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INTERNATIONAL ORGANIZATION OF)
MASTERS, MATES, & PILOTS PACIFIC)
MARITIME REGION ILA, AFL-CIO,)
)
AND)
)
DISTRICT NO. 1 MARINE ENGINEERS)
BENEFICIAL ASSOCIATION, AFL-CIO,)
)
COMPLAINANTS,)
)
vs.)
)
STATE OF ALASKA,)
)
RESPONDENT.)
)

Case Nos. 01-1081-ULP and 01-1082-ULP (consolidated).

DECISION AND ORDER NO. 263

The board heard this dispute on August 6 and 7, 2002, in Juneau. Hearing Examiner Mark Torgerson presided. The Board based its decision on the evidence admitted and testimony presented during the hearing.

Digest: The parol evidence rule bars consideration of the December 2, 1999, oral discussion between Respondent's employee Robert Doll and the Complainants. Alternatively, the Complainants failed to prove that their oral discussion with Doll produced a binding, enforceable agreement with the Respondent. The Complainants failed to prove that the Respondent committed an unfair labor practice by failing to bargain in good faith when Doll orally agreed -- during a break in formal negotiations -- to a procedure for unmanned layups.

Appearances: Steven Ross, attorney for Complainants Masters, Mates and Pilots Pacific Maritime Region ILA, AFL-CIO (MM&P), and District No. 1 Marine Engineers Beneficial Association, AFL-CIO (MEBA) (Unions[1]); Greg Elliot and Art Chance, Labor Relations Analysts for the State of Alaska (State).

Panel: Aaron Isaacs, Jr., Chair; and members Dick Brickley[2] and Raymond Smith.

DECISION

Statement of the Case

The International Organization of Masters, Mates and Pilots Pacific Maritime Region ILA, AFL-CIO (MM&P) and the District No. 1 Marine Engineers Beneficial Association, AFL-CIO (MEBA) filed unfair labor practice complaints against the State of Alaska (State) for failure to bargain in good faith. The Unions ask this Agency to find that the parties created a valid, enforceable, oral agreement regarding unmanned layups, and that the State committed an unfair labor practice by failing to implement the agreement. The Unions assert that state employee Robert Doll had authority to negotiate for and bind the State on this issue.

The State disputes the charges. The State contends the parties did not create a valid, enforceable agreement when Doll spoke with the Unions' representatives outside the formal negotiating process. The State argues that evidence of the oral conversation between the Unions' representatives and Doll should not be admitted into the record because the conversation occurred before the parties signed the integrated, unambiguous collective bargaining agreements. The State asserts that only chief spokesperson Tyler Andrews had authority to bind the State to any agreement. The State contends that the Public Employment Relations Act (PERA) requires collective bargaining agreements to be in writing.

Issues

1. Does the parol evidence rule bar consideration of evidence of the December 2, 1999, oral conversation between Robert Doll and the Unions over unmanned layups?

2. Did Doll bind the State of Alaska to an unmanned layup procedure as a result of discussions with the Unions on December 2, 1999?

[1] When capitalized, "Unions" refers to the two unions or their representatives. "Three unions" refers to the two above unions and the Inlandboatmen's Union of the Pacific, or their representatives.
[2] Due to a last-minute change of circumstances, Board Member Brickley attended the hearing by telephone.

3. Did the State of Alaska fail to bargain in good faith by refusing to implement a procedure for unmanned layups, discussed in a December 2, 1999, meeting between Doll and the Unions?

Findings of Fact

The panel, by a preponderance of the evidence, finds the following facts:

1. MM&P is recognized as the exclusive bargaining representative for deck officers employed by the Alaska Marine Highway System (AMHS).

2. MEBA is recognized as the exclusive bargaining representative for the AMHS's marine engineers.

3. MM&P and MEBA and the State commenced negotiations for new collective bargaining agreements (for the 2000-2003 period) in 1999. MM&P and MEBA negotiated separately with State negotiators.

4. Prior to the start of negotiations, the parties agreed to ground rules for the negotiations. The ground rules between the State and each of the Unions provide that only the chief spokespersons can bind a party and enter into tentative agreements. The ground rules between MEBA and the State, signed October 19, 1999, list Louie Bud Jacque as chief spokesperson for MEBA, and Tyler Andrews as the State's chief spokesperson. (Exh. I). MM&P's ground rules, signed May 5, 1999, list the chief spokespersons as Steve Demeroutis for MM&P, and Andrews for the State. (Exh. D).[3]

5. The ground rules between MEBA and the State describe the authority of the chief spokespersons in paragraphs 5 and 6. Paragraph 5 provides: "Only written proposals presented by each chief spokesperson will be considered valid." (Exh. I at 1).

Paragraph 6 provides:

> All tentative agreements shall be reduced to writing, initialed and dated by the chief spokesperson for each side at the meeting at which tentative agreement is reached and an initialed copy shall be provided to each bargaining team. All tentative agreements on given items are contingent upon overall agreement being reached by the parties. No tentative agreement on any item shall be considered effective or binding on either party until an overall agreement is reached and ratified by both parties, including legislative authorization as required by law.

(Exh. I at 2).

[3] The record also includes ground rules for negotiations between the State and the Inlandboatmen's Union of the Pacific, Alaska Region (IBU). They list Ron Gillette as the State's Chief Spokesperson, and Robert J. Provost as IBU's Chief Spokesperson. IBU is not a party to this dispute.

6. In December 1999, Robert Doll was general manager of the AMHS. He was not a member of the State's negotiating team in the State's effort to reach agreement with MM&P or MEBA, but he attended negotiations and advised the team.[4]

7. Representatives from the State, MEBA, and MM&P met several times, including a session with the State and each union on December 2, 1999. The meetings took place in a conference room at the Department of Transportation and Public Facilities building in Juneau.

8. During a recess in the December 2 contract negotiations, the Unions, along with business manager Bob Provost of the Inlandboatmen's Union of the Pacific (IBU), met privately with Doll to convey their concern over unmanned layups. Jacque arranged the meeting and asked Doll to meet with Jacque, Demeroutis, Provost, and approximately 20 members of the three unions. The meeting was less formal than the ongoing contract negotiations.

9. Doll asked George Capacci to attend the meeting with him. Capacci, AMHS port captain at the time of the December 2 meeting, was not a member of the State's negotiating team, but he attended negotiations and answered technical questions.

