

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

CITY OF NEWARK,

Public Employer,

-and-

FRATERNAL ORDER OF POLICE,  
NEWARK LODGE NO. 12,

DOCKET NO. RO-78-54

Petitioner,

-and-

POLICEMEN'S BENEVOLENT ASSOCIATION  
OF NEWARK, N.J., LOCAL NO. 3,

Intervenor.

SYNOPSIS

The Director of Representation dismisses objections filed by the PBA subsequent to the conduct of a Commission secret ballot election and certifies the FOP as the exclusive representative of Newark patrolmen, conditioned upon the future disposition of a PBA-filed Unfair Practice Charge. Five of the PBA objections, alleging improper activities by police supervisory personnel, essentially restated the PBA's Unfair Practice Charge. The Director finds that the PBA waived its right to file these objections when it agreed to a procedure which first called for the conduct of an election and the issuance of a certification before the consideration of the Unfair Practice Charge. The Director also finds that the PBA waived any right to challenge the representative status of the FOP when it entered into an agreement for consent election. Other objections, relating to the notice of the rescheduled election date, parking facilities, and distribution of FOP literature were not accompanied by sufficient evidence to support a prima facie case. Regarding the notice objection, a Commission-conducted investigation revealed that the elements of notice, relied upon by the Director in rescheduling the election, were met. Another objection, relating to the absence of an absentee ballot procedure, was dismissed inasmuch as the consent election agreement provided, in accordance with standard Commission policy, that all balloting be conducted in person and inasmuch as the parties had not formally requested a deviation from this procedure.

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Appearances:

For the Public Employer  
Albert Pannullo, Labor Relations  
Jacob Weiss, Assistant to Business Administrator

For the Petitioner  
Markowitz & Kirschner, Esqs.  
(Stephen C. Richman, of Counsel)

For the Intervenor  
Zazzali, Zazzali & Whipple, Esqs.  
(James R. Zazzali, of Counsel)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Pursuant to an Agreement for Consent Election dated January 13, 1978, entered into between the City of Newark (the "City"), the Fraternal Order of Police, Newark Lodge No. 12 (the "FOP"), and the Policemen's Benevolent Association of Newark, N.J., Local

No. 3 (the "PBA"), and approved by the undersigned on January 17, 1978, a secret ballot election was scheduled to be conducted on Tuesday, February 7, 1978 by the Public Employment Relations Commission (the "Commission"), to determine the exclusive representative, if any, of employees in the unit described below. <sup>1/</sup> Due to an unusually severe snowstorm, the undersigned, shortly prior to the scheduled opening of the polls, postponed the election until Friday, February 10, 1978. On that date an election was conducted. A tally of the election ballots reveals the following results: Of approximately 1,279 <sup>2/</sup> eligible voters, 447 valid ballots were cast for the FOP, 361 valid ballots were cast for the PBA, and 4 valid ballots were cast for neither organization. Twenty-eight additional ballots were challenged and have not been opened. One other ballot has been declared void and has not been counted. Accordingly, the results of the tally indicate that a majority of the 812 valid ballots were cast in favor of the FOP, and that the challenged ballots are not determinative of the results of the election. <sup>3/</sup>

1/ Included: "All police officers of the Police Department of the City of Newark, including all police officers currently enrolled at the Academy. Excluding: All superior officers, professionals and craft employees, confidential employees, managerial executives, and supervisors within the meaning of the Act."

2/ This figure is a more accurate reflection of the approximate number of eligible voters than the estimate of 1,200 which appeared on the initial tally prepared immediately after the election.

3/ The initial and amended tallies provided to the parties contain a one vote computational error respecting the overall ballot totals (Items 7 and 9). A corrected tally is attached to this decision and made a part hereof.

On February 17 and February 21, 1978, the PBA filed timely post election objections. <sup>4/</sup> Copies of these objections are attached to this decision and made a part hereof. On February 28, 1978, the PBA was advised of its responsibility under the Commission's rules to "furnish evidence, such as affidavits or other documentation, that precisely and specifically shows that conduct has occurred which would warrant setting aside the election as a matter of law." The PBA was also advised that, as the objecting party, it carried the burden of proof in the instant matter and that it was required to provide sufficient evidence to support a prima facie case. The PBA subsequently provided statements of position, legal briefs, affidavits and other documentary evidence on March 17, 1978 and March 27, 1978.

