

[LABOR RELATIONS AGENCY STATIONERY]

ORDER AND DECISION NO. 27

PERTAINING TO UNFAIR LABOR PRACTICE COMPLAINT
FILED BY ALASKA PUBLIC EMPLOYEES ASSOCIATION
AGAINST ALASKA PUBLIC SERVICE EMPLOYEES
LOCAL NO. 71, AFL-CIO, heard at Anchorage,
Alaska, on August 16, 1976.

FINDINGS OF FACT

1. On or about July 12, 1976, Public Service Employees Local No. 71, as part of a campaign to obtain a 30% showing of interest in order to file a decertification petition for the General Government Unit of State Employees now represented by the Alaska Public Employees Association, sent out a "flyer" containing the following wording:
"Enclosed you will find an authorization card for 'Local 71 A.F.L.-C.I.O.' Signing of this card does not obligate you to anything nor does it affect your membership in the A.P.E.A.

"It's a matter of state law that we must have at least 30% of these cards before we can demand an election for you.

"Our Union Local 71 A.F.L.-C.I.O. has waived the initiation fee of \$100.00 for all employees who sign the enclosed authorization card 'now' or before September 3, 1976. Dues will not have to be paid until after we negotiate and ratify a new contract."

2. On or about July 26, 1976, Local 71 commenced a campaign of advertising and mailers to correct the impression given by the document quoted above by stating that:

"This Union guarantees that there will never be any initiation fees paid to Local 71 in the General Government Unit who are on the payroll of the employers at the time that the first contract is signed and for an additional 30 day period following the ratification of the contract."

3. The evidence indicated that by about August 1, 1976, adequate steps had been taken to correct the original "flyer" that had been mailed on or about July 12, 1976.

4. 2 AAC 10.240 (c) states:
"Relevant decisions of the National Labor Relations Board will be given great weight in determining what constitutes an unfair labor practice under AS 23.40.110."

5. On August 3, 1976, attorneys for the Alaska Public Employees Association filed an Unfair Labor Practice Complaint against Public Service Employees Local No. 71, alleging that the offer to waive initiation fees for all employees who signed Union Authorization cards prior to September 3, 1976, was unlawful under the Alaska Public Employment Relations Act (AS 23.40.110), the regulations of the Alaska State Labor Relations Agency (2 AAC 10.240 (c), supra), and the decision of the U.S. Supreme Court in NLRB v. Savair Manufacturing Co., 414 U.S. 270, 38 L.Ed.2d 495 (1973).

CONCLUSIONS

1. Had the waiver of initiation fees conditional upon the signing of authorization cards on or before September 3, 1976 (the last possible date for filing a decertification petition) been continued, Local 71 would arguably have been in violation of Savair, and, consequently, of 2 AAC 10.240 (c). However, Local No. 71 did take the steps outlined above, and therefore it would appear that Regency Electronics, Inc. v. NLRB, U.S. Court of Appeals, Seventh Circuit, No. 72-2001,

October 3, 1975 (certiorari denied by U.S Supreme Court), where under similar circumstances the Court upheld the Board's finding that when the union had originally offered a waiver of all initiation fees and dues for those employees who executed authorization cards as "charter" members but subsequently, a few days prior to an election mailed to all employees a leaflet guaranteeing that 'anyone presently working' for employer would not have to pay an initiation fee, the election should not be set aside, would be controlling in this case had the same circumstances prevailed but with the complaint coming in the form of an objection to an election.

2. If Public Service Employees Local No. 71 should timely file a petition accompanied by the requisite 30% showing of authorization cards, any notices of revocation of cards obtained between July 13, 1976 and August 1, 1976, should be honored and those cards should not be counted in determining whether or not the requisite showing has been made.

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1. The complaint is dismissed on the grounds that it is not timely filed. The time for such a complaint is either at the time a hearing is held on a petition or as an objection to the conduct of an election during the five days provided

for the filing of such objections between the close of the election and the certification of election results.

2. It is found that Public Service Employees Local No. 71 has taken ample corrective steps with respect to the waiver of the initiation fee.

3. In any case wherein an employee who signed an authorization card for Local 71 during the period between July 13 and August 1, 1976, makes written revocation of such authorization card the revocation will be honored and such cards will not be counted in determining the adequacy of a petition.

SIGNED: _____
C.R. "Steve" Hafling, Chairman

SIGNED: _____
Ronald M. Henry, Member

SIGNED: _____
Morgan Reed, Member

[SIGNATURES ON FILE]
Dated effective August 16, 1976