10. Andrews, the State's chief spokesperson, did not attend this meeting. The Unions did not invite him to the meeting. Jacque approached Andrews and told him that the three unions wanted to talk to Doll about unmanned layups. Andrews believed the meeting would be a preliminary discussion to talk about this issue. In his mind, any agreement that came out of the discussions would require a four-way letter of agreement "to make the proposal happen." Andrews told people he would not go to the meeting anyway. He was in between bargaining sessions with the Unions, and he was busy reviewing and typing notes and retyping proposals from the day's negotiating sessions.

11. Prior to the Unions' meeting with Doll, Andrews spoke briefly with Doll. Andrews did not give Doll authority to bind the State to any agreement reached at the meeting. Andrews told Doll that Doll did not have authority to bind the State to any agreement, or to reach an agreement that would be associated with the contracts. Prior to the meeting, Andrews did not discuss Doll's negotiating authority, or lack thereof, with Jacque or Demeroutis.

12. At the time of this meeting, the State was in the process of changing the ship M/V Malaspina to unmanned layup status. The AMHS was under pressure to operate the Malaspina profitably, and management representatives at AMHS hoped that changing to the unmanned layup procedure would reduce costs.

13. The State's procedure on ship layups had changed every year since 1994. The State had previously implemented a procedure to put some ships up in unmanned layup status.

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[4] Doll described himself as an "interested observer" who advised the State's representative on almost every issue.

14. During the December 2 meeting, the Unions expressed concern to Doll about unmanned layups. Demeroutis and Jacque had received complaints from their members for years about getting back on board ships that had been unmanned, and finding hazards such as missing tools, inoperative circuit boards, and rust. To address these complaints, the Unions wanted to have some "say-so" in the maintenance of State marine highway ships. They wanted to work out a procedure with the State to protect the ships rather than have an outside vendor work on the ships.

15. Doll asked what he could do to resolve the issue. On behalf of the three unions, Jacque proposed that the State no longer tie ships up on dock in a "dead" (unmanned) condition but instead maintain the ships in layup by employing one engineer from MEBA, one mate from MM&P, and one IBU member.

16. Capacci did not believe manning of the vessels was necessary during layup. Capacci felt that utilizing unmanned layups was a feasible way for the AMHS to save money. Capacci tried to get Doll's attention on this issue during the meeting, but he was unsuccessful.

17. Despite Capacci's concerns, Doll responded enthusiastically to the three unions' proposal. Doll felt the proposal was a concession by the three unions because he believed the collective bargaining agreements required that if the State decided to man a ship while in layup, 14 employees from the three unions were required to work on the ship. When Jacque asked Doll if they had a deal, Doll replied, "done" and banged his fist on the table. Doll did not indicate there was any legislative action, written authorization, or other action needed to complete the deal. Doll did not reveal at the meeting with the three unions' representatives that there was any problem discussing the manning issue with him instead of with Andrews; nor did Doll clarify his authority to negotiate with the three unions. Doll did not disclose that Andrews instructed him that he had no authority to bind the State on the manning issue.

18. Doll felt he had authority to bind the State on contract changes. At the end of the December 2 meeting, Doll felt he had an agreement with the Unions although he still wondered how it would happen. He felt the agreement was "very sketchy" and that the parties needed to work out more details. At the same time, Doll knew that Andrews was the only person authorized to speak in negotiations on behalf of the State. Doll realized contract negotiations would be "channeled" through Andrews.

19. The Unions did not question whether Doll had the authority or ability to craft an agreement with them, despite knowing that the negotiating ground rules tapped Andrews as the State's chief spokesperson.

20. Doll assumed the agreement to put three union members on board ships in layup would require modification of the collective bargaining agreements, since the contract language in effect for the three affected unions (MEBA, MM&P, and IBU) required that 14 union members man the boats in a manned layup.

21. Capacci listened to the discussion between the three unions and Doll. He did not believe the parties had reached agreement on the manning procedure for layups. At the conclusion of the meeting, he felt the 'ball' was in the three unions' court. Capacci expressed reservations about the three unions' proposal because he felt the State needed to give the unmanned layup process a chance to work.

22. After the meeting, Doll did not give Andrews any specific information about his conversation with the Unions. Doll could not recall what he told Andrews, although he was sure he told Andrews something. Jacque spoke briefly with Andrews and summarized the meeting. Andrews told Jacque that the unions needed to put together a proposal because Andrews was too busy and did not have time to do the staff work on any proposal. Neither Doll nor the Unions' chief spokespersons raised the unmanned layup issue or the December 2, 1999, conversation during subsequent formal meetings between the negotiating teams.

23. None of the participants at the December 2, 1999, informal meeting requested that the subject of the Doll/Unions discussions be put into writing as a tentative agreement or letter of agreement prior to reaching agreement on a draft contract for the 2000 to 2003 period.

24. Jacque did not mention the December 2 Doll/Unions meeting during subsequent negotiating meetings because Jacque expected "Doll's word was good." Jacque had worked with Doll on previous issues and expected no problems related to this latest agreement. Jacque was "not at all" concerned about the oral nature of the agreement. Jacque did not think twice about it; he just thought it "would happen." Jacque felt MEBA had previously reached oral agreement with the State on other issues.

25. Doll first realized there were objections to his December 2 agreement with the three unions approximately seven weeks after the December 1999 meeting. Eight weeks after the meeting Doll left his job as AMHS manager to accept a job as the State Department of Transportation's regional director of operations in Southeast Alaska. Capacci replaced Doll as AMHS manager.

26. MM&P and the State reached tentative agreement on February 3, 2000. (Exh. N). MEBA and the State reached a tentative agreement on February 17, 2000. (Exhs. O & P).

27. On March 30, 2000, the State sent MM&P a draft copy of the collective bargaining agreement for the July 1, 2000, to June 30, 2003, period. (Exh. R).[5] The State asked MM&P to proof the draft. Rule 16.03 of the draft provides: "When a vessel is in maintenance/layup status, the Employer shall determine crew requirements. However, during all times a vessel is in layup or in a shipyard, the Master shall be the first crew member assigned and the last crew member removed."

[5] On March 30, 2000, the State also sent IBU a draft collective bargaining agreement reached between IBU and the State for the 2000 - 2003 period. (Exh. S).

28. Jacque became concerned about the status of the unmanned layup agreement in March or April 2000, as MEBA wrapped up contract negotiations for the 2000-2003 period. Jacque's concern stemmed from phone calls from some of his engineers informing him that the State was still putting up ships alongside the dock in unmanned status. Jacque had told his members that, pursuant to the December 2 agreement, at least one engineer would be left on board ships in layup, for safety purposes.