Additionally, during the course of the processing of the PBA objections, the undersigned caused an administrative investigation to be conducted. The undersigned advised the parties on April 7, 1978 that an investigation would be conducted, and requested that the parties provide "their position on each objection, the supporting arguments and precedents, suggestions for avenues of exploration, and names of witnesses." In response to the undersigned's request of April 7, 1978, and in further supplement of

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<sup>4/</sup> Commission rules require the filing of objections within five days of the issuance of the tally. The tally in the instant matter was provided to the parties on February 10, 1978, immediately after the election. Timely objections were due by the close of business February 21, 1978, since February 11, 12, 13, 18, and 20 were either Saturdays, Sundays, or Legal Holidays and excluded from the computation. See N.J.A.C. 19:10-2.1(a).

its March 17, 1978 submissions, the PBA, on April 13, 1978, submitted an additional statement.

On March 20, 1978, the FOP provided a statement of position together with certain documentary material.

On February 17, 1978, post election objections were filed on behalf of individual members of the collective negotiations unit currently represented by the PBA. 4a/ These objections were filed by David Solomon, Esq. In the transmittal letter accompanying these objections, Mr. Solomon advised that additional affidavits and supporting documentation would be filed with the Commission during the course of investigation of this matter; however, no further affidavits, supporting documentation or other evidence was filed with the Commission.

On February 28, 1978, Mr. Solomon was advised "that a question exists concerning your standing to raise post election objections" and was afforded an opportunity to file a legal brief or statement of position concerning the issue of standing. On March 6, 1978, Mr. Solomon filed a statement of position. On April 13, 1978, the undersigned advised Mr. Solomon that the objections he had filed were being dismissed inasmuch as his clients were not a "party" to the Agreement for Consent Election and would not have standing as a "party", pursuant to N.J.A.C. 19:11-9.2(h), to file valid post election objections. Mr. Solomon was advised, however, that the subject matter presented in his objections had been incorporated by the PBA into its objections.

The undersigned has reviewed the objections filed by the PBA, the positional statements/briefs provided by the parties, 4b/ the

4a/ A copy of these objections is attached hereto and made part hereof.

4b/ The City did not file any positional statements or briefs.

evidence proffered by the PBA, and the information obtained through the administrative investigation, and finds and determines as follows:

1. Objections one through five generally allege a pattern of practices by police supervisory personnel, allegedly FOP members, designed to coerce employees to vote on behalf of the FOP. They also allege a plan and action by the City to promote the FOP and to discredit the PBA. The PBA states that these objections incorporate by reference the allegations made by it in an Unfair Practice Charge 4c/ filed after the filing of the FOP's Certification Petition and prior to the consent election agreement. The objections do not specify any particular coercive activity occurring subsequent to the parties execution of the Agreement for Consent Election and prior to the date of the election. Rather, the PBA asserts that pre-Petition conduct created a continuous atmosphere that destroyed the laboratory conditions necessary for employee exercise of free choice. In its statement of position, the PBA claims that the alleged improper conduct created "continuous violations which were extant at the time of the election." The objections substantively reiterate the allegations of the aforementioned Charge.

These objections must be evaluated in light of the circumstances surrounding the filing and processing of the instant certification proceeding. The FOP's Petition for Certification of Public Employee Representative was filed on September 28, 1978. Shortly after the filing of the FOP's Petition, the PBA, listing several reasons, refused to consent to the conduct of a secret ballot

4c/ Commission Docket No. CO-78-106; filed November 18, 1977.

election. Among the reasons delineated by the PBA was "improper employer domination, assistance, or support with respect to the filing of the Petition by the FOP." On November 18, 1977, the PBA incorporated the allegations regarding domination in an Unfair Practice Charge (Docket No. CO-78-106) filed against the City. The PBA requested the suspension of the processing of the certification proceeding pending the disposition of the Unfair Practice Charge. In effect, the PBA suggested a procedure analagous to the "blocking charge" procedure employed by the National Labor Relations Board. <sup>5/</sup>

