

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD  
INTEREST ARBITRATION PANEL

In the Matter of the Arbitration	:	
between	:	
	:	
THE CITY OF SYRACUSE	:	
Public Employer,	:	<b>OPINION</b>
	:	
-and-	:	<b>AND</b>
	:	
SYRACUSE POLICE BENEVOLENT ASSOCIATION,	:	<b>AWARD</b>
Employee Organization.	:	
	:	
PERB Case No. IA099-026; M099-216	:	
	:	

BEFORE: Jeffrey M. Selchick, Esq.  
Public Panel Member and Chairman

Rocco A. DePerno, Esq.  
Employee Organization Panel Member

John C. Black, Jr., Esq.  
Employer Panel Member

APPEARANCES:

For City of Syracuse:  
Bond, Schoeneck & King, LLP  
Peter A. Jones, Esq., of Counsel  
Prashanth Jayachandran, Esq., of Counsel

For Syracuse Police Benevolent Association:  
DePerno & Khanzadian  
Karen Khanzadian, Esq., of Counsel

BACKGROUND

Pursuant to the provisions contained in Section 209.4 of the Civil Service Law, the undersigned Panel was designated by the Chairperson of the New York State Public Employment Relations Board ("PERB"), to make a just and reasonable determination of a dispute between the City of Syracuse ("City") and the Syracuse Police Benevolent Association ("PBA").

The City of Syracuse is a municipal corporation located in Onondaga County and is currently the fifth largest city in New York State. The City encompasses over 25 square miles in the north central portion of New York State near Lake Ontario. The City's population is approximately 165,000. The City is the major component in the Syracuse Metropolitan Statistical Area (MSA), which had a total estimated population of approximately 750,000 as of July 1, 1998 (Official Statement dated April 18, 2000; City Exhibit 2-8).

The PBA is the certified bargaining agent for all sworn members of the Police Department employed by the City, exclusive of the Chief of Police, the Deputy Chiefs of Police, Parks Attendants, Creek Patrolmen, Meter Maids, Police Trainees, School Crossing Guards and all other civilian employees of the Police Department.

At the present time, the Syracuse Police Department ("Department") is comprised of an authorized strength of approximately 500 sworn full-time positions.

The last collective bargaining agreement between the parties covered the period which commenced on January 1, 1993 and ended on December 31, 1997. Thereafter, the parties were subject to an Interest Arbitration Award for the period which commenced on January 1, 1998 and ended on December 31, 1999 (Joint Exhibit 2; *Matter of City of Syracuse and Syracuse Police Benevolent Association*, Thomas N. Rinaldo, Chair; PERB Case IA98-012, Award dated 1/27/99) The provisions of the Rinaldo Award were included in a redrafted Agreement for 1998-99 (Joint Exhibit 1).

Prior to the expiration of the term covered by the 1998-99 Interest Arbitration Award, the parties began negotiations for a successor contract, but such negotiations were unsuccessful. Thereafter, acting pursuant to the rules of procedure of PERB, impasse was declared and a PERB appointed Mediator met with the parties. Mediation was also unsuccessful, and on December 15, 1999, the PBA filed a Petition for Interest Arbitration (Joint Exhibit 3) pursuant to Section 209.4 of the Civil Service Law.

The City filed a Response to said Petition on January 4, 2000 (Joint Exhibit 4), and thereafter, on May 25, 2000 the undersigned Public Arbitration Panel was designated by PERB, pursuant to Section 209.4 of the NYS Civil Service Law, for the purpose of making a just and reasonable determination of this dispute.

Hearings were conducted before the undersigned Panel in the City of Syracuse on June 19 and 20, 2000. At all hearings, both parties were represented by Counsel and by other representatives. Both parties submitted numerous and extensive exhibits and documentation, including briefs, and both parties presented extensive arguments on their respective positions.

Thereafter, the Panel fully reviewed all data, evidence, argument and issues submitted by both parties. After significant discussion and deliberations at the Executive Sessions, held on July 7 and 25, August 15, September 15 and October 3, 2000, this Panel reached unanimous agreement on the terms of this Interest Arbitration Award.<sup>1</sup> At the request of the parties, a Summary of Award was issued on October 5, 2000 with the understanding that the Opinion would follow. That Opinion is set out herein, along with the Award.