29. On May 2, 2000, MEBA sent the State a proposed Letter of Agreement that reflected what MEBA felt the three unions and the State agreed to at the December 2, 1999, meeting. (Exh. 3). MEBA's Seattle office sent the proposal to the State. John McCurdy, Branch Agent for MEBA, signed the Letter of Agreement. The proposal provides:

> It is agreed and understood . . . that the following terms and conditions . . . are in addition to the provisions of Rule 16.08 of the collective bargaining agreement. In reference to the agreement reached between AMHS System General Manager Bob Doll and the three AMHS Unions (MEBA, MM&P and IBU) held Dec. 3, 1999, the following language is to be inserted.
>
> 16.08D. The minimum manning for any AMHS Vessel in layup status, Federal Project, or any other non-service status shall be one (1) Engineer, Permanent Vessel Chief. Engineers shall be given first priority in filling these positions. It is also understood that this language will be inserted into the master agreement at the next contract opening, and this letter of agreement is eliminated from file.

(Exh. 3).

30. MEBA's May 2, 2000, proposed letter of agreement was the first written proposal that the Unions submitted to the State after the December 2, 1999, meeting with Doll. Neither the Unions nor Doll had previously provided State negotiators with any details of the proposal.

31. On May 8, 2000, the State sent MEBA a draft collective bargaining agreement for the July 1, 2000, to June 30, 2003, period. The State asked MEBA to review the agreement. (Exh. T). Rule 16.08(A) provides: "The minimum manning levels of licensed engineers assigned to a vessel in maintenance status, when licensed engineers are assigned to the vessel for repair work, shall be no less than as follows . . . ." Rule 16.08 goes on to provide that the M/V Columbia's manning level would be 1 Chief Engineer, 2 First Assistant Engineers, and 2 Second Assistant Engineers. The M/V Le Conte would have 1 Chief Engineer, 1 First Assistant Engineer, and 2 Second Assistant Engineers. (*Id*. at 14).

32. The contract provisions for determining the manning of ships in layup did not change in the 2000 - 2003 collective bargaining agreements from the prior agreements between the Unions and the State.

33. The State utilized unmanned layups in 1998 and 1999, prior to the December 2, 1999, meeting between Doll and the Unions.

34. On May 19, 2000, the State sent MM&P another draft collective bargaining agreement for MM&P's review. The agreement was sent by computer diskette. (Exh. U).

35. Neither Andrews nor Doll had direct authority to sign letters of agreement on behalf of the State. Only the Commissioner of Administration or the Commissioner's designee was authorized to sign and bind the State to these letters. Andrews was authorized to discuss proposals with the Unions. He would work out a proposal as a tentative agreement, analyze its financial impact on the State and the Unions, and email his analysis to the "next level up" for review.

36. Jacque was not concerned initially that the State did not respond immediately to MEBA's written manning proposal because negotiations with the State are often slow and drawn out.

37. Representatives from the State reviewed but never signed MEBA's May 2, 2000, proposed Letter of Agreement.

38. Andrews reviewed the proposed Letter of Agreement on unmanned layups and informed representatives of the Unions that the proposal was unacceptable.

39. There was no further attempt by the Unions to discuss the December 1999 unmanned layup agreement with the State prior to signing the new collective bargaining agreements.

40. On September 13, 2000, the State sent MM&P a final master collective bargaining agreement that included minor changes proposed by MM&P. (Exh. Y). None of the changes addressed manning procedures while vessels were in layup status.

41. On September 13, 2000, the State sent MEBA a master version of the collective bargaining agreement reached by the parties. (Exh. Z). The State noted it made some changes that reflected the February 17, 2000, tentative agreement reached by the parties. None of the changes addressed manning procedures while vessels were in layup status.

42. On September 20, 2000, MEBA sent the State minor language corrections to two sections. (Exh. AA). Neither section dealt with manning levels in layup status. The last paragraph of the September 20 letter provides: "Incorporation of the above

language properly reflects the agreement reached between the parties. These contract corrections will not change the State's financial obligation to the MEBA."

43. On October 5, 2000, the State sent MM&P the master collective bargaining agreement, with an original signature page. The State notified MM&P that the State would place the agreement onto the State's website within a week. (Exh. BB).

44. On October 17, 2000, the State sent MEBA a copy of the parties' master collective bargaining agreement for the 2000 to 2003 period. The agreement included a Letter of Agreement the State and MEBA reached regarding MEBA's corrections proposed on September 20, 2000. (Exh. AA). MEBA signed the master agreement on July 1, 2000, and the Letter of Agreement on October 11, 2000. (Jt. Exh. I).

45. The MM&P/State agreement for the period July 1, 2000, to June 30, 2003, provides for an integration clause in Rule 1.02:

> The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the areas of collective bargaining, and that this Agreement is the entire Agreement and includes all collective negotiations during its term. It is mutually understood that there is no desire on the part of the Union to dictate the business policies of the Employer but when the Employer contemplates a change in policy affecting the welfare of the Deck Officer, proper and reasonable notice shall be given to the Union.

(Jt. Exh. II at 1).

46. Rule 1 of the MEBA/State agreement is titled "Scope." Rule 1.01 provides that "[t]he Rules contained herein constitute an Agreement, as amended, between the State . . . and . . . MEBA . . . governing wages, hours and conditions of employment . . . ."

(Jt. Exh. I at 1).

47. Rule 1.02 of the MEBA/State agreement provides:

> Unique operational requirements pertaining to some of these vessels are addressed by Supplemental Agreement(s) amending this basic Agreement. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective negotiations during its term except those that specifically arise through Rule 35.

(*Id.*)

48. Rule 1.03 of the MEBA/State agreement provides in pertinent part:

> Any additions, deletions or changes which are negotiated during the life of this Agreement shall be in the form of an amendment or addendum and shall become part of this Agreement. No agreement altering this contract can be entered into without the participation of a duly elected negotiating team from the membership of the Alaska Marine Highway System. . . Interpretation or clarification of provisions of the Agreement shall be set forth in memorandums of understanding.

(*Id.*)

49. Rule 1.04 of the MEBA/State agreement provides:

> It is mutually understood that there is no desire on the part of the Union to dictate the business policies of the Employer, but when the employer contemplates a change in policy affecting the welfare of the Engineer Officer, proper and reasonable notice shall be given to the Union. Should a dispute arise, it shall be settled in accordance with Rule 14.01.

(*Id*.)

50. MEBA and MM&P filed unfair labor practice complaints against the State after a second winter went by and AMHS again put up some ships in unmanned layup. The Agency consolidated the complaints. The Unions allege that the State refused to honor the oral agreement Doll reached with the Unions over the manning of ships in layup status. They ask the Agency to enforce the agreement. The State denies the charge.