<sup>5/</sup> The Supreme Court, in Lullo v. Int'l. Assn. of Fire Fighters, 55 N.J. 409 (1970), noted the similarity of the New Jersey Employer-Employee Relations Act to the National Labor Relations Act, and directed that the Commission seek guidance in its determinations from the federal model. Although not required by statute, the National Labor Relations Board has adopted and maintained a policy under which the filing and consideration of an unfair labor practice charge routinely blocks the processing of a current representation petition raising a question concerning representation. The undersigned has previously recognized the applicability to the Commission's proceedings of the reasons behind blocking charge principles, In re Matawan Reg. Bd. of Ed., 3 NJPER 163 (1977). However, the Commission's unfair practice jurisdiction, which was not extant when Lullo was considered, contemplates a procedure which is significantly unlike Board practice. The Board investigates the allegations of a charge, and where convinced that an unfair practice has been committed, issues and prosecutes the complaint. On the other hand, the Commission assumes the truth of the factual assertions of the charging party, and where satisfied that the allegations may constitute an unfair practice, the Commission issues a complaint which the charging party prosecutes. For this, and other reasons which need not be discussed herein, the undersigned is not convinced that the Board's automatic blocking policy and procedure is applicable to all Commission proceedings. Accordingly, the undersigned has not fully embraced the blocking charge procedure adopted by the Board, although it is noted that no situation has yet arisen which would, under the Board standards, have compelled the undersigned to formally assert a block to a representation petition.

On January 6, 1978, an informal conference was convened among the parties and Commission staff agents to discuss both the PBA Charge and the FOP Petition. The parties were advised that if the allegations of the Charge warranted the issuance of a complaint and if, in the judgment of the Commission, the nature of the complaint warranted the blocking of the election, there would initially be an adjudication of the Unfair Practice Charge before the further processing, if any, of the Certification Petition. As an alternative, the Commission agents suggested a procedure which would preserve the interest of each party in its respective matter before the Commission. The alternative procedure would entail the parties' agreement for an immediate election in which the ballots would be impounded subsequent to the election and the Unfair Practice Charge would be processed after the election. Under this procedure, the Commission would be able to preserve the mood of the electorate without impinging upon the stature or credibility of the competing organizations. Subsequently, if an unfair practice complaint issued, the Commission would adjudicate the extent of the interference, if any, with the free choice of employees and would fashion the appropriate remedy, which might include the destruction of the sealed ballots. On the other hand, if the events complained of by the PBA were found not to have interfered with employee free choice, the ballots could then be opened, tallied, and a certification issued. Several days after this informal conference, the parties advised the Commission that they favored the sequence involved in the alternative procedure with certain modification. The parties advised that they agreed to an



expeditious election and, subsequent thereto, the processing of the Unfair Practice Charge. The parties indicated that they were not interested in an impounding procedure, but would instead execute an Agreement for Consent Election. Under the terms of a consent election agreement a tally of ballots is served upon the parties at the conclusion of the election and a Certification of Representative is issued to the organization which received a majority of the votes cast.

On January 13, 1978, a Commission agent conducted a conference among all the parties, at which a consent election agreement was drafted and executed. The PBA was advised by the Commission agent that, in view of the pendency of the Unfair Practice Charge and the PBA's statement of position requesting that the Charge block an election, the approval of the consent election agreement would be contingent upon a statement by the PBA requesting that the Commission proceed with an election, notwithstanding the pendency of the Unfair Practice Charge. On January 13, 1978, the PBA submitted to the undersigned a letter indicating its desire to proceed with the election notwithstanding the pendency of the Unfair Practice Charge and requesting that the processing and disposition of the Charge be held in abeyance pending the outcome of the election. <sup>6/</sup> In its letter the PBA further stated,

"It is our understanding that the consent election has been entered into in order to expedite the pro-

<sup>6/</sup> The undersigned notes that the National Labor Relations Board requires that a charging party, seeking an election notwithstanding the existence of its charge, file a "Request to Proceed" in which the party waives any right to assert post election objections relating to the conduct described in the charge.

cessing of the election. It is further understood that the PBA's participation in the consent election is without prejudice to the resumption of the processing of the charges filed herein subsequent to the election and that any resulting certification will be conditioned upon the disposition of the unfair practice charges.

The PBA's consent to the election herein is predicated upon the above understanding."

The undersigned, in examining the consent agreement and the PBA's request to proceed, determined that the "understandings" contained in the PBA's request to proceed were consistent with the procedures utilized by the undersigned in Matawan, supra, n.5, issued September 8, 1977, and accordingly approved the consent agreement. 6a/ From the above, it is clear that the PBA had two available options: (1) to maintain its position that the Unfair Practice Charge should block an election and to seek an adjudication of the Unfair Practice Charge prior to the further processing of the representation Petition or, (2) to agree to an election which would result in a certification conditioned upon a subsequent disposition of the Unfair Practice Charge. The PBA selected the second option.

