STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 609,	)	
Complainant,	)	CASE 13603-U-97-3328
vs.	)	DECISION 7349-A - PECB
SEATTLE SCHOOL DISTRICT,	)	DECISION OF COMMISSION
Respondent.	)	

Schwerin Campbell Barnard LLP, by *Kathleen Phair Barnard*, Attorney at Law, for the complainant.

Perkins Coie LLP, by *Philip A. Thompson*, Attorney at Law, for the respondent.

This case comes before the Commission on an appeal filed by the Seattle School District (employer) seeking to overturn findings of fact, conclusions of law, and an order issued by Examiner Paul T. Schwendiman.[1] Specifically, the employer challenges paragraphs 5, 7, 9, 13, 14, 15 and 17 of the Examiner's findings of fact, challenges paragraphs 2 and 3 of the Examiner's conclusions of law, and challenges paragraphs 1 and 2 of the Examiner's order. The Commission affirms and adopts the Examiner's findings of fact (except for one minor deletion) and affirms and adopts the Examiner's conclusions of law. The Examiner's remedial order is modified.

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[1] *Seattle School District*, Decision 7349 (PECB, 2001).

BACKGROUND

On December 10, 1997, International Union of Operating Engineers, Local 609 (union) filed a complaint charging unfair labor practices with the Commission under Chapter 391-45 WAC, alleging that the employer interfered with employee rights and refused to bargain. The Executive Director issued a preliminary ruling on February 12, 1998, stating that a cause of action existed for unfair labor practice proceedings before the Commission. Paul T. Schwendiman was designated as Examiner in the matter. A hearing took place on November 24, 1999. The union did not pursue the "refusal to bargain" claim, so the Examiner only considered the "interference" charge. The Examiner issued his decision on March 28, 2001, and the employer filed a timely notice of appeal.

POSITIONS OF THE PARTIES

The employer contends that seven of the Examiner's findings of fact are not supported by the record. The employer also asserts that the Examiner erred in reversing himself to exclude a declaration by a potential witness that had been admitted in evidence at the hearing. The employer argues that providing accurate advice to employees about the validity of a subpoena does not constitute unlawful interference under National Labor Relations Board (NLRB) precedent, and that the Examiner completely misconstrued a discussion between the employer official accused of misconduct, the union's attorney, and the grievant in an arbitration, that occurred in a hallway outside of the arbitration hearing. The employer urges that the conduct of its official cannot reasonably be interpreted as intimidating or retaliatory in any way. The employer also asserts that the Examiner's order regulates the

practice of law, which is a matter outside the Commission's jurisdiction. The employer contends that the Examiner's order overturning the decision which resulted from the arbitration proceeding is unfair, punitive, unreasonable, and unwarranted.

The union contends the Examiner's findings of fact are supported by substantial evidence and should be accorded deference under Commission precedent. The important fact from the union's point of view is that the employer official accused of misconduct told a potential arbitration witness that he did not have to honor the subpoena, and the union urges that the Examiner correctly ruled that the validity or invalidity of the subpoena issued in the related arbitration case is of no relevance in this case. The union argues that similar conduct has been found to be unlawful interference in cases decided by the NLRB. The union argues that the employer official acted with apparent authority as a representative of the employer, and that employees could reasonably perceive her as acting as an agent of the employer when she confronted the grievant and the union's attorney in the hallway outside the arbitration hearing. The union contends the Examiner ruled correctly in his decision that the declaration of the absent witness should not have been admitted in evidence at the hearing. The union argues that the remedies ordered by the Examiner are appropriate.

DISCUSSION

This case presents an unusual set of facts. The employer and union submitted a grievance to arbitration under their collective bargaining agreement, concerning the discharge of Ray Jenkins. For many years previously, that grievant had a social relationship with

the family of Greg Little (who was employed elsewhere) and Brenda Little (the sister of Greg Little who was employed by this employer as one of at least two attorneys working under an "assistant general counsel" title). The grievant identified Greg Little as a potential witness, and Greg Little was subpoenaed to testify in the arbitration proceeding after being interviewed by union representatives.[2] Brenda Little did not represent the employer in labor relations matters, and had no assigned involvement in the grievance arbitration proceeding, but her actions in two separate events related to the grievance arbitration proceeding are at issue in this case:

First, Greg Little contacted Brenda Little after he was subpoenaed to testify at the arbitration hearing, but prior to the hearing date. While working at the employer's office, but allegedly acting as her brother's private attorney, Brenda Little performed legal research and advised Greg Little that he did not have to honor the subpoena. Thereafter, Greg Little failed to appear at the grievance arbitration hearing.

