

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
CLASSIFIED PUBLIC EMPLOYEES	)	CASE 8555-E-90-1436
ASSOCIATION / WEA	)	
	)	DECISION 3537 - PECB
Involving certain employees of:	)	
	)	
KENT SCHOOL DISTRICT	)	ORDER SUSTAINING
	)	OBJECTIONS
	)	

Karen Hartman, Field Representative, appeared on behalf of the petitioner.

Joseph A. McKamey, Attorney at Law, appeared on behalf of the employer.

John Cronin, Business Agent, filed objections on behalf of the incumbent intervenor, United Classified Workers Union of Washington.

This case comes before the Public Employment Relations Commission on timely objections filed by the United Classified Workers Union of Washington (UCWU) under WAC 391-25-590.

FACTS OF RECORD

Certain facts are established by the documents contained in the Commission's file for this case:

The UCWU is the incumbent exclusive bargaining representative of a bargaining unit of "head start" employees of the Kent School District. The business office of the UCWU is located in Renton, Washington.

The Classified Public Employees Association / Washington Education Association (CPEA) filed the petition for investigation of a

question concerning representation in the above-entitled matter on April 23, 1990. The CPEA sought certification as exclusive bargaining representative of "head start" employees of the Kent School District, and its petition identified the UCWU as the incumbent exclusive bargaining representative of those employees. The CPEA was evidently aware that the UCWU's former business agent had resigned, but it made no effort to contact the UCWU business office to find out who should be listed as contact person for that organization. The CPEA's petition gave only the name of Penny Ackerson as the contact person for the UCWU. The CPEA did not list the UCWU's business office address on the petition, so that the only address listed for the UCWU was a Kent, Washington, address listed under Ackerson's name.

The "notice of case filing" issued by the Commission listed the UCWU as a party, but listed only Ackerson as a representative of the UCWU. The only address listed for the UCWU was the Kent, Washington, address provided in the petition. It does not appear that any of the parties ever supplied the Commission with corrected information concerning the business address of the UCWU.

Hearing Officer Walter M. Stuteville conducted a pre-hearing conference in the matter on June 11, 1990. Penny Ackerson was the only person present who purported to appear and act on behalf of the UCWU. An election agreement was prepared, and Ackerson signed on behalf of the UCWU, using the title of "steward".

An election was conducted on June 6, 1990. There were 11 names on the eligibility list. Penny Ackerson purported to appear as observer on behalf of the UCWU. Ten employees, including Penny Ackerson, cast ballots. The tally of ballots discloses that 9 votes were cast in favor of the petitioner and one ballot was cast for "no representation". No ballots were cast for the UCWU. Nevertheless, Ackerson signed the tally sheet under "UCWU".

The objections filed on June 11, 1990 were prepared on printed UCWU letterhead listing the address of that organization in Renton, Washington. The allegations are:

(1) The Petitioner failed to properly name or serve its documents herein on the certified collective bargaining representative of the unit employees.

(2) The parties and PERC failed to notify UCWU in any manner of the petition or the election.

(#) [sic] The parties failed to properly post notices pertaining to the election.

The objections were supported by the affidavit of the treasurer of the UCWU, stating that the UCWU had not been provided any documentation or formal notice of the proceedings, and that Ackerson was not authorized to represent the organization in such matters.

DISCUSSION

As the incumbent exclusive bargaining representative of the petitioned-for employees, the UCWU was entitled to notice of the proceedings and to intervention under WAC 391-25-170.

The CPEA clearly supplied deficient information in its petition in this case.

The correct business address of the UCWU could have been supplied later by the CPEA, by the employer, or by Penny Ackerson. The "notice of case filing" issued by the Commission's computer system invites such corrections. None of them did so.¹

¹

It is possible that the correct business address of the UCWU could have been discovered through the Commission's computerized records, but that did not occur and the theoretical possibility does not change the result here.

In the absence of correct information, it is clear that the UCWU could have been deprived of proper notice of these proceedings.

There is, in light of the facts established by the documents on file, at least an appearance of impropriety which precludes charging the UCWU with notice of the proceedings via Penny Ackerson. It is clear that Ackerson continued to purport to represent the UCWU even after failing to vote for that organization in the representation election conducted by the Commission. It can thus be inferred that a conflict of interest existed, or could have existed, with respect to Ackerson's earlier purported actions on behalf of the UCWU.

No hearing is necessary in this case, as the Commission deems the foregoing matters to be sufficient, on their face, to constitute meritorious objections. Because the cloud of doubt goes back to the petition itself, and affects the entire proceedings, the petition will be dismissed. No "certification bar" emanates from a proceeding that was void from the outset, and the CPEA will not be precluded from filing an otherwise timely petition if it desires to again raise a question concerning representation in the affected bargaining unit.

NOW, THEREFORE, it is

ORDERED

1. The results of the representation election conducted by the Public Employment Relations Commission in the above-entitled matter on June 6, 1990 are VACATED based on timely objections filed by the United Classified Workers Union of Washington which are, on their face, meritorious.

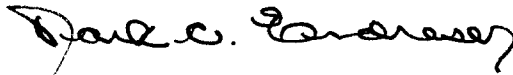
2. The petition for investigation of a question concerning representation filed in the above-entitled matter is dismissed for failure of the petitioner to properly name and serve the incumbent exclusive bargaining representative in accordance with WAC 391-25-070(3).

Issued at Olympia, Washington, the 6th day of August, 1990.

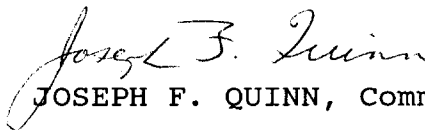
PUBLIC EMPLOYMENT RELATIONS COMMISSION



JANET L. GAUNT, Chairperson



MARK C. ENDRESEN, Commissioner



JOSEPH F. QUINN, Commissioner