Nevertheless, the PBA urges the consideration of election objections one through five, which restate the Charge. In response to the undersigned's February 28, 1978 letter, in which the PBA was advised of its responsibility to provide evidence supporting a prima facie case and in which the undersigned expressed his concern as to the appropriateness of including the Unfair Practice

6a/ In Matawan, it was determined that certain unfair practice charges did not block an election. Nevertheless, the undersigned placed conditions upon any resulting election certification, stating that the charging party's rights "are preserved in that this direction of election is without prejudice to, and any resulting certification would be specifically conditioned upon" any future unfair practice determination.

Charge in the post election objections, the PBA indicated that it would submit affidavits on objections one through five and argued for consideration of the objections. The PBA argued that objections one through five, though concededly the earlier Unfair Practice Charge, constitute "continuing violations" during the post-Petition period. The PBA further states that objections one through five are "inextricably intertwined with the concept of notice," <sup>7/</sup> and requests that the objections and Charge be consolidated for hearing because "common sense and fundamental fairness suggests that the Charges be resolved now at a hearing."

The PBA, in opting for an immediate election, a conditional certification and a later adjudication of the Unfair Practice Charge accepted a situation wherein an election would be conducted and the results certified before the alleged violations could be litigated and remedied. Accordingly, the PBA was well aware that the alleged "continuing violations" would continue during the pendency of the election proceedings.

The PBA initially requested the immediate adjudication of its Unfair Practice Charge and the suspension of the election process until the completion of the unfair practice determination.

The PBA was advised by Commission agents of a procedure which would provide for an immediate election, the impounding of the ballots and a resolution of the Unfair Practice Charge before a certification of the results of the election would issue. Under either of the above procedures, the Unfair Practice Charge would have been litigated and a remedy, if any, implemented prior to the

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<sup>7/</sup> Further sections of this determination shall examine the adequacy of notice to employees of the election.

issuance of a certification of exclusive representative. The PBA abandoned its request for an immediate adjudication of the Unfair Practice Charge and, instead, requested that the Commission proceed with an election which would result in a conditional certification prior to the unfair practice adjudication. The PBA rejected the impounding procedure suggested by the Commission agents and opted for an open tally and certification.

The undersigned determines, in light of all the above, that the PBA has waived an adjudication of the Unfair Practice Charge prior to the issuance of a Certification of Representative. Consideration of objections one through five, which restate the Charge, prior to the issuance of a certification would be violative of the parties' agreement in reaching a consent election accord and violative of the conditions placed upon the parties by the undersigned for approval of the Agreement for Consent Election. <sup>8/</sup> Accordingly, the undersigned finds that objections one through five are not valid post election objections.

<sup>8/</sup> The undersigned, by Commission rules, is required to issue a certification subsequent to a tally. See N.J.A.C. 19:11-9.2(j) and (l). A Certification of Representative provides as follows:

#### CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above matter under the supervision of the undersigned in accordance with the New Jersey Employer-Employee Relations Act, as amended, and Chapter 11 of the Commission's Rules and Regulations; and it appearing from the Tally of Ballots that an exclusive representative for collective negotiations has been selected; and no valid objections having been filed to the Tally of Ballots furnished to the parties, or to the

(Cont'd.)

2. Objection six reads as follows: "At all times material herein, the FOP has admitted employees other than police officers to membership. Such conduct disqualifies the FOP from representing the employees in this unit."

The Agreement for Consent Election executed by all parties on January 13, 1978 contains the following prefatory language:

"Pursuant to a Petition duly filed under Chapter 11 of the Public Employment Relations Commission's Rules and the New

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8/ Cont'd.

conduct of the election, within the time provided therefore;

Pursuant to authority vested in the undersigned, IT IS HEREBY CERTIFIED that

has been designated and selected by a majority of the employees of the above-named Public Employer, in the unit described below, as their representative for the purposes of collective negotiations, and that pursuant to the New Jersey Employer-Employee Relations Act, as amended, the said representative is the exclusive representative of all the employees in such unit for the purposes of collective negotiations with respect to terms and conditions of employment. Pursuant to the Act, the said representative shall be responsible for representing the interests of all unit employees without discrimination and without regard to employee organization membership; the said representative and the above-named Public Employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment; when an agreement is reached it shall be embodied in writing and signed by the parties; and written policies setting forth grievance procedures shall be negotiated and shall be included in any agreement.

In the context of an election held during the pendency of Unfair Practice Charges, the undersigned is constrained to issue a certification conditioned upon the eventual Commission determination in the unfair practice case.

Jersey Public Employer-Employee Relations Act of 1968, and subject to the approval of the Executive Director of the Commission, the undersigned parties hereby waive a hearing and all issues that could properly be raised at said hearing..."

