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EMPLOYEE RELATIONS COMM.
COUNTY OF LOS ANGELES

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LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

IN THE MATTER OF:

ELIZABETH M. PATTERSON, ET AL,
Charging Parties,

v.

SOCIAL SERVICES UNION, LOCAL
535, SEIU, AFL-CIO,
Respondent

UFC 70.17

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

APPEARANCES:

For the Charging Parties:

Elizabeth M. Patterson,
Rancho Amigos Hospital
7601 East Imperial Highway
Downey, California 90242

For the Union:

Geffner & Satzman,
By: Jeff Paule, Esq.
3055 Wilshire Blvd., Suite 900
Los Angeles, California 90010

HEARING OFFICER:

Abraham Siegel
717 Toyopa Drive
Pacific Palisades, California 90272

Pursuant to a Notice of Hearing issued on April 11, 1980, by the Executive Officer of the Los Angeles County Employee Relations Commission (hereinafter called "Commission"), a hearing in the matter was held before me on May 29, 1980. Following the hearing, the Charging Parties filed a brief in support of their position; respondent did not file a brief.

The underlying charge, filed on March 13, 1980, alleged that the Union violated Section 4 and 12(b)(1) of the Employee Relations Ordinance of the County of Los Angeles (herein called "Ordinance") by the following conduct:

In the Fall of 1979, (date(s) uncertain) my signature was obtained on a form. The purpose as explained at the time was that I would receive more information on collective bargaining and on groups that might be interested in representing Administrative Nurses. I was told to disregard the statement at the top of the form. Later I discovered that the signatures obtained were used to satisfy a showing of interest for Social Services Union Local 535, SEIU, AFL-CIO, to file a petition for certification of the Administrative Nurses as a unit. My signature (and others, see attached) was obtained under false pretenses. I question if mine and many others were obtained this way whether there was sufficient "showing of interest." I would like this charge to act as a block to any further determination of a unit, Petition #149, Nursing Administrators, that a decision on the determination be delayed until the unfair is adjudicated.

The Facts

Prior to filing a petition for certification (Case No. 149) with the Commission, the Union conducted a series of meetings with interested Assistant Nursing Directors.

On September 11, 1979, one of these meetings was conducted by Union representative Ilene Luna. At this meeting, blank Union petitions were distributed stating:

We the undersigned members of the nursing administration group series hereby designate the American Federation of Nurses/Social Services Union, Local 535, SEIU, AFL-CIO, as our duly authorized representative on all matters relating to my wages, hours, and other terms and conditions of employment.

According to Walter King, an assistant nursing direction who testified on behalf of Respondent, Luna

"...explained to the entire group that this petition to show interest and was a petition to hold an election, and if anyone was concerned about the possibilities about being represented by another Union, there would be an opportunity for them to intervene at the time that Ercom 1/ would call an election.

King further testified that Luna explained that the petition was to show the employees' "interest in holding an election," that 30% "had to indicate an interest by signing the document," and, with respect to the legend on the petition, "after the election was held and the nursing directors had spoken and voted, that it was an individual decision."

Assistant Nursing Directors Myrtle Spencer, Janine Rooney, 2/ and Gabrielle Liggins, who testified in behalf of Charging Parties, also attended the September 11, 1979 meeting. According to Spencer, at the meeting "we discussed our showing of interest, if we wanted a union...", and Luna explained

1/ The Commission

2/ Rooney is also one of Charging Parties.

"why she needed our signatures in order to show if there was any interest at all, that we had to obtain enough signatures to show -- even before they would touch it, she said we had to obtain enough signatures to show an interest in that group, in 535." Spencer also testified that Luna told the group "to disregard" the wording of the petition.

Rooney's complete testimony concerning the meeting is as follows:

...My understanding was that Local 535 was not interested in organizing unless there were enough people interested in an organized nursing program and that if we were interested in organizing at all, there had to be a sufficient number of those eligible, interested, and I felt that at that time it was merely an interest of did we want to, as a body, get involved with an organization to collectively represent us.

Rooney didn't recall whether Luna said anything about the legend on the petition.

Liggins' version of the meeting was that "they were concerned" because there were not enough signatures to "reflect" an interest in representation. She also testified that "no reference was made" to the statement on the petition.

Spencer and Liggins apparently signed the petition at the meeting; Rooney signed either at the meeting or the next day.

On September 12, 1979, Spencer asked Agnes Coleman to sign the petition, explaining that by so doing, Coleman would

not be joining the Union, but that the petition was a "showing of interest."

Similarly, Patterson's signature was solicited on September 12, by Assistant Nursing Director Janice David, who apparently had attended the previous day's meeting. According to Patterson's undenied testimony, David said to her, "Disregard the statement at the top of the page, it has no bearing on the signatures today," and explained that the signature would entitle Patterson "to receive written information about collective bargaining and information from the various groups that might be interested in representing us."

Discussion and Analysis

Section 4 of the Ordinance provides:

Section 4. EMPLOYEE RIGHTS.

Employees of the County shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the County also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the County. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his exercise of these rights.

Section 12(b)(1) states:

Section 12. UNFAIR EMPLOYEE RELATIONS PRACTICES.

(b) It shall be an unfair employee relations practice for employee organizations or their representatives or members:

(1) To interfere with, restrain or coerce employees in the exercise of the rights recognized or granted in this Ordinance;

Charging Parties contend that Respondent Union misrepresented the purpose of the petition and as a consequence, an

unfair labor practice has occurred in the obtaining of signatures for a showing of interest, Petition #149, and that Section 4 of the Ordinance has been violated with regard to these employees' rights to non-representation being interfered with.

They argue, in effect, that they signed the "showing of interest" petition as a result of the Union's alleged misrepresentation and were thus interfered with in their Section 4 right "to refuse to join or participate in the activities of employee organizations..."

Although I have grave reservations whether the misrepresentations alleged here constitute interference within the meaning of Section 12(b)(1) of the Ordinance, I do not reach that issue here because in my view the evidence does not establish that Luna misrepresented at the September 11, 1979, meeting. In this connection, I credit King's version of the meeting. His testimony was direct and unambiguous. His recollection appeared to be firm. Spencer, Rooney and Liggins, on the other hand, had no firm recollection of the meeting. Their testimony was in terms of their "understanding" or "impression." Clearly, they did not understand what Luna meant by a "showing of interest." Thus, I find and conclude that neither Luna nor any other Union agent misrepresented the petitions at the September 11, 1979 meeting.

With respect to the post-meeting solicitation, Charging Parties contend that the solicitors similarly misrepresented the purpose of the petitions and that the Union is liable for their actions.

However, there is no evidence that these solicitors were "representatives" or "members" of the Union. Rather, it appears that they were volunteer assistant nursing directors who transmitted their erroneous understanding of what had been said at the meeting. There is no evidence that the Union was aware of their statements, or condoned or ratified the statements. Accordingly, I find and conclude that the Union was **not** responsible for the solicitors' statements.

Recommended Finding of Facts

1. Neither the Union nor its agents misrepresented the purpose of the petitions at the September 11, 1979 meeting.

2. The employees who solicited Agnes Coleman and Elizabeth Patterson to sign the petition were neither representatives ~~or~~ members of the Union.


Recommended Conclusions of Law

The Union did not violate Section 12(b)(1) of the Ordinance.

Recommended Order

The charge is dismissed.

Respectfully submitted,


Abraham Siegel, Hearing Officer

Dated at Los Angeles, California

this 27th day of August 1980.