The positions originally taken by both parties are quite adequately specified in the Petition and the Response, numerous hearing exhibits, and post-hearing briefs, which are all incorporated by reference into this Award. Such positions will merely be summarized for the purposes of this Opinion and Award.

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<sup>1</sup> Accordingly, all references to "the Panel" in this Award shall mean the Panel Chairman, the Employer Panel Member and the Employee Organization Panel Member.

Accordingly, set out herein is the Panel's Award as to what constitutes a just and reasonable determination of the parties' contract for the period January 1, 2000 through December 31, 2001.

In arriving at such determination, the Panel has specifically reviewed and considered the following factors, as detailed in Section 209.4 of the Civil Service Law:

a) comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;

b) the interests and welfare of the public and the financial ability of the public employer to pay;

c) comparison of peculiarities in regard to other trades or professions, including specifically, 1) hazards of employment; 2) physical qualifications; 3) educational qualifications; 4) mental qualifications; 5) job training and skills;

d) the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

### COMPARABILITY

Section 209.4 of the Civil Service Law requires that in order to properly determine wages and other terms and conditions of employment, the Panel must engage in a comparative analysis of terms and conditions with "other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities."

The PBA contends that Syracuse police should be compared on a primary basis with the other large upstate cities of Albany, Buffalo and Rochester. Additionally, the PBA argues that the Panel should consider the wages and other benefits enjoyed by other Onondaga County local police departments which either are contiguous or very close to the City; specifically, Dewitt, East Syracuse, Geddes, Manlius and North Syracuse. The PBA has presented current collective bargaining agreements from all of the cited jurisdictions, for review by the Panel.

The City maintains that in determining the appropriate comparables for Syracuse police, the Panel should look at Albany, Buffalo and Rochester, but should look beyond those cities as well. The City argues that a more appropriate comparison for Syracuse police would be to review the universe of the ten largest upstate cities including Syracuse: Albany, Binghamton, Buffalo, Niagara Falls, Rochester, Rome, Schenectady, Syracuse, Troy and Utica.

The City further argues that members of the Syracuse police department have little in common with the duties, tasks and problems faced by police in suburban communities, and it is simply not appropriate to compare Syracuse salaries with those of suburban, rural and local police who perform a very different job under very different daily circumstances.

Panel Determination

The issue of appropriate comparables for Syracuse police was addressed by Arbitrator Rinaldo in his Award for 1998-99.<sup>2</sup> As indicated by Arbitrator Rinaldo:

"This Panel agree with the City that not all of the towns and villages surrounding the city presently face the same problems, budgetary or otherwise, as that of the City of Syracuse. However, the Cities of Albany, Rochester and Buffalo are geographically similar to the City of Syracuse and are experiencing similar difficulties as that of the City, and therefore, are proper communities to examine for purposes of comparison." [Rinaldo Award at p.8]

This Panel agrees with the Rinaldo Panel that the most appropriate comparable police departments to Syracuse are those of the larger upstate cities of Albany, Buffalo and Rochester. The comparison of the major upstate cities as the primary comparables is based on the fact that the population, size of police departments, urban setting, and other overall similarities are greater with Albany, Buffalo and Rochester than with the other

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<sup>2</sup> It must be noted that the Rinaldo Award was the result of unanimous agreement by the parties.

upstate cities cited or with local suburban police departments in Onondaga County or otherwise contiguous to the City of Syracuse. Cities have different problems and concerns than villages and towns, particularly in the range of services provided and the needs of the citizens so served.

Syracuse has a population of approximately 165,000 people with a police department of approximately 500 sworn members. Buffalo is of course the largest of the upstate cities, with a population of approximately 328,000 and a police department of approximately 960 sworn members; Albany has a population of approximately 95,000 with a police department of approximately 335 sworn members; and Rochester has a population of approximately 232,000 people with a police department of almost 675 sworn members.

Accordingly, the Panel finds that the appropriate comparables to Syracuse are the upstate cities of Albany, Buffalo and Rochester.