Second, Brenda Little engaged in a conversation with the union attorney and the grievant during a break in the arbitration hearing held on the employer's premises, resulting in at least raised voices and comments made to the arbitrator.

We have not previously been asked to rule on whether an attorney employed by an employer commits an "interference" violation by dispensing advice to an arbitration witness who is neither an employee of the employer nor a member of the bargaining unit involved in the arbitration proceedings, resulting in the failure

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[2] In fact, Greg Little received two subpoenas. One was signed by the arbitrator; the other was issued by the union's attorney. References to the "subpoena" in this decision apply equally to both subpoenas, unless the context indicates otherwise.

or refusal of the witness to testify in the arbitration proceeding. In addition, we have to examine the employer's assertion that its "assistant general counsel" acted as a private attorney when she gave her brother the advice. We are also asked to determine whether the interchange that took place in the hallway constituted unlawful interference.

The Applicable Standard

It is an unfair labor practice for a public employer to "interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by" the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. RCW 41.56.140(1). This Commission has jurisdiction to hear and determine unfair labor practice complaints, and to issue remedial orders where violations are found. RCW 41.56.160. An "interference" violation will be found under RCW 41.56.140(1) when "a complainant ... establish[es] that a party engaged in conduct which employees could reasonably perceive as a threat of reprisal or force, or promise of benefit associated with their union activity." No evidence of anti-union animus is required to prove an interference violation. *City of Omak*, Decision 5579-B (PECB, 1998), at pages 18-19.

The Commission accords considerable deference to the factual findings of its Examiners: "We attach considerable weight to the factual findings and inferences therefrom made by our examiners. . . . This deference, while not slavishly observed on every appeal, is even more appropriate of a "fact oriented" appeal . . . ." *Educational Service District 114*, Decision 4361-A (PECB, 1994) citing *City of Pasco*, Decision 3307-A (PECB, 1990) and *Asotin County Housing Authority*, Decision 2471-A (PECB, 1987). Unchallenged Findings of fact are treated as verities on appeal.

The Examiner's Findings of Fact

Finding of Fact Concerning Greg Little -

After accepting and then rejecting a declaration offered by the employer, the Examiner made two findings of fact concerning Greg Little, as follows:

> 5. Jenkins told the union that Greg Little had information relevant to the grievance, and a union representative contacted Greg Little in April of 1997. During that initial interview, Greg Little described his knowledge and gave no indication that he would resist giving testimony in grievance arbitration proceedings concerning the discharge of Jenkins. Specifically, Greg Little did not object when the union representative said that a union attorney would probably contact him later.
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> . . .
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> 7. One of the union's attorneys telephoned Greg Little several days before the arbitration hearing. Again, Greg Little described his knowledge and gave no indication that he would resist giving testimony in grievance arbitration proceedings concerning the discharge of Jenkins. The discussion included where Greg Little wanted to be served with a subpoena, and the union mailed a subpoena to Greg Little on October 3, 1997.

The employer takes issue with these findings, contending that the Examiner lacked a basis to find that Greg Little "gave no indication that he would resist giving testimony in grievance arbitration proceedings. . . ." The employer points to Greg Little's request for legal advice about the subpoena as showing that he had an objection to testifying. The employer also contends that the union did not fully advise Greg Little of his "right" not to participate

in the arbitration hearing. The employer argues that the Examiner's findings of fact are based on "rank hearsay" and wrongly fail to take into account the declaration of Greg Little in which he states that he did not want to testify at the arbitration.

The Examiner should not have accepted the declaration of Greg Little when it was offered by the employer at the unfair labor practice hearing, and the Examiner correctly ruled in his decision that the declaration should be excluded. Consistent with labor law practice elsewhere, our rules specifically call for testimony of witnesses at hearings and limit "discovery." WAC 391-08-300.