The issue raised by the PBA in this objection is clearly an issue that could properly be raised at a hearing before the Commission since it relates to the status of the petitioning employee representative.

This issue was initially raised by the PBA in its statement of position submitted to the Commission on October 31, 1977 and restated orally at a conference conducted by a Commission agent on November 7, 1977. The PBA did not raise this claim again at the consent conference held on January 13, 1978, and instead executed an Agreement for Consent Election which had the effect of waiving this issue.

Accordingly, the undersigned determines that the issue of the representative status of the FOP was waived by the PBA as a litigable issue, and that objection six is not a valid post election objection.

3. In objection seven, the PBA claims the City engaged in conduct which may have affected the results of the election by not providing adequate parking to employees who desired to vote. It is claimed by Mr. Gasparinetti, president of the PBA, that, to the best of his knowledge, adequate parking had been furnished in prior elections. It is further claimed that the City caused some employees who did attempt to park to be ticketed. Gasparinetti, in

his affidavit, claims that Police Chief Zizza was responsible for the parking arrangements and that he acted so as to minimize the number of police officers who would vote, thus aiding the FOP. In summation, the PBA claims that the lack of adequate parking facilities either prevented or discouraged employees from voting in the election.

The problem of inadequate parking facilities was not brought to the attention of the Commission agents during the course of the election. There is no Commission requirement that the public employer provide special parking facilities for voters during an election. The PBA has failed to support this objection with any documentation or affidavits stating that employees had been prevented or discouraged from voting in the election as the result of parking problems. In the absence of documentation or affidavits, this objection is merely based upon an unsubstantiated allegation and, accordingly, the undersigned determines that the objecting party has failed to furnish sufficient evidence to support a prima facie case, as required by N.J.A.C. 19:11-9.2(h) and (i).

4. In objection eight, the PBA alleges that notices posted by the PBA after February 7, 1978 advising employees of the new election date were removed by other parties. The PBA claims that this removal caused many employees not to know of the election and resulted in their not voting. The PBA has failed to support this objection with any documentation or affidavits stating that notices posted by the PBA were removed. In the absence of documentation or affidavits, this objection is merely based upon an unsub-

stantiated allegation and, accordingly, the undersigned determines that the objecting party has failed to furnish sufficient evidence to support a prima facie case, as required by N.J.A.C. 19:11-9.2 (h) and (i).

5. In objection nine the PBA claims that "the City, through supervisor members of the FOP, prepared literature for the FOP for distribution and circulation during the election campaign." The PBA has failed to support this objection with any documentation containing any FOP campaign literature or affidavits stating personal knowledge of FOP literature and its preparation. In the absence of documentation or affidavits, this objection is merely based upon an unsubstantiated allegation and, accordingly, the undersigned determines that the objecting party has failed to furnish sufficient evidence to support a prima facie case, as required by N.J.A.C. 19:11-9.2(h) and (i).

6. Objection ten is an objection directed to the Commission's conduct of the election in not permitting absentee balloting.

The Agreement for Consent Election which was executed by the parties on January 13, 1978, contains the following language:

"ELIGIBLE VOTERS. - The eligible voters shall be those employees included within the Unit described below, who were employed during the payroll period indicated below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in the military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. At a



date fixed by the Executive Director, the public employer, as requested, will furnish to the Executive Director, an accurate list of all the eligible voters, together with a list of the employees, if any, specifically excluded from eligibility."

Pursuant to the Agreement all parties agreed that employees must appear in person at the polls in order to be eligible to vote. None of the parties made a formal application to the Commission to provide an absentee balloting mechanism.<sup>9/</sup> In the absence of a formal request for an absentee ballot mechanism, and in light of the agreement of the parties that eligible voters would be limited to those appearing at the polls, the undersigned determines there is no basis for this objection.

7. Objection eleven states: "By these and other acts, the conduct of the election has been affected and the City and the FOP have interfered with a free election and the laboratory conditions essential for a free election and have engaged in conduct which affected, or may reasonably be expected to have affected, the results of the election." This objection is conclusory and essentially restates the allegations previously stated in support of the PBA's post election objections. The "other acts" referred to by the PBA are not specifically identified in the objections or in the PBA statements and other material which it has provided. However, the PBA's March 17, 1978 statement refers to a second affidavit of the PBA president which was directed to several issues, including Item 11. Mr. Gasparinetti's second affidavit refers to the issue of unemployment

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<sup>9/</sup> During the course of the consent conference the Commission agent advised the parties that it was not standard practice to provide absentee balloting and if there were extenuating circumstances, the parties should make formal application to the Director of Representation to provide an absentee balloting procedure.

