

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

**AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL 25
AND LOCAL 1918,**

Respondent-Labor Organization,

Case No. CU98 F-23

-and-

MARK WEISS,

An Individual Charging Party.

APPEARANCES:

Miller Cohen, P.L.C., by Matthew Broderick, Esq., for the Respondent

Mark Weiss *in pro per*

DECISION AND ORDER

On December 29, 1998, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

ORDER

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Commission Chair

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Date: _____

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Respondent - Labor Organization

Case No. CU98 F-23

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MARK WEISS

An Individual - Charging Party

For the Labor Organization:

Miller Cohen, P.L.C.
by Matthew Broderick, Esq.

For the Charging Party:

Mark Weiss

DECISION AND RECOMMENDED ORDER
OF
ADMINISTRATIVE LAW JUDGE

On June 15 1998, individual Charging Party Mark Weiss filed an unfair labor practice charge against Respondent American Federation of State, County and Municipal Employees, Council 25 and Local 1918 (AFSCME). The charge reads:

1. Chairperson refuses to provide me with an appropriate detailed financial information - union spending canceled check bank statements, etc.
2. Contested the most recent election using [sic] the designated grievance procedure with absolutely no response.
3. Absolutely no minutes of union meetings are ever logged or documented - the bargaining unit has no voice.
4. Chairperson negotiates on his own behalf without a vote (union spending).

Pre-hearing conferences were held September 8 and October 20, 1998. During the later conference, Charging Party agreed to withdraw his charge after Local 1918 provided him with

minutes and financial reports for six months prior to the date the charge was filed. Subsequently, Local 1918 sent Charging Party copies of financial reports from January 1998 through July 1998, and minutes for the same period except April and May 1998, when no meetings were held.¹

On December 1, 1998, Charging Party was directed to show cause why this case should not be closed. In response to this direction, Charging Party claimed that the financial reports are inadequate because, “consistent mistakes are blatantly visible” and “to see these many errors here, the membership wonders how many other problems with the non substantiated monies spent are not accounted for in the past 6 or 7 years.”

Charging Party requests that a determination be made on the validity of the reports. Charging Party’s disagreement with information contained in the financial reports does not rise to the level of a violation of the Public Employment Relations Act, 1965 PA 379, as amended, MCL 423.210 et seq., MSA 17.455 et seq. Pertinent parts of Section 10(3) of the Act read:

It shall be unlawful for a labor organization or its agents (a) to restrain or coerce: (i) public employees in the exercise of the rights guaranteed in Section 9: *Provided, that this subdivision shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein...*

This section of the Act has been interpreted to limit the scope of a union’s duty of fair representation to actions having an affect on employment. *Private Industry Council*, 1993 MERC Lab Op 907; *Service Employees International Union, AFL-CIO, Local 586*, 1986 MERC Lab Op 149. Charging Party’s complaint about the accuracy of Respondent’s financial report is an internal union matter which has no affect on the terms or conditions of employment. It is therefore recommended that the Commission issue the order set forth below:

Recommended Order

The unfair labor practice charge is dismissed.

¹The financial reports show monthly balances of not more than \$642.54. Charging Party’s complaints relate primarily to unspecified “miscellaneous” and “other” expenses which range from \$16 to \$150, and \$1 to \$10 mistakes in additions.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Roy L. Roulhac
Administrative Law Judge

Dated _____