The Examiner credited the testimony of union witnesses who testified that Greg Little expressed no reluctance to testify when they talked with him. On the record before us, we have no reason to question the Examiner's evaluation of that testimony. That testimony constituted substantial evidence sufficient to support the challenged findings of fact.

The employer cites no legal authority for its assertion that the union representatives had some duty to advise Greg Little of some "right" concerning the subpoena. Chapter 41.56 RCW clearly imposed no such duty on the union representatives.

Whether Greg Little wanted to testify is not the central issue in any event. The important question for us to determine is whether, under the circumstances of this case, Brenda Little could properly advise her brother he did not have to honor the subpoena for his testimony at the arbitration hearing.

Finding of Fact Concerning Brenda Little -
The employer takes issue with paragraph 9 of the Examiner's Findings of fact, where the Examiner wrote:

> 9. After the telephone conversation [in which Greg Little contacted her] Brenda Little performed legal research, and then telephoned Greg Little from her office on the employer's premises. Brenda Little told Greg Little that the subpoena was just an invitation to appear, that he did not have to obey the subpoena, and that his testimony would not help the union. There is no evidence that Greg Little had contact with or received any legal advice on the subpoena from any person other than Brenda Little.

The employer objects to the part of the finding that states "his testimony would not help the union" and contends the record does not support a finding that Brenda Little gave advice concerning anything other than the legal status of the subpoena.

The employer has not challenged paragraph 10 of the findings of fact, in which the Examiner wrote: "When contacted by a union agent on October 8, 1997, Greg Little stated that he had been advised . . . that his testimony would not help the union." Similarly, the employer has not challenged the portion of finding of fact 9 that states, "There is no evidence that Greg Little had contact with or received any legal advice on the subpoena from any person other than Brenda Little." From those facts (which are verities on appeal), the Examiner reasonably inferred that Brenda Little must have been the person who told Greg Little that his testimony would not be helpful to the union. We find the Examiner had sufficient evidence in the record to make that inference.

More important, however, is that the employer's argument makes no difference in this case. If Brenda Little's advice to an arbitration witness constituted unlawful interference, then it makes no difference whether she also went further and advised the same witness that his testimony would not be helpful.

Finding of Fact Concerning Employer Awareness -

The employer objects to paragraph 13 of the findings of fact, in which the Examiner wrote, simply:

> 13. Ervin discussed the arbitration proceedings and subpoena with Brenda Little during the lunch hour on October 9, 1997. Brenda Little apologized to Ervin for making her job harder.

The employer asserts that this finding of fact somehow suggests that Brenda Little had a lengthy and substantive discussion with the attorney who was representing the employer in the grievance arbitration proceeding, when in fact Brenda Little only advised her colleague of the call from Greg Little seeking legal advice.

The Examiner's finding of fact is supported by substantial evidence. Brenda Little testified that she informed her colleague about the legal advice requested and given, and that she apologized for making her colleague's job harder. Transcript 99. Moreover, the scope of the interaction that occurred between the two employer officials has no bearing on the outcome of this case. It is sufficient that the employer official with responsibility in the labor relations arena was put on notice of the situation.

Finding of Fact Concerning Hallway Incident -

The employer asserts that paragraph 14 of the Examiner's findings of fact contains several errors and omissions. The Examiner wrote:

> 14. During a recess of the arbitration hearing in the afternoon of October 9, 1997, Brenda Little confronted Jenkins and the union attorney in a hallway of the employer's administration building. Brenda Little spoke loudly, told the grievant her family had done enough for his fam-

> ily, expressed frustration with the involvement of her family "behind [her] back," identified Greg Little as her brother, and stated that she had advised Greg Little he did not have to obey the subpoena.

The employer contends the record does not support a finding that Brenda Little acted in a confrontational manner or that the exchange was heated.

In her testimony, Brenda Little began her description of the exchange with the following statement:

> A. [By Brenda Little] First of all, I apologize for the exchange. It was uncharacteristic of me. . . .
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> Transcript 93.