ARGUMENTS

The Unions contend this is a very simple case about an agreement they reached with the State on December 2, 1999. They assert that, although not perfect, the agreement they reached with Doll was valid and enforceable. The Unions argue that there was no evidence that the parties needed to do follow-up work before they reached an agreement. As far as the Unions were concerned, they reached agreement with the State on unmanned layups at the December 2, 1999, meeting with Doll. The Unions contend that this meeting was separate from the ongoing collective bargaining negotiations they conducted with the State. Consequently, they urge us to find that the agreement they reached with Doll was separate from agreements reached during collective bargaining negotiations.

The State argues, among other things, that the collective bargaining agreements it reached with the Unions were integrated. As such, it contends, the parol evidence rule applies to bar admission of the Unions' December 2, 1999, conversation with Doll. Further, the State asserts that Doll did not have authority to bind the State to an

agreement with the three unions during a discussion away from negotiations on December 2, 1999.

ANALYSIS

1. Does the parol evidence rule bar consideration of evidence of the December 2, 1999, oral conversation between Robert Doll and the Unions over unmanned layups?

This Agency has not applied the parol evidence rule to a dispute.[6] But the Alaska Supreme Court has held: "The parol evidence rule states that an integrated written contract may not be varied or contradicted by prior negotiations or agreements. Before the rule can be applied, three things must be determined: (1) whether the contract is integrated, (2) what the contract means, and (3) whether the prior agreement conflicts with the integrated agreement." *Philbin v. Matanuska-Susitna Borough*, 991 P.2d 1263, 1270 (Alaska 1999).

The court in *Alaska Diversified* emphasized that the parol evidence rule is not easy to apply:

> There is an obvious tension between using extrinsic evidence of a prior agreement for the purpose of determining the meaning of an integrated contract, and barring the use of a prior agreement to change an integrated contract once its meaning is determined. The evidence which is consulted to determine meaning may be the same evidence which is later excluded, or rendered irrelevant, by the parol evidence rule. However, this apparent conflict is made manageable in most cases by various practical rules. For example, while extrinsic evidence should be consulted in determining the meaning of a written contract, nonetheless "after the transaction has been shown in all its length and breadth, the words of an integrated agreement remain the most important evidence of intention." Restatement (Second) of Contracts § 212 comment b.

Id.

Under the analysis in *Philbin*, we must first determine whether the contracts are integrated. A contract is integrated if it constitutes a final expression of one or more of the terms of the parties' agreement. *Kal Kan Foods, Inc.*, 288 NLRB 590, 593, 130 L.R.R.M. (BNA) (April 22, 1988). Citing to the Restatement 2d, Contracts, the court added: "Clearly no particular form is required for an agreement to be found integrated." *Id.* In other words, an integration clause is not required to find that a contract is integrated. *See Airline Pilots Association, International v. Midwest Express Airlines,*

[6] One of our predecessor agencies did issue a decision that applied the rule. *See Alaska Public Employees Association vs. State of Alaska*, Order and Decision No. 101, (December 1, 1986). The Board in D&O 101 found a "Letter Agreement" unambiguous and precluded evidence of the parties' understandings regarding that agreement.

Inc., 279 F.3d 553, 558, 169 L.R.R.M. (BNA) 2412 (2002) (the existence of an integration clause is just one way of showing that a contract is integrated).

The Alaska Supreme Court discussed the absence of an integration clause in *Alaska Diversified Contractors, Inc. v. Lower Kuskokwin School District*, 778 P.2d 581 (Alaska 1989). Alaska Diversified argued that the parties' contract lacked integration because it did not contain an integration clause. But the court held that an "'Instructions to Bidders' form supplied to ADF contains a clause which is functionally equivalent to an integration clause." *Id*. at 585.

The MM&P collective bargaining agreement provides in Rule 1.02:

> The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that this Agreement is the entire Agreement and includes all collective negotiations during its term. It is mutually understood that there is no desire on the part of the Union to dictate the business policies of the Employer but when the Employer contemplates a change in policy affecting the welfare of the Deck Officer, proper and reasonable notice shall be given to the Union.

We find this is an integration clause that shows MM&P and the State intended their contract to be integrated. Further, we find Rules 1.02, 1.03, and 1.04 of the MEBA contract (findings of fact 48 – 50) are the functional equivalent of an integration clause.[7] Other evidence in the record also supports a finding of integration: The parties exchanged documents after reaching a tentative agreement. They reviewed a draft of the proposed collective bargaining agreement to assure it reflected the agreements reached during bargaining. They found mistakes and agreed to correct them. Ultimately, they signed the agreements and put them into effect. Therefore, we conclude that both parties' contracts are integrated.[8]

The next step under *Philbin* is to determine what the contract means with regard to procedures for manning during layup.[9] "In interpreting a contract, the court's duty is to ascertain and give effect to the reasonable intentions of the contracting parties." *Western Pioneer, Inc. v. Harbor Enterprises, Inc.*, 818 P.2d 654, 656 (Alaska 1991), *citing*

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[7] In *Alaska Diversified Contractors, Inc. v. Lower Kuskokwim School District*, (Alaska 1989), the court provided an example of an integration clause: "No representations, warranties, promises, guarantees or agreements, oral or written, expressed or implied, have been made by either party hereto with respect to this lease . . .except as expressly provided herein." *Id*. at 586 n.6.

[8] We also note that the Unions did not dispute that the contracts lacked integration.

[9] It is well settled that the [National Labor Relations] Board has the authority to interpret the terms of a collective-bargaining agreement to determine whether an unfair labor practice has been committed. *NLRB v. C&C Plywood Corp.*, 385 U.S. 421, 428 (1967). "Relevant decisions of the National Labor Relations Board and federal courts will be given great weight in the decisions and orders made under this chapter and AS 23.40.070 -- 23.40.260 and AS 42.40.720 -- 42.40.890." 8 AAC 97.450(c).

Fairbanks North Star Borough v. Tundra Tours, Inc., 719 P.2d 1020, 1024 (Alaska 1986); *Norton v. Herron*, 677 P.2d 877, 879-80 (Alaska 1984).

"Extrinsic evidence may always be received on the question of meaning. *Alyeska Pipeline Serv. Co. v. O'Kelley,* 645 P.2d 767, 771 n. 1 (Alaska 1982). Once the meaning of the written contract is determined, however, the parol evidence rule precludes the enforcement of prior inconsistent agreements." *Alaska Diversified Contractors, Inc. v. Lower Kuskokwim School District*, 778 P.2d 581, 584 (Alaska 1989).

We first review MM&P's contract with the State. Rule 16.03 gives the State discretion to determine crew requirements when ships are in maintenance/layup status. We interpret this provision to mean that the State could choose to man or not man ships in layup. Thus, MM&P's contract provides the State with exclusive decision-making authority on whether or not to man ships in layup.

