

DC37 v. City, 30 OCB 48 (BOC 1982) [48-82 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

DISTRICT COUNCIL 37, AFSCME,
AFL-CIO

DECISION NO. 48-82

-and-

DOCKET NO. RU-866-82

THE CITY OF NEW YORK

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DECISION AND ORDER

On March 22, 1982, District Council 37, AFSCME, AFL-CIO, filed its petition herein, seeking to add the title of Fraud Investigator (DOSS) to Certification No. 37-78 (as amended), covering various social service, investigative, and related titles. The City's Office of Municipal Labor Relations opposes this petition on the ground that the duties performed by the employees in this title "include highly sensitive investigations leading to criminal indictment. In the sphere of client fraud in the Human Resources Administration, their work is analogous to that performed by Confidential Investigators working for Inspectors General."

DISCUSSION

The Confidential Investigators to which the City refers are concerned with "corruption, misconduct, or other illegal, unethical or improper activities of agency officials or employees", while Fraud Investigators (DOSS) are concerned with client fraud, particularly that involving public assistance recipients who are also employed, whether in the Federal, State, City, or private sector.

It is well settled that employees may be found managerial or confidential only if they formulate policy, are directly involved in collective bargaining or personnel administration, or "act in a confidential capacity to managerial employees" who are directly involved in collective bargaining or personnel administration.¹ The City does not allege that Fraud Investigators perform any of these functions.

In regard to "highly sensitive investigations leading to criminal indictment", the Board notes that many employees whose work involves such activities have been certified for collective bargaining, generally with the City's consent. Among the relevant titles are Investigator,² Police Detective,³ Detective Investigator and Rackets Investigator.⁴

Accordingly, we will not order a hearing in this case but will grant the Union's petition, by accretion, because the City's allegations, even if proved, would not constitute a bar to the certification of Fraud Investigators (DOSS) for collective bargaining.

ORDER

NOW, THEREFORE, pursuant to the powers vested in the Board

¹ See §201.7(a) of the Civil Service Law (Taylor Law) and Board Decisions 45-78, 34-81, 32-82 and 36-82, inter alia.

² Certification No. 37-78 (as amended), covering the unit to which Petitioner seeks to add Fraud Investigators herein.

³ Certification 5 NYCDL No. 77 (as amended).

⁴ Certification No. 30-75 (as amended).

of Certification by the New York City Collective Bargaining Law,
it is hereby

ORDERED that Certification No. 37-78 (as previously amended)
be, and the same hereby is further amended to include the title
of Fraud Investigator (DOSS), subject to existing contracts, if
any.

DATED: New York, N.Y.
November 22, 1982

ARVID ANDERSON
CHAIRMAN

MILTON FRIEDMAN
MEMBER

DANIEL G. COLLINS
MEMBER