She went on to describe that she became "upset" about her family becoming involved in the arbitration, and she testified that she felt her father had done enough for the grievant. She further testified that she felt "blindsided" by the fact that her brother had been called as a witness, and that the union had "engaged in dirty pool" by calling her brother as a witness. She did not remember raising her voice, but both apologized if she raised her voice and admitted that she speaks in a loud voice. Taking the testimony of Brenda Little as a whole, we find that finding of fact 14 is supported by substantial evidence.

Finding of Fact Concerning Statements to Arbitrator -
In finding of fact 15, the Examiner described events subsequent to the hallway conversation, by which the situation was disclosed to the arbitrator, as follows:

> 15. When the arbitration hearing reconvened, the union attorney made an on-the-record statement concerning the conversation that had just occurred in the hallway. At that point, Ervin disclosed, for the first time, her discussion with Brenda Little during the lunch break, and that Brenda Little had informed her of the advice given to Greg Little. The arbitrator held the arbitration record open for 14 days, to give the union opportunity to depose Greg Little.

The employer objects that no evidence supports a finding that Ms. Ervin knew the nature of the advice given by Brenda Little.

The record clearly shows that Brenda Little informed her colleague that legal advice had been given to Greg Little. Ervin testified that she spoke with Brenda Little at lunch about what had transpired that morning with respect to the failure of Greg Little to appear in response to the subpoenas. Brenda Little testified that she told Ms. Ervin she had given legal advice to Greg Little, and Ms. Ervin's testimony confirmed that she heard Brenda Little say she had provided legal advice to Greg Little. Even though the context of the discussion could support a different inference, the employer correctly argues that the record does not explicitly support the "Brenda Little had informed her of the advice given to Greg Little" clause within this finding of fact. We amend the finding of fact to omit the challenged clause, because it has no bearing on the outcome of the case.

Although finding of fact 15 does not mention the deposition process authorized by the arbitrator, the employer contends that the Examiner's discussion of the case (Decision 7349 at page 6) wrongly states that Greg Little failed to appear to testify at a deposition following the arbitration hearing. The employer correctly asserts

that the deposition was never held because the union decided against doing so.[3] Again, however, the Examiner's comment has no bearing on the outcome of the case. In this instance, not even an amendment of the findings of fact is warranted.

The cited errors related to finding of fact 15 are not significant. The essential facts related to the employer's liability for the legal advice are uncontested: (1) Greg Little was subpoenaed to appear as a witness in an arbitration proceeding involving this employer; (2) Employer official Brenda Little advised Greg Little that he did not have to honor the subpoena to appear at the arbitration; and (3) Greg Little did not appear in response to the subpoena.

Finding of Fact Concerning Reasonable Perception -
The Examiner implemented the test for finding an "interference" violation in finding of fact 17, which should have read as follows:

> 17. By reason of her employment as assistant general counsel of the employer, bargaining unit employees could reasonably perceive that Brenda Little was acting as an agent of the employer in regard to her actions [typographical error omitted] described in Paragraphs 8, 9, 14, and 16 of these Findings of Fact.

The employer contends the grievant knew Brenda Little acted as her brother's attorney, and not as the employer's attorney, when she came to talk to him in the hallway outside the arbitration hearing. We believe the Examiner correctly ruled that the grievant reasonably perceived Brenda Little as acting for the employer. The

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[3] Testimony concerning the union's decision to forego the deposition is found at Transcript 68, and in Exhibit 5, page 2.

employer would have us believe that an attorney it employs on a "full-time" basis can move into and out of the role of employer official on a minute-by-minute basis, and that employees should easily be able to perceive the difference. The employer does not challenge (and we take as a verity on appeal) the portion of finding of fact 9 which states that Brenda Little, "performed legal research, and then telephoned Greg Little from her office on the employer's premises." The discussion involving Brenda Little, the union's attorney and the grievant took place in the employer's headquarters building, during the regular workday. At the very least, employees could reasonably be expected to be confused by the role of Brenda Little. Along with responsibility for the potential misuse of its time and facilities, the employer must bear full responsibility for such confusion in the minds of employees. We affirm the Examiner's finding of fact.