**WAGES AND ABILITY TO PAY**PBA Position

The PBA maintains that the City clearly has the financial ability to pay for fair and equitable increases, which it has requested in the nature of a 10% salary increase for each of the two (2) years to be covered by this Interest Arbitration Award. The PBA contends that the evidence presented at the arbitration clearly establishes that the City is in sound financial health and that such wage increases are necessary so that Syracuse police can begin to catch up to salaries enjoyed by police in the comparable cities of Albany, Buffalo and Rochester.

At the expiration of the Rinaldo Award on 12/31/99, the top salary for a Syracuse Police Officer was \$41,880, while for the same time period, the top salary for an Albany police officer was \$42,714; Buffalo at \$48,849 and Rochester at \$46,311. A review of recent bargaining agreements/arbitration awards indicate that Albany police have negotiated increases so that the top salary in year 2000 is \$43,568 and in year 2001 is \$44,875; Buffalo police received a 3% increase effective 7/1/99 and are currently in negotiations/interest arbitration for a successor agreement/award for the period which commenced 7/1/00; and Rochester police recently were awarded through interest arbitration wage increases of 2% effective 7/1/99; 2% effective 1/1/00; 2% effective 7/1/00 and 2% effective 1/1/01.

The PBA argues that at all levels of salary, Syracuse police lag behind their counterparts in Albany, Buffalo and Rochester and are even further behind police in surrounding communities.<sup>3</sup> The PBA maintains when compared with police in the cities of Albany, Buffalo and Rochester, Syracuse police are behind almost 13% for 1999, and fall further behind in the years 2000 and 2001. The PBA maintains that the increases it seeks are justified and necessary in order to allow Syracuse police to earn a comparable wage as enjoyed by police officers in other upstate New York cities.

In terms of ability to pay, the PBA presented testimony by Edward Fennel, Financial Consultant, who indicated that he reviewed the City's financial status and ability to pay the wage increases sought by the PBA. Fennell testified that as of 6/30/99, the City enjoyed a General Fund balance of 6.5 million dollars (see PBA Exhibit 2.1). According to Fennell, the City has reported an upswing economy and in the recent Official Statement for Sale of Bonds, dated 4/18/00, a very positive financial picture was painted for the City (PBA Exhibit 2.8). Additionally, Fennell indicates that other economic reports show that the City is adding jobs and

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<sup>3</sup> While the PBA continues to argue that surrounding communities are relevant comparables, it maintains at the minimum that Albany, Buffalo and Rochester must be viewed as comparables, and not the broader list of cities offered by the City. The PBA indicates that when seeking raises for City officials in February 1999, Mayor Bernardi used as comparisons the cities of Albany, Buffalo and Rochester [see Syracuse Post-Standard, 2/11/99].

enjoying overall economic growth (PBA Exhibit 2.2). Added to such positives is the fact that the nearby shopping mall will be undergoing a major expansion and the City has begun efforts to redevelop and revitalize the downtown area and waterfront. At the same time, the City has managed to decrease City taxes and keep School taxes at the same rate (PBA Exhibit 2.3). The City has also received \$10.6 million in new State aid for 2000-01 and has managed to keep the existing budget within limited growth of 5.8% while lowering City taxes. Additionally, Fennell indicated that while the City budgeted to receive \$45.2 million from County sales tax revenue, it actually received \$47.5 million which offsets the lesser amount of State aid received from the anticipated \$15 million. Such sales tax revenues resulted in an increase of \$2.3 million in estimated revenues, a not insignificant sum of monies. Fennell also found that the City has allocated over \$3.3 million to fund wage increases in fiscal year 2000-01, which amounts to a 5.48% increase. While the City maintains that this amount must include wage increases for all City employees, Fennell testified that these funds, when added to the current positive General Fund balance, will more than adequately provide funds to meet the wage increases sought by the PBA.

As indicated, the PBA maintains that salaries of Syracuse police lag behind salaries of police in comparable communities and that the City has the financial ability to provide necessary raises and other increases sought by the PBA herein.

