

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper Practice Proceeding	:
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-between-	:
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Erwin Lein,	:
	:
Petitioner,	:
	:
-and-	:
	:
United Probation Officers Association,	:
	:
Respondent.	:
	:
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DECISION NO. B-6-00(ES)
DOCKET NO. BCB-2118-00

DETERMINATION OF EXECUTIVE SECRETARY

On January 31, 2000, Erwin Lein ("Petitioner") filed a verified improper practice petition pursuant to 12-306(b)(1) of the New York City Collective Bargaining Law ("NYCCBL"),¹ naming the United Probation Officers Association ("Union" or "UPOA") as Respondent. In his petition, Petitioner alleges that the Union has interfered with the right of members to run for office in violation of § 12-306(b)(1) of the NYCCBL in the exercise of rights granted in § 12-305 of the NYCCBL. Petitioner claims that the UPOA Constitution was amended/revised without the knowledge of the Union's membership in violation of Article VIII of the UPOA Constitution and that the Constitution was not distributed to members. Petitioner contends that the first known UPOA election for president in eight years, in violation of § 6.1, took place without independent monitors and without controlled ballots. He contends that the election was uncontested. Petitioner also

¹ NYCCBL §12-306(b) prohibits improper public employee organization practices.

contends that those selected to monitor and count the ballots at his location would not list or reveal the write-in votes, which constitutes an additional restraint against a member's right to run for office.

Pursuant to Title 61, §1-07(d) of the Rules of the City of New York ("RCNY"), a copy of which is annexed hereto, the undersigned has reviewed the petition and has determined that it does not meet the requirements set forth in the rules of the Office of Collective Bargaining. RCNY §1-07 provides that, "[i]f it is determined that the petition, on its face, does not contain facts sufficient as a matter of law to constitute a violation [of the NYCCBL] . . . it shall be dismissed by the executive secretary . . ." The allegations set forth in the petition concern union elections and violations of the union Constitution. These matters relate to the internal affairs of the Union. Neither the NYCCBL nor its State equivalent, the Taylor Law, regulate the internal affairs of unions. This Board, as well as the New York State Public Employment Relations Board ("PERB"), has long held that it has no jurisdiction over complaints concerning internal union matters unless it can be shown that such matters affect the employee's terms and conditions of employment or the representation accorded by the union with respect to his or her employment.² The Petitioner did not assert that the Union's alleged conduct in any way affected his terms and conditions of employment or the representation of the Petitioner vis-a-vis the employer. Accordingly, the petition is dismissed.

Dated: New York, New York
March 2, 2000

Victoria A. Donoghue
Executive Secretary
Board of Collective Bargaining

² See e.g., Decision Nos. B-26-90; B-23-84; B-18-79; B-1-79.