contributions. According to his affidavit, the PBA advised police officers that in 1978, unemployment insurance contributions would be deducted from employee paychecks, totaling \$31 for the year. Beginning with the February 3 paycheck, \$7 was deducted from each paycheck, which was a cumulative amount covering non-deductions in the first two January paychecks. On February 3, a teletype was sent by Chief Zizza to all commands with information explaining the retroactive nature of the deduction and indicating that "the rate is 1/2 of 1 pct or 5 pct of gross earning." A correcting teletype was sent on that same day (one and a half hours later) deleting the language "or 5 pct" from the teletype. Mr. Gasparinetti alleges that these were not read to employees, but that "scuttlebutt" occurred that these deductions would constitute 5% of gross earnings. The PBA claims that this became a vital campaign issue, and that its efforts to have the City issue a statement of correction resulted in a letter from Chief Zizza to all commands only two days before the election. It is alleged that the harm created by the incorrect employer notice "was irreparable" and "had a serious effect on the election."

The PBA failed to provide documentation or affidavits from any employee in support of its contention of irreparable harm. The PBA would have the undersigned speculate as to the harmful effect of this issue on the PBA in the election. The information provided by the PBA indicates that the PBA aggressively sought a correction of an incorrect employer notice and that the employer issued two communications in the week prior to the election correcting

its previous error. In the absence of documentation or affidavits attesting to the effect of this issue on employee sentiment, the undersigned declines to speculate on the extent of harm to the PBA created by the issue or the extent of gain to the PBA accruing from its aggressive and successful pursuit of a correcting notice. Accordingly, the undersigned determines that the objection is without merit.

8. In objection twelve the PBA claims that "The City failed to give proper and sufficient notice of the election to the employees." In considering the objection the undersigned has likewise considered the subject matter of the objections filed by David Solomon, Esq, on behalf of certain individuals. On March 17, 1978, the PBA adopted and incorporated by reference Mr. Solomon's "positions and Objections." These "incorporated" objections claim, inter alia, that there was no "...proper notice as to the time and place of election."

Paragraph 34 of the PBA president's first affidavit summarizes the PBA's objections relating to the notice issue, as follows:

"34. On the evening before, and the morning of, the February 7 snowstorm, it was the PBA's position that the election scheduled for February 7 should be held that day. It is also true, and the PBA candidly acknowledges, that the PBA accepted the re-scheduling to February 10. However, this was done with both the expectation and understanding that there would be proper notice by the City in terms of diligent use of both the teletype and recall systems. The City failed on both counts. Had the PBA known that these systems would not be properly

utilized, and they were not, the PBA would never have agreed to the February 10 election and would either have insisted upon the election being held on February 7, as scheduled, or that it be held on a date before which all police officers could be properly notified. I am equally confident that PERC, had it known of the deficient notice by the City, would not have scheduled the election for February 10."

The undersigned has studied paragraphs 1 through 33 of Mr. Gasparinetti's affidavit, the affidavit submitted by Patrick Morales, the affidavit of Francis McGuire submitted by Mr. Solomon in support of his objections, and the various documentary material submitted. This study was undertaken to determine the extent and sufficiency of the evidence proffered to support the conclusions stated in paragraph 34 of Gasparinetti's affidavit.

The various materials cited above, while raising a question as to the adequacy of the notice of the election, do not contain any affidavits from police officers who claim that they failed to vote in the election due to lack of knowledge of the new date of the election. On the other hand, Gasparinetti's affidavit alleges that, to the best of his belief and knowledge, the inadequacy of the notice resulted in a lower participation in this election compared to the prior election. Significantly, Gasparinetti concedes that the City provided four separate notices of the election in the four day period preceding and including the date of the election. He further concedes that many police officers knew of the election "because of rumors, 'scuttlebutt,' and attempts by the PBA to alert the officers to the election."

Accordingly, the validity of this objection must be measured by the extent of knowledge or lack thereof among eligible voters. In the absence of affidavits from officers attesting to their lack of knowledge of the date of the election, sufficient in number to establish a pervasive lack of knowledge on the part of eligible voters, the undersigned determines that insufficient evidence has been proffered to establish a prima facie case which would warrant setting aside the election as a matter of law.