MEBA's contract is not as clear as the above provision in the MM&P contract. Rule 16.08(A) of MEBA's contract provides that "minimum manning levels of licensed engineers assigned to a vessel in maintenance status, *when licensed engineers are assigned to the vessel for repair work*, shall be no less than as follows . . . ."[10] (emphasis added). Nonetheless, we find this rule grants the State discretion to decide whether or not to man vessels with engineers when the vessels are in maintenance or layup status.

The State decided to put ships in unmanned layup in 1998, 1999, and 2000. There is no evidence that the Unions questioned the State's discretion to make these decisions. The only protest came after the Unions felt the State backed out of an agreement allegedly reached with the State on December 2, 1999. In any event, we conclude that both the MM&P and MEBA contracts give the State discretion to determine manning levels in layup status.

The third question to address under *Philbin* is whether the prior (December 2, 1999) oral agreement conflicts with the written, integrated contracts. We conclude that the answer is 'yes' to both contracts. Even assuming that Doll had authority to negotiate an agreement over manning of ships in layup, and assuming the oral agreement is legally enforceable and binds the State, the December 1999 oral agreement is inconsistent with the integrated collective bargaining agreements reached between the State and MM&P and MEBA and signed into effect in 2000.

"Inconsistency is defined as 'the absence of reasonable harmony in terms of the language and respective obligations of the parties.'" *Western Pioneer, Inc. v. Harbor Enterprises, Inc*., 818 P.2d 654, 657 n.4 (Alaska 1991). There is no harmony when we compare the respective obligations of the parties under the integrated contracts with the obligations proposed in the oral agreement. The oral agreement would strip the State of its manning discretion provided for in the contracts because the agreement would require the State to man ships in layup with one employee each from MM&P, MEBA, and IBU. Since this oral agreement conflicts with the integrated contracts in this regard, evidence

[10] See finding of fact number 31.

of the oral agreement will not be considered in determining whether the Unions and the State crafted a binding, legally enforceable agreement during discussions between Robert Doll and the Unions on December 2, 1999.

2. Did Bob Doll bind the State of Alaska to an unmanned layup procedure as a result of discussions with the unions on December 2, 1999?

We have determined that the parol evidence rule bars consideration of evidence of the December 2, 1999, meeting between Doll and the Unions. But even if we consider the evidence of that meeting, we conclude that Doll had no authority negotiate with the Unions and bind the State to an unmanned layup procedure.

In order to find that the parties struck an enforceable agreement, we would need to find, among other things, that Doll had authority to bind the State to the agreement. Specifically, did the State delegate to Doll the authority to negotiate with the Unions and bind the State to an oral agreement with the Unions? The answer depends on whether the State empowered Doll with either actual or apparent authority.

The Alaska Supreme Court defined actual authority in *Bruton v. Automatic Welding & Supply Corp.,* 513 P.2d 1122, 1126-28 (Alaska 1973). The court there defined actual authority as "written or spoken words or other conduct of the principal which, reasonably interpreted, causes the agent to believe that principal desires him so to act on the principal's account." *Id.* at 1125 (*quoting* Restatement (Second) of Agency § 26 (1958)).

Under the evidence in the record, we find no words or conduct of the State, as principal, that Doll could reasonably interpret to give him authority to act on behalf of the State. To the contrary, the evidence shows that the State's chief spokesperson, Andrews, specifically told Doll he did not have authority to bind the State to any agreement with the Unions. Doll felt he had authority, but the source of this authority is unknown. Why Doll felt he had authority to make a deal, given this evidence, is puzzling.

Nor do we find that Doll had apparent authority to bind the State. "Apparent authority to do an act is created as to third persons by written or spoken words or any other conduct of the principal which, reasonably interpreted, causes the third person to believe that the principal consents to have the act done on his behalf by the person purporting to act for him." *Sea Lion Corp. v. Air Logistics of Alaska, Inc.,* 787 P.2d 109, 119 n.3 (Alaska 1990); *City of Delta Junction v. Mack Trucks, Inc.,* 670 PO.2d 1128, 1130 (Alaska 1983) (*quoting* Restatement (Second) of Agency § 27 at 103 (1958). *See also Jackson v. Power*, 743 P.2d 1376, 1381 (Alaska 1987). In other words, apparent authority is a representation by the principal to the third party that the principal consents to have the agent act on the principal's behalf. *See Bruton*, 513 P.2d 1122, 1125.

The National Labor Relations Board has adopted the following clear and simple rule regarding creation of apparent authority on the part of a labor negotiator. It has held that "when an agent is appointed to negotiate a collective-bargaining agreement that

agent is deemed to have apparent authority to bind his principal in the absence of clear notice to the contrary." *University of Bridgeport*, 229 NLRB 1074, 95 LRRM 1389, 1390 (1977). *See also Aptos Seascape Corporation*, 194 NLRB 540, 79 LRRM 1110 (1971), *Medical Towers Limited*, 289 NLRB 942 (No. 123) 129 LRRM 1169 (1987), *enf. granted without opinion, Medical Towers Ltd. v. N.L.R.B.,* 862 F.2d 309 (3d Cir. 1988). The purpose of this rule is to reduce opportunities for ambiguity and confusion. *Metco Products, Inc. v. National Labor Relations Board*, 884 F.2d 156, 159-60 (1989).

The Restatement (Second) of Agency defines apparent authority as "the power to affect the legal relations of another person by transactions with third persons, professedly as agent for the other." *Restatement (Second) of Agency* §8 (1958). If Doll possessed apparent authority to bind the State, the State could be legally bound by the oral agreement, assuming the oral agreement was enforceable.

But Doll must first have authority to bind the State. The Restatement provides:

> Apparent authority to do an act is created as to a third person by written or spoken words or any other conduct of the principal which, reasonably interpreted, causes the third person to believe that the principal consents to have the act done on his behalf by the person purporting to act for him.

Restatement (Second) of Agency §27 (1958).

"In other words, an agent is imbued with apparent authority to bind his or her principal if a third person could reasonably interpret acts or omissions of the principal as indicating that the agent has authority to act on behalf of the principal." *Metco Products, Inc., v. National Labor Relations Board*, 884 F.2d 156, 159 (1989). "The NLRB has long held that 'when an agent is appointed to negotiate a collective-bargaining agreement that agent is deemed to have apparent authority to bind his principal in the absence of clear notice to the contrary." *Id.* (citations omitted). "The laudable purpose of this rule is to lessen the opportunities for ambiguity and confusion by requiring a party who chooses to negotiate through an agent to disclose any limitations on the agent's authority." *Id*. at 159-60.

