PRESENTATION OF

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TO

THE JOINT COMMITTEE ON ACT 47
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By way of background, I am a senior partner in the Center City Philadelphia law firm of Jennings Sigmond. I have been practicing labor law on behalf of Pennsylvania public sector labor unions for a little over 40 years. During this period of time I have had relatively substantial experience representing the Unions in cities within the Commonwealth that have been determined to be "distressed" within the meaning of Act 47 - Chester, Johnstown, Nanticoke and Scranton. In that regard I have represented both the Fraternal Order of Police and Fire Fighters Local No. 60 in Scranton long before the inception of the City's distressed status in 1992 up through and including the present day. As a result of that representation I argued the case in front of the Pennsylvania Supreme Court involving the application of Act 47 to the City of Scranton.

Given the nature and limited scope of this Committee's function, it is not my purpose or intent to address what I consider to be the many structural deficiencies inhibiting the effectiveness of Act 47. Instead, I wish to just simply take a moment or two of your time to provide you with what I view to be the actual facts surrounding the now decade old dispute in the City of Scranton involving the terms of its 2003 collective bargaining agreements with both its police and fire unions.

Much has been said, both recently and over the years, regarding the militancy of those unions in this case in their legal battles against the City. The distinct impression is given that the Union's mindlessly fought the City in order to avoid surrendering any part of their wages, hours, terms or conditions of employment. In point of hard and inescapable fact, nothing could be less accurate. The Unions have from the inception of the City's distressed status in 1992 attempted to cooperate and participate in the recovery process with very little, if any, reciprocity from the City and DCED.

When the distressed status was first imposed upon Scranton in 1992, the unions were seemingly recognized as being an active and equal partner in that recovery process. Representatives of the Pennsylvania Economy League – the Recovery Plan Coordinator designated by the Commonwealth - were in constant contact with the Unions, sharing information, mutually considering ideas to help the City and basically working together. Ostensibly, the Unions were guaranteed that they were, in every sense, full "partners" in this grand endeavor and that, as partners who would undoubtedly initially suffer loss for the greater good, they would ultimately benefit from their sacrifices.

Believing both PEL and the Commonwealth that they would not be used and abandoned, the Unions became willing participants in the City's recovery process. They voluntarily slashed the terms and conditions of their contract with the City. They froze their wages, reduced their healthcare benefits, agreed to a employee contribution before virtually anyone else in the state, capped their longevity, reduced their paid personal time and so on and so on. They sacrificed their own interests for the good of the City and its citizens.

Almost no sooner than the ink dried on the contract containing their sacrifices, PEL, the Commonwealth and the City simply turned their backs on their employees as if they did not exist. PEL stopped participating in the "partnership" and the City thereafter blissfully ignored the Unions. Gratitude or even appreciation for the Unions and sacrifices simply disappeared. The unions were left out of any further recovery meetings. The assurances of "partnership" in the recovery process evaporated.

Although the unions were thereafter ignored, they ultimately were able to negotiate extremely modest extensions to the cut rate contract to which they had agreed in 1992. Although the "distressed" status of the City continued and even worsened, negotiations were possible within the City Administration that was willing – however begrudgingly – to meet with the union and enter into contracts that were often several years late.

With the new administration taking office in 2001, even this begrudging acknowledgement of the Unions' neglected status as collective bargaining representative completely disappeared. The current administration adopted a position that thereafter viewed the Unions as being the enemy. With the full and complete knowledge and, indeed, blatant encouragement of both DCED and PEL, the City adopted a purely adversarial role with those who had a decade prior thereto had been the City's "partners."

In the intervening nine years, the City has decided that collective bargaining was an obligation for others for whom it was completely exempt. Thus when the Union's 2002 collective

bargaining agreement was expiring, it came as no surprise that the City flatly refused to even consider any proposal, however reasonable and cost effective, that was not specifically provided by the recovery plan that was adopted without a single minute's discussion with the unions. The City's position – at the urging and with the encouragement of both PEL and the Commonwealth – became completely intractable. It demanded that the Union willingly agree to the destruction of its collective bargaining contract – regardless of whether that destruction made sense or whether a reasonable alternative existed. The Union was left with no objection but to fight and the issue was joined.