The Examiner's Conclusions of Law

The employer challenges both of the substantive conclusions of law entered by the Examiner. They were as follows:

> 2. International Union of Operating Engineers, Local 609, has sustained its burden of proof that Brenda Little was an agent of the employer in regard to her actions described in paragraphs 8, 9, 14, 16, and 17 of the foregoing Findings of Fact.
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> 3. By the actions described in paragraphs 8, 9, 14, 15, 16, and 17 of the foregoing Findings of Fact, the Seattle School District interfered with, restrained and coerced employees in the bargaining unit represented by International Union of Operating Engineers, Local 609, and committed unfair labor practices in violation of RCW 41.56.140(1).

We choose to address the "liability" issue generally, before reaching the "agency" issue in this case.

Interference with Arbitration Process -

A public employer commits an "interference" unfair labor practice by advising a witness in a grievance arbitration proceeding involving that employer not to honor a subpoena issued by and/or on behalf of the union involved. The filing and processing of grievances under collective bargaining agreements is an inherent part of the collective bargaining process, and is an activity protected by RCW 41.56.040. *See* RCW 41.58.020(4) and 41.56.122(2); *City of Mercer Island*, Decision 1580 (PECB, 1983); *Valley General Hospital*, Decision 1195-A (PECB, 1981). The Commission has historically been very protective of the ***dispute resolution processes*** embodied in collective bargaining statutes. In *Yelm School District*, Decision 704-A (PECB, 1980), the Commission protected the processing of representation cases by strictly stating that an employer and incumbent union that shut down their collective bargaining during the pendency of a representation petition "had if fact, no other legal option open to them." In *Mansfield School District*, Decision 5238-A (EDUC, 1996), the Commission strictly enforced the prohibition of discrimination against witnesses in unfair labor practice proceedings, by awarding attorney fees for a first offense. The Commission wrote in *Mansfield*,

> An attack on employees who file charges or give testimony in unfair labor practice proceedings before the Commission not only violates the express provisions of RCW 41.59.140-(1)(d), but attacks the entire system of dispute resolution put in place by the Legislature for the regulation of the collective bargaining process.

The same is true with regard to tampering with witnesses in the grievance arbitration process. Any question as to the validity of the subpoena should have been raised with the arbitrator, and should not have been a subject of unilateral action by any employer official. To the extent that cited NLRB precedents differ from our position, we decline to adopt the NLRB's reasoning.[4] In this case, the fact of the interference with the arbitration witness was disclosed to the grievant during the conversation in the hallway. A finding of employer intent to interfere in grievance processing is not necessary to find an "interference" violation under RCW 41.56.140(1).

Employer Responsibility for Acts of its Agent -

The employer contends the Examiner's decision improperly regulates the practice of law. We disagree. The employer is correct that regulating the practice of law is beyond our jurisdiction, but this Commission clearly has authority to regulate the conduct of employers and unions, and those parties are responsible for the acts of their agents.[5] If we were to rule otherwise, employers could avoid liability for unfair labor practices by the artifice of having their attorneys temporarily adopt a "private attorney" label while acting in a manner that would otherwise be unlawful.

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[4] The focus in decisions such as *New Life Bakery Inc.*, 301 NLRB 421 (1991) and *Rollington Corporation*, 254 NLRB 22 (1981) is on subpoenas issued by the NLRB for its own proceedings. The subpoenas at issue in this case affected pursuit of grievance arbitration rights which are clearly a protected activity under Chapter 41.56 RCW.

[5] Consistent with this view, we express no opinion about whether Brenda Little is (or ought to be) subject to any personal sanction under the laws and rules related to the practice of law, as that would be a matter for the Washington State Bar Association.