In this case, the State did not appoint Doll to negotiate an agreement with the Unions. The State delegated negotiating authority to its chief spokesperson, Andrews. The State never appointed Doll to conduct negotiations. By his own admission, Doll was merely a technical advisor to the State. Although Andrews did consent to have Doll talk to the Unions, neither Andrews nor any other State person with authority empowered Doll to negotiate a binding agreement. To the contrary, Andrews told Doll before the meeting that Doll did not have authority to bind the State.

The State helped to foster an environment that could *appear* to the Unions that Doll had some sort of authority to negotiate. The meeting between Doll and the Unions occurred during a break in negotiations, in the same State building where the parties were

meeting for negotiations. The State failed to tell the Unions, prior to the meeting, that Doll had no authority to negotiate for the State. If the State had done so, the confusion over Doll's authority could have been avoided. On the other hand, the State was not required to tell the Unions Doll had no authority. The parties had already agreed on ground rules, and on spokespersons with authority to bind the parties.

The confusion over Doll's status resulted in part because Doll had met with each of the unions in the past to discuss issues. Jacque testified that in some of these prior meetings, Doll formed agreements with MEBA on some issues. Doll's meeting over unmanned layups could have give the Unions the impression that Doll was authorized to craft another side agreement, as he had done in the past. However, there is no specific evidence in the record that Doll's prior agreements with the Unions changed the substance of the parties' collective bargaining agreements. The December 2, 1999, agreement between Doll and the Unions was a substantive change that would have required contract modification.

The State's failure to clarify Doll's authority prior to the meeting does not bind the State to Doll's agreement with the Unions. The State is not required to notify the Unions (the third party in this case) about Doll's status. The State never manifested to Doll that Doll could act on the State's account. Doll was a technical advisor to the State in its negotiations with the unions, but there is no evidence he was expressly delegated to negotiate with the Unions. Therefore, no agency relationship was ever created.

Further, Andrews did tell Bud Jacque after the meeting that Doll had no authority to cut a deal, and Andrews requested of Jacque that the Unions put together a written proposal for the State's review. This testimony fits with the parties' ground rules that require proposals to be in writing and to be presented to the chief spokespersons. Based on this analysis, we conclude that Doll did not have actual or apparent authority to negotiate with the Unions on the State's behalf, regarding unmanned layups. Therefore, Doll could not bind the State to an unmanned layup procedure with the Unions. This is so even if the parol evidence rule did not bar use of the evidence about the oral discussions between Doll and the Unions.

Doll had no authority, delegated or otherwise, to bind the State to the oral terms discussed with the Unions in December 1999. Unlike Andrews and the other State employees in the chain of delegation, the State never delegated negotiating authority to Doll. Instead, he took it upon himself to cut a deal with the Unions and did not communicate the deal to Andrews. Doll never told either the Unions or Andrews that he believed the oral agreement must be reduced to writing. Without authority to bind the State, Doll could not reach a deal for an enforceable agreement. We view the 'agreement' Doll reached with the Unions as nothing more than a proposal to modify the contractual provisions on manning procedures for ships in layup.

The parties dispute whether all negotiated agreements, including the underlying collective bargaining agreement, must be reduced to writing. Clearly, the master agreement must be in writing. AS 23.40.210 requires it. The next question is whether

so-called "side agreements" or "letters of understanding" are considered a "collective bargaining agreement" under section 210, or connected so closely to the collective bargaining agreement that they must be in writing to be enforceable. Based on the writing requirement in AS 23.40.210, we believe that agreements between the parties that occur during the term of the contract should be in writing, unless the parties clearly agree in the contract that they may orally agree on issues. This supports the statutory writing requirement while giving the parties the opportunity to waive this right during the bargaining process, if they find that doing so develops their mutual interest and promotes industrial peace through more harmonious and cooperative relations.[11]

The State confused Doll's negotiating authority by allowing him to meet with the Unions during a break in formal negotiations, and by failing to inform the Unions that Doll could discuss the manning issue but had no authority to obligate the State to an enforceable agreement. Doll added to the confusion by acting as though he had authority, despite a total absence of delegation, and despite Andrews' telling him he had no authority. The State clearly had delegated authority in a hierarchial pattern from the Governor to Andrews. But that delegation stopped with Andrews. Why Doll thought he had authority to negotiate and bind the State on unmanned layups is unknown.

Without more, it might be possible for the Unions to reasonably conclude that Doll had been delegated authority. It is understandable, on the one hand, why the Unions felt as if they had consummated a deal -- through Doll -- with the State. On the other hand, several facts support a conclusion that Doll did not have authority, and it would be unreasonable for the Unions to infer that Doll could bind the State on the manning issue.

First, the written ground rules clearly provide that bargaining must be conducted at the bargaining table, and between the parties' chosen representatives, the chief spokespersons. Contrary to those rules, the Unions met Doll, not the State's chief spokesperson Andrews, to discuss the manning issue. Andrews was not even invited to this meeting. Moreover, Doll and the Unions met away from the bargaining table. This meeting also included several union members who were not part of the bargaining team.

Second, the ground rules provide that only written proposals presented by each chief spokesperson would be considered valid. Not only was the State's chief spokesperson absent from the December 2 manning meeting, but the Unions' proposal was oral instead of written.

Finally, Andrews told Jacque after the Unions' meeting with Doll that Jacque needed to get a proposal to Andrews. Andrews said he was too busy to write the proposal, so Jacque would need to do it. Andrews told Jacque that the State needed to know if the proposal would be a three-way or four-way deal. Andrews testified that the State needed to make sure all three of the marine unions participated in any deal because

[11] *See* AS 23.40.070. Written agreements provide more trustworthiness than oral agreements. Both parties have the opportunity to review and amend a written document, but may dispute an oral agreement more often due to fading memories and varying recollections.

a manning-at-layup issue would affect employment of the members at all three unions. He said the three unions' relationship with the State was "interlocking" in nature.

Nonetheless, the Unions never submitted a three or four-way written proposal during bargaining. The Inlandboatmen's Union (IBU), one of the three unions at the December 2 meeting, reached agreement with the State prior to that December meeting. The IBU never contacted the State about this issue after the December meeting. MM&P and MEBA reached tentative agreement with the State prior to submission of a written proposal by MEBA. But even when submitted, MEBA's proposal focused on manning at layup for its bargaining unit only. The proposal did not mention the MM&P and IBU bargaining units. At least partly for that reason, the State rejected the written proposal.