The City and DCED girded for legal battle by enlisting an army of expensive legal talent. To fight the Union, the City hired literally a battery of big law firms. At one point in time during the ensuing proceedings there were at least five major law firms as well as the City Solicitor all billing either the City or the Commonwealth. Between 2001 and the present day, the City alone has spent several million dollars in taxpayer money to unsuccessfully fight the Union at every turn. At the same time, the Commonwealth hired a several law firms from the Pittsburgh area to join the fray with hundreds of thousands of Commonwealth tax dollars.

What ensued was completely predictable. With a bottomless pit of taxpayer's money to finance its fight against the Union, the City planted its firmly in concrete and challenged the unions to proceed. The parties entered upon what became the most complicated and protracted Act 111 evidentiary proceedings in the history of the statute.

It is significant to note that the interest arbitration awards that were issued for police and fire in the 2003-2007 contract were considered fair and reasonable by the labor law experts employed by the City on the panel. They recognized that the awards were a fair compromise that would allow the City to continue to grow and progress. That advice was ignored.

Instead, the City appealed – and appealed – and appealed. After winning in both the Common Pleas Court and the Commonwealth Court, the City and its legal army were insistent that no compromise was possible. It was, in the opinion of the City, DCED and PEL, and all or nothing proposition. DCED and PEL assured the City that it could not loose.

During that period of time the Union made at least three offers in an effort to reach an amicable agreement with the City. On one occasion in particular the City negotiators actually agreed with the Union but two months later reported that "Harrisburg" won't let us do it. As a consequence, a collision became regrettably and unnecessarily unavoidable.

So now the collision has occurred. Suddenly, the Mayor who ignored the Union for ten years and refused to deal with reality, is bemoaning his fate. Suddenly, after he, DCED and PEL failed to budget a single penny for the mere possibility that they might lose the case, he is confronted with the harsh reality that he, DCED, PEL and the City lost before a virtually unanimous Supreme Court.

The answer is not to accept responsibility for an endless series of bad choices, but to again blame the unions for fighting when they were offered no other option. As they have done for the last

decade, the Mayor, DCED and PEL demonized the Union and its employees. On November 15, the Mayor announced that he was going to layoff twenty nine additional fire fighters next January. It is the employees' fault that the City could not understand that a settlement is always better than a forced resolution. It is, according to the City the fault of the Unions that the City position, for which it paid hundred of thousands of dollars in legal fees, did not prevail.

As has been often noted by the participants in this presentation, the Unions fully recognize that they have a vested interest in the growth and stability of the City of Scranton. Without a healthy and successful City, the public employees cannot prosper. More importantly, however, these public employees are, in fact, all citizens of the City of Scranton who pay their taxes, use the public services and raise their families within the environs of the City.

The Unions do not now, and never have, harbored an unrealistic view of its central rule in the recovery of the City of Scranton. They recognized in 1992, and still recognize, that reasonable sacrifice is necessary if the City is to again be restored to its former glory. However, Act 47 must also recognize that with the sacrifice comes the right to participate in the process. A statutory or administrative prospective that the Unions are somehow the enemy and that collective bargaining is somehow an impediment to progress is not only inconsistent with the public policy of this Commonwealth but also with now – proven economic reality.

The City of Scranton's experience graphically demonstrates that declaring economic war on public employees is doomed to failure. Employees in this case are, without exception, courageous and strong willed people who daily – and willingly - risk their lives in the pursuit of

their profession to protect the citizens of the City of Scranton. They are good, decent and honorable people who do not scare easily and who deserve to be respected for their dedication, professionalism and sacrifices. If treated in this manner they will – and have – respond with mature judgment and a strong sense of the common good. To the extent that Act 47 carves them out of the process that controls their very livelihood, it ignores reality – as the Scranton experience has so vividly proven.

Thank you for your attention.