his leave exercised to work with the union, his role as a union leader, and for participation in

a union meeting that resulted in public accusations against the liquor commission from Executive Counselor Volinsky.

25. Were it not for Mr. Boes' Union activity, he would not have been terminated for his alleged misconduct.
26. By terminating Mr. Boes for his union activity, the State has restricted, coerced and otherwise interfered with union activity and union administration, and has further discriminated against Mr. Boes for his tenure, and is actively discouraging union participation. Such acts are a violation of RSA 273-A:5(1), (2), and (3).
27. Such actions by an employer have a chilling effect on labor organizations and their members when those members have reason to believe that union participation will result in restriction, coercion, or termination as it has here.
28. Last, in addition to the facts described herein, the New Hampshire State Liquor Commission has a history of union animus and retaliation against employees for union activity, and it must be stopped.

6. Collective Bargaining Agreement is on file with the PELRB.