City Position

The City maintains that it is facing serious financial challenges for 2000-01 and beyond. The City is in a difficult financial position as it faces a shrinking population and tax base, decreasing sales tax revenues and a speculative future of State aid payments. It is with this backdrop that the Syracuse police seek significant salary and other increases. The City argues that Syracuse cannot be accurately compared with Albany, Buffalo and Rochester only, as it is considerably less expensive to live in Syracuse than in the other upstate cities (City Exhibit 1, p.35). Appropriate to such cost of living, is the fact that Syracuse police do earn less than police in the more expensive to live upstate cities. Comparison with Albany, Buffalo and Rochester police salaries, as well as with the remaining upstate cities of Binghamton, Niagara Falls, Rome, Schenectady and Troy, indicates that Syracuse police are right in the middle in terms of salary, which is exactly where they should be (City Exhibit 1, p.39). While a Syracuse police officer at top salary earned \$41,880 in 1999 as compared to \$42,714 for Albany, \$48,849 for Buffalo and \$46,311 for Rochester, the City maintains that relative structure is correct based on the overall wealth and economic living standards of each city. It is the position of the City that while Syracuse police are entitled to modest salary increases, they are currently paid a comparable wage.

In terms of financial ability to pay, the City maintains that a major source of revenue for the General Fund is the property tax, which has been steadily declining, in conjunction with the City population. It cannot be ignored that since 1990, the City has cut 305 employees from the City payroll. The City has also suffered a decrease in bond ratings, with Standard & Poor's rating currently at BBB and Moody's at Baa1 (see City Exhibit 1.25). These are objective facts regarding the City's financial plight and are not the predictions of an alarmist City administration, as claimed by the PBA.

The City indicates that the largest source of revenue funding City operations is the City's share of the 3% Onondaga County sales tax, which provides nearly 33% of General Fund revenues. Due to changes in sharing formulas, the City has been capped in how much sales tax revenue it will receive each year for the next ten years. While the City is guaranteed to receive at least \$47.5 million in sales tax revenues, such share cannot grow more than 2% a year for the next ten years, even if the County's sales tax revenues grow more than 2% each year. Thus, the City's share of future sales tax growth is capped at 2% each year and will not increase at a level sufficient to fund the significant salary increases sought by police, fire and other City employees. When viewed with the declining City population and tax base, the City must budget modestly in order to maintain a balanced budget and to avoid cutting essential City services and/or personnel.

Additionally, the City is heavily dependent on State aid to support the City's General Fund. State aid is unpredictable and cannot be relied upon to support significant police salary increases. While the City has managed to close the budget gap for 2000-01, it must look ahead to capped sales tax revenues, decreased population and a decreasing tax base, and tenuous State aid projections. Traditional sources of revenue will not provide increased growth. Higher taxes will result in an ever increasing loss of population and will further depress the existing tax base. Household income has declined to 61% of the State's average and per capita income remains below the State average of 66.5%. In sum, the City is unable to afford the large wage and benefit increases sought by the PBA.

Notwithstanding the City's financial problems, it has not decreased the number of Syracuse police, even though other City programs have suffered personnel cuts. In fact, the strength of the Syracuse police department has increased by 12% since 1991. The City recognizes the important and professional services provided by the Syracuse police and has offered a general wage increase of 3% effective July 1 of each contract year. Such wage increase will provide Syracuse police with a comparable raise as enjoyed by other jurisdictions and is within the ability of the City to pay. The City maintains that it simply cannot afford to provide more and still provide responsible financial leadership for City residents.

Panel Determination

As indicated *supra*, it is the finding of this Panel that the appropriate comparables for Syracuse police are the upstate cities of Albany, Buffalo and Rochester. Although there are differences in all in terms of population, geographic size, tax base and revenues and complement of the police department, the upstate cities remain the best comparables as contemplated by the Taylor Law. In terms of salary, it is clear that Syracuse police are the lowest paid when compared with Albany, Buffalo and Rochester. This Panel finds that a one-time salary adjustment is necessary in order to place Syracuse police in a more appropriate comparable position with Albany, Buffalo and Rochester police.