We reiterate that there is no evidence in the record that the State authorized Doll to bind it to an agreement on the manning of ships in layup, or explicitly or implicitly led the Unions to believe that Doll had binding authority. The evidence supports the opposite. Andrews told Doll that Doll did not have authority to make a deal. The fact that Doll banged his fist on the table and said 'done' gave the Unions a mistaken impression that Doll had some type of authority. Doll's gesture created confusion because he could not bind the State. Even if we did conclude that Doll made some sort of agreement with the Unions, that agreement was not enforceable against the State. Only the chief spokesperson could agree to an enforceable manning procedure.

Even Doll felt that the parties needed to work out more details, including modification of the layup articles in the collective bargaining agreements, before the oral agreement was finalized. Doll did not relay his feeling to either the Unions or Andrews. Thus, there was no work done on contract modification, and none of the chief spokespersons was aware that they needed to do any work.

Andrews was completely unaware that Doll reached some kind of agreement with the unions because Doll failed to tell him, and the unions never raised the issue during subsequent negotiations.[12] The Unions knew Andrews had to approve agreements, and these agreements had to be put into writing. However, they never attempted, during negotiations, to get the Doll agreement put into writing, nor did the Unions request that the parties put the Doll agreement into their contracts. Neither Andrews nor any other authorized person ratified Doll's agreement with the Unions.

Clearly, this proposal would have changed the State's discretion to determine manning procedures while ships are in layup. For this reason, the collective bargaining agreement would need modification. But neither union sought to include this manning

[12] It's surprising that neither Doll nor the union representatives present at the meetings followed through during the subsequent discussions for a contract. The only conclusion we can draw is Doll left the Unions with a firm impression that he had authority to make a deal, and the deal was done. But Doll's subsequent behavior and communications to Andrews show no such authority or suggestion that he had cut a deal. In fact, he did not tell Andrews the details of what had occurred.

proposal in the collective bargaining agreement. When Andrews caught wind of the proposal, he nixed the idea. The Unions proceeded to sign new collective bargaining agreements that did not include the proposed change.

3. Did the State of Alaska fail to bargain in good faith by refusing to implement a procedure for unmanned layups, outlined in a December 2, 1999, discussion between Doll and the unions?

The Unions contend that the State failed to bargain in good faith because the State orally agreed to a procedure for the manning of ships while in layup and then refused to implement the agreement. However, the agreement between Doll and the three unions was made outside of the negotiation process, and we have determined already that the parol evidence rule bars consideration of evidence about the discussions that led to oral agreement between Doll and the Unions. Absent evidence of those discussions, we found no other evidence supporting a conclusion that the parties reached a separate oral or written agreement regarding manning of ships in layup, other than the one that is in the Unions' collective bargaining agreements with the State. We have determined that the parol evidence rule bars consideration of the Doll/Unions discussion on December 2, 1999, and we find no other evidence to support the claim that the State bargained in bad faith. We conclude that the Unions failed to prove by a preponderance of evidence that the State violated the duty to bargain in good faith by refusing to implement a procedure for unmanned layups resulting from a December 2, 1999, meeting with Doll, a meeting that bypassed the negotiating process.

The duty to bargain in good faith is addressed in AS 23.40.110(a)(5), which provides: "A public employer or an agent of a public employer may not refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative."

In *Fairbanks Fire Fighters Ass'n, Local 1324, IAFF, vs. City of Fairbanks*, Decision and Order No. 256, at 9-10 (October 17, 2001), we analyzed good faith:

> Good faith has been described as "an open mind and a sincere desire to reach an agreement" and "a sincere effort . . . to reach a common ground." I Patrick Hardin, *The Developing Labor Law*, at 608 (3d ed. 1992), *quoting NLRB v. Montgomery Ward & Co.*, 133 F.2d 676, 12 L.R.R.M. (BNA) 508 (9th Cir. 1943), and *General Elec. Co.*, 150 NLRB 192, 194, 57 L.R.R.M. (BNA) 1491 (1964), *enforced* 418 F.2d 736, 72 L.R.R.M. (BNA) 2530 (2d Cir. 1969), *cert. denied*, 397 U.S. 965, 73 L.R.R.M. (BNA) 2600 (1970). In *Hotel Roanoke*, 293 NLRB 182, 184 (1989), the Board stated: "In determining whether a party has bargained in bad faith, the Board looks to the totality of the circumstances in which the bargaining took place. *Port Plastics*, 279 NLRB 362, 282 (1986); *Atlanta Hilton & Tower*, 271 NLRB 1600, 1603 (1984). The Board looks not only at the parties'

> behavior at the bargaining table, but also to conduct away from the table that may affect the negotiations. *Port Plastics*, 279 NLRB at 382."

Under the totality of the conduct, we cannot conclude that the State violated the duty to bargain in good faith. The Unions and the State negotiated in good faith and reached a contract that did not contain the provision the three unions had discussed with Doll about manning during layup. The Unions approved the contract even though it did not contain the terms that they had agreed to informally with Doll.

Even if we were to consider the evidence of the December 2, 1999, meeting between Doll and the Unions, we still cannot conclude that the Unions proved that the State violated the duty to bargain in good faith. We have determined that Doll did not have actual or apparent authority to bind the State to a manning procedure. Neither did he have authority to advance binding contract proposals on behalf of the State. Doll agreed to the three unions' proposal for manning during layup, even though Andrews had advised Doll that Doll did not have negotiating authority. Although an employer can violate "Section 8(a)(5) [of the National Labor Relations Act] when it sends representatives to the bargaining table who have no authority to enter into a contract or to advance binding contract proposals," this is not the factual situation that occurred in these cases. I Patrick Hardin and John E. Higgins, Jr. *The Developing Labor Law*, 836-37 (4th Ed. 2001) (footnote citations omitted). The Unions were aware that the ground rules required the parties to submit proposals in writing and through the chief spokesperson to be valid. However, the Unions did not make the manning proposal in writing through the chief spokesperson, and they agreed to a three-year contract that did not contain the terms they were seeking in the meeting with Doll.

In order to bind the State, Doll would have been required to have the appropriate authority and then relay the proposed change in manning to Andrews, the State's chief spokesperson. Andrews would be required to get the appropriate approval to implement such a change. The change would then need to be put into writing -- either into the body of the master collective bargaining agreement or as a supplemental agreement such as a letter of understanding -- in order to become effective.[13] Because those persons with authority to negotiate and bind the State never approved the proposed manning procedure, it never became binding upon the State.