The employer urges that the Examiner's decision would preclude Brenda Little from acting as her brother's attorney while working full-time for this employer, that she was entitled to act as private attorney for her brother under the laws and rules related to the practice of law, and that she was acting in that capacity when she gave legal advice to Greg Little. That is not our concern. Our focus is limited to the advice given to an individual who had been subpoenaed to appear as a witness in an arbitration proceeding involving the employer. The conclusion that the employer is properly held responsible here for the actions of Brenda Little is supported by multiple facts and inferences that:

- Brenda Little took the call from Greg Little on the telephone in the office provided to her by the employer, while she was on the employer's time and premises;
- Brenda Little must have used the employer's time and facilities to perform whatever research formed the basis for her response to Greg Little;
- Brenda Little used the telephone in the office provided to her by the employer and must have been on the employer's time, when she delivered her legal advice to Greg Little; and
- Brenda Little was on the employer's time and premises when she engaged in the conversation in the hallway during the arbitration hearing.

Because she was employed by the Seattle School District and the requested advice concerned a case involving that employer, the only legal option open to Brenda Little was to advise Greg Little that she could not discuss that particular legal issue with him. We thus affirm and adopt the Examiner's conclusions of law in this case.

The Remedial Order

Although we affirm that the employer committed unfair labor practices, we disagree with some portions of the Examiner's remedial order.

Effect on the Underlying Arbitration Proceeding -
We agree that the union is entitled to reimbursement for all of the expenses it incurred in connection with the related arbitration proceeding, because the union was placed in an untenable position by the employer's interference with the grievance arbitration process. The fact that the union subpoenaed Greg Little after multiple interviews supports inferences: (1) That the union's early contacts caused the union to believe that the testimony of Greg Little would be favorable to the grievant, and (2) that the union relied at least in part on the expected testimony of Greg Little when it decided to pursue the case to arbitration. The union only abandoned its effort to have Greg Little testify after the unlawful interference, when it concluded from contacts made after the arbitration hearing that Greg Little's testimony had changed. The union thus incurred expenses that would have been avoided if it had dropped the grievance, including administrative costs, its attorney fees, and the arbitrator's fees and expenses. The employer's interference with the arbitration witness cannot be undone, and a cease-and-desist order will not correct the situation.

We are setting aside the portion of the Examiner's order that completely vacated the arbitrator's award, as we find that reaches too far and even exceeds what the union requested as a remedy in this case. The arbitrator sustained the discharge of the grievant under a "just cause" standard where the employer conventionally has the burden of proof. The missing union witness was dealt with at

multiple stages within the arbitration proceeding which underlies this unfair labor practice case, as follows:

- When Greg Little failed to appear at the arbitration hearing, the union asked for an opportunity to have the record held open to take a deposition. The employer did not object to that request,[6] and it was granted by the arbitrator.

- The union learned about the involvement of Brenda Little later in the same day, but it did not seek further remedies from the arbitrator at that time. We might view the situation differently if the employer had resisted or the arbitrator had denied a union motion for a mistrial, or a union motion for an adverse inference concerning Mr. Little's testimony, but those are not the facts here.

- For its own tactical reasons that we do not question, the union decided not to pursue its opportunity to take a deposition from Greg Little after the close of the arbitration hearing, and it let the arbitrator decide the case without that testimony.

Under these circumstances, we do not believe it is appropriate to give the union a second opportunity to arbitrate the underlying grievance when the union did not make use of the remedies available to it in the original arbitration hearing.

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[6] We read the record to indicate that the attorney representing the employer at the arbitration hearing had no knowledge of the actions of Brenda Little at that time. We are troubled that the employer's arbitration attorney did not make a disclosure and request a mistrial promptly after learning of the actions of Brenda Little, but the union's complaint does not allege misconduct by any employer official other than Brenda Little.

The Notice -

Remedial orders posted under RCW 41.56.160 traditionally include posting of a notice to employees, in which the party found guilty of an unfair labor practice is required to disavow its unlawful conduct. In this case, the Seattle School District is being held responsible for the act of its agent, and it is required to comply with the customary notice procedure.

