

[Labor Relations Agency Stationery]

ORDER AND DECISION NO. 53  
PERTAINING TO THE UNFAIR LABOR  
PRACTICE CHARGE 79-3

FINDINGS OF FACTS

During the summer of 1979, the window period occurred prior to the expiration of that contract between the State of Alaska and the Alaska Public Employees Association, hereinafter "APEA", representing the General Government Employees Bargaining Unit. During the window period, other unions interested in representing the bargaining unit were free to solicit the membership of the union for representation cards. Alaska Public Service Employees Local 71, hereinafter "Local 71", conducted a campaign designed to obtain the necessary representation cards. During the course of the campaign, they were alleged to have engaged in certain practices which formed the basis of an unfair labor practice complaint filed against them by the Alaska Public Employees Association.

Local 71 did not file a petition seeking an election and no election was scheduled or held. The Agency, pursuant to notice served upon the parties, heard argument upon the unfair labor practice charge on October 1, 1979.

The Alaska Public Employees Association in Count I of their unfair labor practice charge alleged that Local 71 was attempting to procure supporters in an improper manner by offering individuals signing representation cards a free chance to participate in a raffle. The raffle offered cash or trips to Las Vegas, television sets and free dinners as prizes. The offer of the raffle chances was contained on the representation cards, one of which was admitted into evidence as Exhibit "1".

The key case in this area is National Labor Relations Board v. Savair Mfg.. Co. 414 U.S. 270, (1973), in which the United States Supreme Court affirmed an order ruling an election invalid because of a union offer to waive initiation fees for employees who signed union recognition slips before the election. The Court noted . . . "while it is correct that an employee who signs a recognition slip is not legally bound to vote for the union and has not promised to do so in any formal sense, certainly there may be some employees who would feel obliged to carry through on this stated intention to support the union." Similarly, the NLRB has recognized that making certain offers in connection with the attempt to solicit representation cards might unduly influence representation elections. In the case of Wagner Electric Corp 167 NLRB 532, the NLRB overturned an election where a Union offered to give a life insurance policy to those who signed

up before the representation election. Similarly, in General Cable Corp. 170 NLRB 1682, the NLRB refused to permit the offer of a \$5.00 gift to employees signing cards even though the gift was not conditioned upon the outcome of the election.

This Agency finds as a matter of fact, that the making of such an offer may have a tendency to interfere with the conduct of representation elections by inducing individuals to sell their votes and by potentially leading to a bidding war between rival unions that could interfere with the stable collective bargaining relationships. The Agency concludes as a matter of law that Local 71's raffle was an unfair labor practice because of its tendency to coerce the restraining employees in the exercise of their rights in violation of A.S. 23.40.110(c) (1) (a).

The Alaska Public Employees Association, in Count II of the unfair labor practice charge, contends that Local 71 distributed false and misleading information to APEA members in an effort to influence the organization campaign. Alaska Public Employees Association offered four exhibits showing materials allegedly distributed to its members. No proof was submitted indicating that Local 71 or its officials were the originators of Exhibits "7" "9" and "10" and the Agency will not consider them further. Local 71 admitted originating Exhibit "8" and causing it to be published in a Juneau newspaper. The Agency finds as a matter of fact that

Exhibit "8" seeks to convey the impression that certain active members of the Alaska Public Employees Association, were opposed to the bargaining strategies of the Alaska Public Employees Association representatives and desired to be represented by Local 71. The Agency further finds as a matter of fact, that the advertisement was placed by representatives of Local 71 and that it did have a tendency to convey misleading information to the members of the General Government Unit represented by Alaska Public Employees Association regarding the beliefs of certain union members known to be active in union affairs because those individuals did not favor Local 71 becoming their bargaining agent.

The Agency concludes as a matter of law, that placing misleading advertisements is an unfair labor practice and a violation of A.5.23.40.110(c) (1) (a), which prohibits labor organizations from engaging in any activity which might restrain or coerce an employee in the exercise of the rights guaranteed under section 80 of the Alaska Public Employees Relations Act.

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It is the order of the Alaska Labor Relations Agency that:

1. The Alaska Public Service Employees, Local 71, cease and desist from offering financial inducements to

prospective union members for the purpose of inducing them to sign representation cards.

2. Alaska Public Service Employees, Local 71, is further ordered to refrain from communicating misleading information to bargaining unit members.

DATED this 2nd day of November, 1979

SIGNED: \_\_\_\_\_  
C. R. "Steve" Hafling, Chairman

SIGNED: \_\_\_\_\_  
Morgan Reed, Member

SIGNED: \_\_\_\_\_  
Ronald M. Henry, Member

[Signatures on File]