Therefore, the Panel finds that there shall be a Public Safety Wage Adjustment for all unit members, consisting of a \$500 payment added to base salary effective 1/1/00 and a \$750 payment added to base salary effective 1/1/01. Such Public Safety Wage Adjustments are based on the comparables, and are in recognition of the necessary and dangerous work performed by Syracuse police officers. These Public Safety Wage Adjustments shall serve to bring Syracuse police into a more appropriate comparable position in terms of comparison with police salaries in Albany, Buffalo and Rochester. Such Public Safety Wage Adjustments shall be added to base salary and shall be therefore subject to the across the board general wage increases also provided herein.

Additionally, the Panel has considered the appropriate general wage increases to be provided to Syracuse police officers. In reaching the conclusions herein, the Panel has reviewed all relevant financial data of the City, including the Official Statement accompanying the issuance of Public Improvement Bonds and Various Purpose Notes in the amount of \$23,852,000 in April of 2000 (PBA Exhibit 2.8), which indicates that the City has made great progress in providing a balanced budget and operating within existing revenues. The Panel has also reviewed the current budget for 2000-01, and has also reviewed and considered the constitutional debt limits and margins, based on statistics compiled by the NYS Office of the State Comptroller. The Panel has noted that while the minimum recommended General Fund balance should be in the range of 5% to 8%, the City now has less than 4% in fund balance. Such monies cannot be used to fund increases for Syracuse police. Nor is the City currently in a position to raise property taxes to generate additional revenues.

The Panel is aware that the Public Safety Wage Adjustments provided herein were not anticipated by the City and will have to be taken out of either fund balance or contingency funds. With this in mind, the Panel finds that therefore, the City can only additionally afford the modest 3% across the board salary increases which it has previously budgeted for Syracuse police.

In making the salary determination herein, the Panel has carefully considered all of the financial data and arguments presented by both parties, and has applied such data to the criteria mandated by statute as specified in Section 209.4 of the Civil Service Law.

Accordingly, and after consideration of the extensive exhibits, documentation, and testimony presented herein; and, after due consideration of the criteria specified in Section 209.4 of the Civil Service Law, the Panel makes the following

AWARD ON PUBLIC SAFETY WAGE ADJUSTMENTS AND SALARY INCREASES

1. Effective January 1, 2000, and retroactive to that date, a Public Safety Wage Adjustment of \$500 shall be added to the base salary schedule for all unit members.

2. Effective July 1, 2000, and retroactive to that date, the base salary schedule for all unit members shall be increased by 3%.

3. Effective January 1, 2001, a Public Safety Wage Adjustment of \$750 shall be added to the base salary schedule for all unit members.

4. Effective July 1, 2001, the base salary schedule shall be increased by 3%.

5. The City shall utilize best efforts to provide all retroactive pay provided herein to unit members no later than 12/20/00.

**NIGHT SHIFT DIFFERENTIAL**

Discussion on Night Shift Differential

Currently, Article 5.4 of the Agreement provides that Syracuse police receive a night shift differential payment of \$.20 per hour for work performed between the hours of 1600 (4:00 p.m.) and 0800 (8:00 a.m.). This amount has not been increased since 1/1/95.

The Panel notes that Syracuse police do not bid to work the evening and/or night shifts and are subject to inconvenience in their personal lives by working such schedule. The Panel further notes that Rochester police currently receive a night shift differential payment of \$.60 per hour.

The Panel finds that although this is an item which has not been budgeted for, a modest increase in shift differential is warranted. The Panel is also providing a slightly higher shift differential for night shift assignments, as opposed to evening shift assignments.

AWARD ON NIGHT SHIFT DIFFERENTIAL

1. Effective 1/1/01, a night shift differential of \$.40 per hour shall be paid for all work performed between the hours of 4:00 p.m. and midnight, provided at least six hours per day are worked during these hours on a regular shift basis.

2. Effective 1/1/01, a night shift differential of \$.50 per hour shall be paid for all work performed between the hours of Midnight and 8:00 am., provided at least six hours per day are worked during these hours on a regular shift basis.

#### **ELIMINATION OF SEPARATE CHECKS**

##### Discussion on Elimination of Separate Checks

Currently, Syracuse police receive payment by separate check for night shift differential pay, uniform allowance, holiday pay and sick leave incentive payments. Such separate checks require additional administrative work and payroll processing and costs the City approximately \$5,600 per year. Such savings can be applied toward providing the increased night shift differential payment provided herein.