We are setting aside the portion of the Examiner's remedial order which called for Brenda Little to personally sign the notice. That goes beyond the employer's responsibility for the actions of its agent, as discussed above, and is also inconsistent with precedent that retains the focus on the parties to the collective bargaining process.[7]

NOW, THEREFORE, it is

ORDERED

1. The findings of facts issued in the above-captioned matter by Examiner Paul T. Schwendiman are AFFIRMED and adopted as the Findings of fact of the Commission, except that the clause reading "Brenda Little had informed her of the advice given to Greg Little" is stricken from finding of fact 15 as irrele-

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[7] An unfair labor practice complaint was dismissed as to the employer's representative in *Yelm School District*, Decision 424 (PECB, 1978). It was noted that, of their nature, "corporate bodies must act through their boards of directors and agents. While there appears to be no basis for assertion of jurisdiction over . . . an independent respondent, [an open question remained] as to whether [the consultant organization] was in fact an agent" of the public employer in that situation.

vant, and the words "described in paragraphs the behavior" are stricken from finding of fact 17.

2. The Conclusions of law issued in the above-captioned matter by Examiner Paul T. Schwendiman are AFFIRMED and adopted as the conclusions of law of the Commission.

3. The Seattle School District, its officers and agents, shall immediately:

A. CEASE and DESIST from:

(1) Providing legal opinion or advice to bargaining unit employees and non-aligned individuals who are or may be called as witnesses by International Union of Operating Engineers, Local 609, in grievance arbitration proceedings under the collective bargaining agreements between the employer and that organization.

(2) In any other manner, interfering with, restraining, or coercing public employees in the exercise of their rights under Chapter 41.56 RCW.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.56 RCW:

(1) Reimburse International Union of Operating Engineers, Local 609, for all attorney fees and expenses, for all arbitrator fees and expenses, and for any other expenses incurred by that organization in connection with the arbitration proceedings conducted by Arbitrator Michael de Grasse on the grievance concerning the discharge of Ray Jenkins,

with interest computed quarterly under the formula set forth in WAC 391-45-410(3).

(2) Post, in conspicuous places on the employer's premises where notices to all employees are usually posted, and in all places where members of the security specialist bargaining unit work, copies of the notice attached hereto and marked "Appendix." Such notices shall be duly signed by the chairperson of the Board of Directors of the Seattle School District. Such notices shall remain posted for 60 days. Reasonable steps shall be taken by the respondent to ensure that such notices are not removed, altered, defaced, or covered by other material.

(3) Read the notice attached to this order into the record at a regular public meeting of the Board of Directors of the Seattle School District, and permanently append a copy of the notice to the official minutes of the meeting where the notice is read as required by this paragraph.

(4) Notify International Union of Operating Engineers, Local 609, in writing, within 30 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the complainant with a signed copy of the notice attached to this order.

(5) Notify the Executive Director of the Public Employment Relations Commission, in writing, within 30 days following the date of this order, as to what steps have been taken to comply with this order,

and at the same time provide the Executive Director with a signed copy of the notice attached to this order.

Issued at Olympia, Washington, on the 26th day of October, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARILYN GLENN SAYAN, Chairperson

SAM KINVILLE, Commissioner

JOSEPH W. DUFFY, Commissioner

PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE

THE PUBLIC EMPLOYMENT RELATIONS COMMISSION, A STATE AGENCY, HAS HELD A LEGAL PROCEEDING IN WHICH ALL PARTIES WERE ALLOWED TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION HAS FOUND THAT WE HAVE COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF A STATE COLLECTIVE BARGAINING LAW, AND HAS ORDERED US TO POST THIS NOTICE TO OUR EMPLOYEES:

WE WILL NOT provide legal opinion or advice to bargaining unit employees or non-aligned individuals who are or may be called as witnesses by International Union of Operating Engineers, Local 609, in grievance arbitration proceedings under the collective bargaining agreement(s) between the Seattle School District and that organization.

WE WILL NOT interfere with the processing of grievances by employees in the bargaining units represented by International Union of Operating Engineers, Local 609.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce employees in the exercise of their collective bargaining rights secured by the laws of the State of Washington.

WE WILL reimburse International Union of Operating Engineers, Local 609, for all of its costs it incurred in connection with the arbitration of the grievance of Ray Jenkins.

SEATTLE SCHOOL DISTRICT

DATED: _____ By: _____
Chair of the Board of Directors

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material. Questions concerning this notice or compliance with the order issued by the Commission may be directed to the Public Employment Relations Commission, 603 Evergreen Plaza Building, P. O. Box 40919, Olympia, Washington 98504-0919. Telephone: (360) 753-3444.