The undersigned, in postponing the scheduled election from Tuesday, February 7, 1978 to Friday, February 10, 1978, relied upon three factors to provide adequate notice of the new date of election. These factors are: (1) The posting of the initial notice of election for approximately fifteen days, from January 23, 1978; (2) the City's notification by means of police radio and teletype of the postponement of the election to the new date; (3) the Commission's preparation of a new Notice of Election which would be posted by Thursday, February 9, 1978. While the PBA failed to present sufficient evidence to support a prima facie case, its objections raised questions regarding the implementation of the second and third factors relied upon by the undersigned in the rescheduling process. The Commission views the secret ballot election process, and the proper conduct thereof, as one of its most significant responsibilities. Accordingly, in order to protect the integrity of the Commission's election process, the undersigned determined to conduct an investigation to assure that the elements of notice of the election, relied upon by the undersigned, were actually provided.

Inasmuch as a discussion of the significance of the three notice factors can only be understood in the context of the events surrounding the rescheduling of the election, a brief summary of these events is necessary.

On January 13, 1978, the parties executed an Agreement for Consent Election providing for an election on Tuesday, February 7, 1978. On January 18, 1978, Notices of Election were mailed to the City for posting. The Notices were posted on or about January 23, 1978 and remained posted until February 7, 1978.

In the early morning hours of Monday, February 6, 1978, there was a severe snowstorm which lasted until the afternoon of Tuesday, February 7, 1978 and resulted in a snow accumulation of approximately 17 inches. The undersigned closely monitored the events surrounding this matter throughout that Monday and Tuesday. At approximately 6 a.m. on Tuesday, with Commission agents in Newark and prepared to go forward with the scheduled election, the undersigned assessed the circumstances concerning the election scheduled for that date. The undersigned, after being fully apprised of the parties' positions and concerns regarding the postponement of the scheduled election, determined that under the circumstances the election should be postponed. Specifically, in view of the severe conditions created by the weather, and the City's concern that during the height of a snow emergency the City would be unable to temporarily release police officers from their duty stations to vote at City Hall in the Commission election (as is traditionally done during Commission representation elections), the undersigned believed that it would have been difficult, if not impossible,

to conduct a fair and representative election among Newark police officers on February 7, 1978.

A Commission agent solicited statements of position from the parties regarding their choice of a rescheduled election date. The FOP wanted the election rescheduled to the next payday, February 17, 1978; the PBA wanted the election rescheduled within the next couple of days; the City took no position. Faced with this disagreement concerning the date of the rescheduled election, the undersigned, pursuant to N.J.A.C. 19:11-4.1(b), set the date of the election herein for Friday, February 10, 1978. The new date for the election was communicated to each of the parties by approximately 6:45 a.m., on February 7, 1978. All of the parties then indicated agreement with the February 10, 1978 election date.

In determining the new date for the election herein, the undersigned was guided by: (1) a desire to minimize the effects of the postponement by rescheduling the election quickly; (2) the physical conditions present in the City; and, most importantly, (3) the ability to provide adequate notice to the electorate of the new date of the election.

The undersigned relied upon three factors to achieve adequate notice to the electorate of the new date of the election. First, the Commission's initial notices of election were posted for approximately fifteen days prior to February 7, 1978. The voters were thus informed that a Commission representation election was scheduled to take place on February 7, 1978, from 8:30 a.m. to 5 p.m., in the City Council Chambers at Newark City Hall; they were

also informed of various other particulars concerning this election -- eligible voters, ineligible voters, challenge voters, a sample ballot, purpose of election, where to direct questions about the election, etc. Thus, Newark police officers clearly were informed of the pending representation election between the FOP and the PBA. Moreover, sufficient opportunity had been provided to enable eligible voters to become conversant with the campaign issues.

While not seeking to belittle the importance of changing the date of the election, the undersigned wishes to place the change in the proper perspective. Only one aspect, albeit important, of this election was changed: the date. All other aspects of the election remained the same, so that only one piece of information had to be communicated to an electorate already primed by an official Commission Notice, and, presumably, by considerable campaigning by the competing employee organizations. By February 7, 1978, certain police officers had made a mental commitment to vote in the election, and it was reasonable to assume that these officers, committed to voting, would make inquiries of either the City, the Commission, or the competing employee organizations regarding the rescheduled date of the election.

Second, the undersigned anticipated the City's communication to its police officers of the news of the postponement and rescheduling of the election. More specifically, when the February 10, 1978 election date was determined, the City was immediately



requested to communicate the postponement and rescheduling information through the use of the police radio and teletype. This request was made by a Commission agent at approximately 7 a.m. on February 7, 1978.

