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October 9, 1998

Alan Unterweiser
2nd Vice President
Nassau County PBA
89 E. Jericho Turnpike
Mineola, New York 11501

Re: Section 63 Public Officers Law.

Dear Mr. Unterweiser:

At the last Board of Governors meeting I was asked to provide the definition as to which veterans are entitled to a leave of absence with pay on Memorial Day and Veteran's Day and to indicate the authorized period of time for the leave of absence under Section 63 POL. For your convenience Section 63 POL is attached.

Section 63 POL, in pertinent part, provides for a "leave of absence with pay for **twenty-four hours on the day prescribed by law as a public holiday** for the observance of Memorial day and on the eleventh day of November, known as Veteran's day, to every person in the service of... the County..." who:

1. served on active duty in the armed forces of the United States during **World War I or World War II**; or
2. Was **employed** by the War Shipping Administration or Office of Defense Transportation or their agents as a **merchant seaman** documented by the United States Coast Guard or Department of Commerce, or as a **civil servant** employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a **crew member** during the period of armed conflict, **December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five**, aboard merchant vessels in oceangoing, i.e. foreign, intercoastal, coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near

foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service of foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense; or

3. Served as a **United States civilian employed by the American Field Service** and served overseas under United States Armies and United States Army Groups in **World War II** during the period conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions; or

4. Served as a United States civilian Flight Crew and Aviation Ground Support **Employee of Pan American World Airways** or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, **December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five**, and who was discharged or released therefrom under honorable conditions; or

5. Served during the period of the **Korean conflict** at any time between the dates of **June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five**; or

6. Served during the period of the **Vietnam conflict** from the **twenty-second day of December, nineteen hundred sixty-one to the seventh day of May, nineteen hundred seventy-five**; or

7. Served on active duty in the armed forces of the United States and who was a **recipient of the armed forces expeditionary medal, navy expeditionary medal, or marine corps expeditionary medal for participation in operations in Lebanon** from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in **Grenada** from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in **Panama** from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety; or

8. Served in the armed forces of a **foreign country allied with the United States during world war I or world war II**, or during the period of the **Korean conflict** at any time between June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the **Vietnam conflict** from the **twenty-second day of December, nineteen hundred sixty-one to the seventh day of May, nineteen hundred seventy-five**, or during the period of the **Persian Gulf** conflict from the second day of August, nineteen hundred ninety to the end of such conflict; or

9. Served on active duty in the army or navy or marine corps or air force or coast guard of the United States, and who was honorably discharged or separated from such service under honorable conditions.

Section 63 further provides an exception to the leave of absence with pay excusal on Memorial day and Veteran's day which states, "except where such action would endanger the public safety or health of persons cared for by the state, in which event such persons shall be entitled to leave of absence with pay on another day in lieu thereof." Accordingly, if a person who is defined as a veteran in accordance with Section 63 cannot be excused with pay on the above holidays for the above reason then that person is entitled to be excused on another day.

Section 63 POL, in pertinent part, provides that the leave of absence with pay, authorized by this Section 63, is "for twenty-four hours on the day prescribed by law as the public holiday for observance of Memorial day and on the eleventh day of November, known as Veteran's day..." There are no reported cases that interpret this clause. The plain meaning of the words means the calendar day of the holiday which day begins at 0001 hours and ends at 2400 hours.

If there are any further questions regarding this matter please do not hesitate to contact me.

Very truly yours,

Harry Greenberg

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