If the State had delegated authority to Doll to negotiate for and bind the State to an agreement, the State would have committed an unfair labor practice if it then refused to honor the agreement. Under the NLRB, "[i]t is well settled that the employer's refusal to incorporate an oral agreement in a written contract constitutes the unfair labor practice of refusal to bargain in violation of Section 8(a)(5)." *Amalgamated Clothing Workers of America, AFL-CIO v. National Labor Relations Board*, 324 F.2d 228, 230(1963), *citing H.J. Heinz Co. v. N.L.R.B.*, 311 U.S. 514, 61 S.Ct. 320, 85 L.Ed. 1394 (1941). However, Doll did not have authority to negotiate for or bind the State to an agreement because the

[13] Because Doll did not have authority to bind the State to the oral agreement, we do not need to decide today if all oral side agreements are prohibited under the writing requirement in AS 23.40.210.

State did not delegate authority to him. We conclude that the State and the Unions did not create a legally enforceable agreement on manning procedures for layups, during the December 2, 1999, meeting between Doll and the three unions.

The Unions also contend that the oral agreement should be considered a separate agreement from the parties' collective bargaining agreement. But as analyzed above, the oral discussions addressed the manning of ships during layup. The Unions' collective bargaining agreements grant the State discretion to determine manning levels. To change this contractual discretion would require a substantive change to the agreements. Under the writing requirement of AS 23.40.210, we believe any substantive amendment to a collective bargaining agreement, like the underlying master agreement, must be in writing. The writing requirement will prevent oral agreements --secret or not, clarify any oral agreements reached, and create a written record that preserves the end result of negotiations over contract amendments. To amend that procedure in the agreement would require written approval by the negotiators for each party.

The only statement Doll made to Andrews regarding the December conversation was that more work needed to be done on the subject. Nonetheless, the State did not follow up on the issue. Andrews told Jacque that Andrews did not have time to put together a proposal, and he requested that the Unions do so. The Unions, thinking the parties had a deal, likewise did not pursue the issue further until May 2000, when MEBA submitted a proposed Letter of Understanding.

The Unions never explained why they did not object to the 2000-2003 written contracts that failed to include the unmanned layup procedure allegedly agreed to on December 2, 1999. To now allow the Unions to include what they clearly excluded in signing the collective bargaining agreements would damage the collective bargaining process: a party could agree in writing to whatever it thinks is necessary to obtain an agreement, then later claim it did not intend to be bound by a provision or try to nullify or change the terms of the written agreement. We cannot support such a process.

Nor did the Unions ever explain why they felt Doll had authority to cut a deal on the unmanned layups when they had signed ground rules clearly designating Tyler Andrews as the State's chief spokesperson, with authority to sign off on tentative agreements with the Unions.

If we found the parties reached agreement based on the conversations between the three unions and Doll, outside the formal negotiating process, and without a written agreement, we would set up the negotiating process for a situation in which non-negotiating entities could strike agreements that would bind one party or the other without their designated spokespersons' permission or authorization. We need not describe the obvious results of such a policy.

Since there was no binding oral agreement to implement, the State did not fail to implement, and the State did not commit an unfair labor practice. Under the totality of circumstances standard, we cannot find that the State violated its duty to bargain in good

faith. We conclude that the Unions did not prove their complaints against the State by a preponderance of the evidence. We therefore dismiss the Unions' complaint against the State.[14]

CONCLUSIONS OF LAW

1. The International Organization of Masters, Mates and Pilots Pacific Maritime Region ILA, AFL-CIO and the District No. 1 Marine Engineers Beneficial Association, AFL-CIO (the Unions) are each an organization under AS 23.40.250(5), and the State of Alaska is a public employer under AS 23.40.250(7).

2. This Agency has jurisdiction under 23.40.110 to determine whether the State of Alaska committed an unfair labor practice.

3. As complainants, the Unions must prove each element of their case by a preponderance of the evidence.

4. The Unions failed to prove that the State of Alaska committed an unfair labor practice by failing to implement the oral agreement between state employee Bob Doll and the Unions.

5. The oral agreement reached between state employee Robert Doll and the Unions was unenforceable against the State of Alaska, because Doll was not authorized to bind the State to any agreement.

6. The parol evidence rule bars consideration of evidence of the December 2, 1999, meeting between Doll and the Unions.

7. The collective bargaining agreement between the Masters, Mates and Pilots Pacific Maritime Region ILA, AFL-CIO, and the State of Alaska was an integrated, unambiguous contract regarding State authority to determine manning during layup.

8. The collective bargaining agreement between the District No. 1 Marine Engineers Beneficial Association, AFL-CIO, and the State of Alaska was an integrated, unambiguous contract regarding State authority to determine manning during layup.

[14] Although we dismiss the Unions' complaint, we understand the Unions' frustration at the process the State utilized here. Andrews knew Doll was going to discuss issues with the Unions, but neither Andrews nor Doll followed up on the substance and results of the Doll/Unions meeting. At the least, Doll should have told the Unions he would report back to Andrews and let the Unions know Andrews' response. If Doll really thought the parties had a deal, he should have reported it to Andrews, who could have then told Doll he had no authority to make a deal. Doll's failure to communicate with both the Unions and Andrews led to a breakdown in the communicative process.

ORDER

1. The Board dismisses the unfair labor practice complaints filed by the International Organization of Masters, Mates and Pilots Pacific Maritime Region ILA, AFL-CIO, and the District No. 1 Marine Engineers Beneficial Association, AFL-CIO against the State of Alaska.

2. The State of Alaska shall post a notice of this decision and order at all work sites where members of the bargaining unit affected by the decision and order are employed or, alternatively, serve each employee affected personally. 8 AAC 97.460.

ALASKA LABOR RELATIONS AGENCY

_____
Aaron Isaacs, Jr., Chair

_____
Dick Brickley, Board Member

_____
Raymond Smith, Board Member

APPEAL PROCEDURES

This order is the final decision of this Agency. Judicial review may be obtained by filing an appeal under Appellate Rule 602(a)(2). Any appeal must be taken within 30 days from the date of filing or distribution of this decision.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the order in the matter of the *International Organization of Masters, Mates and Pilots Pacific Maritime Region ILA, AFL-CIO, and the District No. 1 Marine Engineers Beneficial Association, AFL-CIO vs. State of Alaska*, Case Nos. 01-1081-ULP and 01-1082-ULP (consolidated), dated and filed in the office of the Alaska Labor Relations Agency in Anchorage, Alaska, this 21st day of April, 2003.

_____
Margie Yadlosky
Personnel Specialist

This is to certify that on the 21st day of April, 2003, a true and correct copy of the foregoing was mailed, postage prepaid, to
Steven Ross, MM&P, MEBA
Greg Elliot, State of Alaska
Art Chance, State of Alaska

_____
Signature