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HARDEN et al.,  
 (James Harden, Willie Garrette,  
 and Dale Nash),

Complainants,

v.

Secretary, DEPARTMENT OF  
 REGULATION AND LICENSING,  
 and Secretary, DEPARTMENT OF  
 EMPLOYMENT RELATIONS,

Respondents.

Case Nos. 90-0106-PC-ER  
 90-0092-PC-ER  
 90-0107-PC-ER  
 91-0184-PC-ER

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RULING ON  
REASONABLE EXPENSES

In a ruling dated April 23, 1993, on the request of respondent Department of Regulation and Licensing (hereafter referred to as respondent) for expenses as a consequence of a discovery request and subsequent motion for sanctions, the Commission found that the respondent was entitled to reasonable expenses, including attorney's fees. The Commission further directed the respondent to submit an itemized statement of the claimed expenses. Respondent filed an affidavit which listed entries for a total of 12.8 hours during the period from April 20, 1992 through March 10, 1993 for legal work relating to its original "Motion for Sanctions for Failure to Comply with Discovery Request" and its "Renewed Motion for Sanctions." The affidavit also identified direct salary payment and fringe benefit expenses at the rate of \$34.63 per hour, for a total of \$443.26.

In response, the complainants contend that the "efforts expended by respondent's counsel in obtaining the relief sought was excessive and unnecessary based on the result received" In support, the complainants essentially reiterated many of the arguments rejected by the Commission in its April 23rd ruling. As reflected in that ruling, the complainants "simply failed to respond" to respondent's initial discovery request served on March 3, 1992,

until after respondent filed its first motion for sanctions and after a subsequent prehearing conference. When they finally did provide documents on May 15th, the material was incomplete in that complainants did not include some cross-referenced documents. When respondent wrote complainants on July 16th asking for assistance in locating this last group of documents, there was no response. Respondent then renewed its motion on August 5th and complainants did not provide the last group of documents until September 21st, after briefs had been filed on the renewed motion. While on first blush, nearly 13 hours appears to be a lengthy expenditure of time, it is reasonable in light of the protracted nature of the dispute and the numerous procedural steps along the way, including two motions, two briefs, a conference attended by the parties and a hearing on the motion for sanctions.


ORDER

Respondent's request for expenses in the amount of \$443.26 is granted. Within 10 days of the date of this order, the respondent shall provide complainants with any necessary account information and the complainants have 30 days thereafter for making payment.

Dated: May 20, 1993

STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

  
DONALD R. MURPHY, Commissioner

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