STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

Employer

ANTHONY P. RAIMONDI,

Complainant,

CASE NO. 5218-U-84-925

vs.

INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 17,

Respondent.

DECISION NO. 1988 - PECB

PRELIMINARY RULING

The complaint charging unfair labor practices was filed on April 25, 1984. In a brief statement of facts contained on the complaint form, Anthony P. Raimondi claims that the International Federation of Professional and Technical Engineers, Local 17 improperly excluded him from a settlement the union reached with the Seattle City Light Department, and refused to represent him in an unspecified manner. It appears that the allegations arise from a settlement reached on a grievance filed by another employee (or employees) under terms of a grievance procedure found in a collective bargaining agreement between the union and the employer. 1/

The matter is presently before the Executive Director for preliminary ruling pursuant to WAC 391-45-110. At this stage in the proceedings, it is presumed that all of the facts alleged in the complaint are true and provable. The question at hand is whether the complaint states a claim for relief through the unfair labor practice provisions of Chapter 41.56 RCW.

The issue presented by complainant involves a "duty of fair representation" charge. The Public Employment Relations Commission has drawn a distinction between two types of fair representation issues, asserting jurisdiction over one type and declining jurisdiction over the other. In <u>Mukilteo School</u>

Raimondi filed a separate complaint aginst the City of Seattle. That matter is captioned as Case No. 5217-U-84-924, and is processed separately.

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District (Public School Employees of Washington), Decision No. 1381 (PECB, 1982), and in a number of later cases, jurisdiction has been declined with respect to breach of duty of fair representation claims arising exclusively from the processing of claims arising under existing collective bargaining agreements. Such matters must be pursued through a civil suit filed in a Superior Court having jurisdiction over the employer. By way of contrast, Elma School District (Elma Teachers Organization), Decision No. 1349 (PECB, 1982) involved allegations of discrimination against a grievant because of her previous support of another labor organization. A violation of the nature alleged in Elma would place in question the right of the organization involved to continue to enjoy the status and benefits conferred by the statute on an exclusive bargaining representative.

This case appears to fall within the class governed by the <u>Mukilteo</u> case. Respondent may or may not have breached its duty of fair representation with respect to its processing of his grievance. However, such issues are matters for the courts to decide. With the direction herein provided, complainant may be better able to amend the complaint to focus attention on claims within the Commission's jurisdiction.

NOW, THEREFORE, it is

ORDERED

The complainant will be allowed a period of fourteen (14) days following the date of this Order to amend the complaint. In the absence of an amendment, the complaint will be dismissed as failing to state a cause of action.

DATED at Olympia, Washington, this 29th day of June, 1984.

PUBLIC EMPLOYMENT, RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director