##### AWARD ON ELIMINATION OF SEPARATE CHECKS

Effective 1/1/01, the City will no longer issue separate checks for night shift differential pay, uniform allowance, holiday pay or the sick leave incentive payment. All such monies shall be paid as part of the regularly issued paycheck paid on the date closest to the due date for the aforementioned payments.

## **REMAINING ISSUES**

### Discussion on Remaining Issues

The Panel has reviewed in great detail all of the demands and proposals of both parties, as well as the extensive and voluminous record in support of said proposals. The fact that these proposals have not been specifically addressed in this Opinion and Award does not mean that they were not closely studied and considered in the overall context of contract terms and benefits by the Panel members. In interest arbitration, as in collective bargaining, not all proposals are accepted, and not all contentions are agreed with. The Panel, in reaching what it has determined to be a fair result, has not addressed or made an Award on many of the proposals submitted by each of the parties. The Panel is of the view that this approach is consistent with the practice of collective bargaining. Thus, we make the following award on these issues:

### AWARD ON REMAINING ISSUES

Except for those proposals and/or items previously agreed upon by the parties herein, any proposals and/or items other than those specifically modified by this Award are hereby rejected.

**RETENTION OF JURISDICTION**

The Panel Chairman hereby retains jurisdiction of any and all disputes arising out of the interpretation of this Opinion and Award.

**REVISION OF CONTRACT**

The Panel recommends that the parties herein revise the 1998-99 Agreement in accordance with the provisions of this Award, and prepare and execute a document which reflects the provisions of this Award.

DURATION OF CONTRACT

Pursuant to the provisions of Civil Service Law Section 209.4(c)(vi) (Taylor Law), this Award provides an Agreement for the period commencing January 1, 2000 and ending December 31, 2001.

  
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JEFFREY M. SELCHICK, ESQ.  
Public Panel Member and Chairman

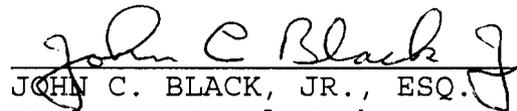
11-27-00  
Date

[Concur]  
[Dissent]

\_\_\_\_\_  
ROCCO A. DEPERNO, ESQ.  
Employee Organization Panel Member

\_\_\_\_\_  
Date

[Concur]  
~~[Dissent]~~

  
\_\_\_\_\_  
JOHN C. BLACK, JR., ESQ.  
Employer Panel Member

11-30-00  
Date

STATE OF NEW YORK )  
COUNTY OF ALBANY ) ss.:

On this 27<sup>th</sup> day of November 2000, before me personally came and appeared Jeffrey M. Selchick, Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

  
Notary Public  
CATHY L. SELCHICK  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 4330518  
QUALIFIED IN ALBANY COUNTY  
COMMISSION EXPIRES NOVEMBER 30 01

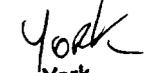
STATE OF NEW YORK )  
COUNTY OF ) ss.:

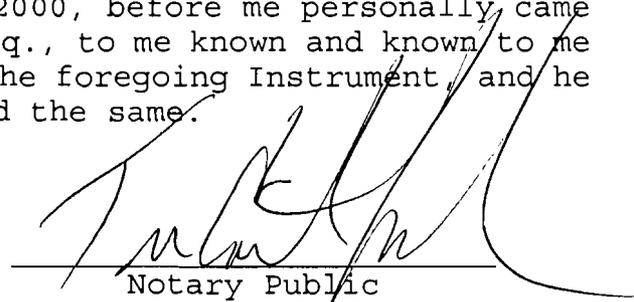
On this \_\_\_\_\_ day of \_\_\_\_\_ 2000, before me personally came and appeared Rocco A. DePerno, Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )  
COUNTY OF ONONDAGA ) ss.:

On this 30 day of November 2000, before me personally came and appeared John C. Black, Jr., Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

  
TERRI E. CONTI  
Notary Public, State of New York  
No. 43-4941904  
Qualified in Richmond County  
Commission Expires Sept. 6, 19  
2002

  
Notary Public