Third, the undersigned relied upon the ability of the Commission staff to prepare and deliver official Notices of Election to the City so as to permit a new Commission posting. New Notices of Election were prepared on February 8, 1978, the first day after the February 6/7, 1978 blizzard. The Notices were hand-delivered by a Commission staff member to Deputy Chief Arnold Evans in Chief Zizza's office at approximately 9:15 a.m., Thursday, February 9, 1978.

As the result of the Commission investigation, the undersigned is convinced that each of the three notice factors, described above, was implemented. Regarding factor one, the posting of the initial Notice of Election, the objecting party does not claim that the Commission's initial Notices of Election were not posted in locations where employee notices are usually posted, and the investigation reveals that they were posted. With regard to factor two, the investigation reveals that the undersigned's anticipation, that the employer would communicate to the employees the information of the postponement and rescheduling of the election, was in fact implemented. The City fulfilled all the procedures that were required of it by the Commission. More specifically, immediately after the undersigned determined to postpone the election and

before the scheduled opening of polls at 8:30 a.m., the City communicated to all officers on duty, by police radio, the news of the election postponement and the date of the new election. Moreover, by 8:30 a.m., the City caused the circulation of a police teletype message to all commands informing the employees of the election postponement and a second teletype to all commands providing employees with the information concerning the new date of the election. Our investigation has revealed that these teletypes were communicated to locations without teletype receivers as well. Further, the information contained on these teletypes was transmitted to employees either informally or, where such procedure is utilized, read at each successive roll call during the Tuesday through Friday period. In some cases, the teletype messages were posted.

Regarding factor three, the investigation has confirmed that the Commission's official notice of the rescheduled election was delivered to the City by 9:15 a.m. on Thursday, February 9, 1978, that arrangements were promptly made for distribution to all division commanders, that the City's transmittal memo contained instructions for special attention requiring the posting of the notices in each of the units in conspicuous places, and that such posting was forthrightly carried out.

From the above, it is apparent that the City complied with all requests of the Commission with regard to communication and posting. Moreover, our investigation has revealed that the City provided additional notices of election to police officers. On Thursday, February 9, the City, by teletype, advised all commands that the Commission would conduct an election on February 10, 1978,

between 0830 and 1700 hours. The City advised that all on-duty officers, who were eligible and desired to vote in this election, should be authorized to leave their assigned duties in order to vote. The City further stated in this message, "All parties are requested to cooperate in order to produce a professional effort in a selection of a unit for collective negotiations."

In addition, the City reproduced this departmental message in letter form and the departmental messenger distributed same to all commands by Friday, February 10, 1978. In summary, our investigation has revealed that the City, during the period of February 7 through February 10, 1978, delivered four messages concerning the rescheduled date of the election. The City gave instructions to its superior officers to make arrangements for the release of eligible voters. The investigation has revealed that, in almost every instance the City's communications were delivered, in some cases read continuously to the various squads at all roll calls beginning with the receipt of the message, and in many cases posted in conspicuous places. Accordingly, the undersigned determines from the investigation that the City not only complied with all requests by the Commission, but provided additional communications to inform eligible voters of the rescheduled date of election.

The PBA has claimed that the City was obligated to utilize the recall system which would have entailed personally notifying off-duty police officers at their homes by telephone of the particular message. The City was not requested by the Commission to utilize

the recall system. The PBA did not bring to the attention of the Commission agents the request, or need for the recall system at any time during the discussions regarding the rescheduling of the election, or during the period between February 7 and February 10, 1978. The PBA claims that it accepted the rescheduling of the election to February 10, based on the understanding that there would be diligent use of the recall system. Although the undersigned's determination of the date of the rescheduled election did not require the agreement of the parties, the parties, nonetheless, were contacted and each party indicated agreement with the rescheduled date. The PBA's agreement to the rescheduled date of the election was not conditioned upon the utilization of a recall system or any other special communications efforts on the part of the City or the Commission. However, notwithstanding the above, if any party became aware of any problems with regard to the need for special notification of police officers who were off duty, the parties could have communicated with the Commission in sufficient time to allow for the institution of alternative procedures, if necessary.

In addition, as part of its investigation, the Commission studied the pattern of voting in every command and shift in order to determine whether any shift or command had a disproportionately low voter turnout, which might indicate ineffective or inadequate notice. The results of the investigation indicate that no command or shift displayed a voting pattern which was in substantial

variance with the departmental average. Sixty-six percent of the voters in the entire department voted in the election. Every command and shift exhibited at least a 55% voting percentage.

For the purposes herein, three groups of voters may be identified: (1) Group 1, consisting of employees who worked any shift on Friday, February 10, 1978; (2) Group 2, consisting of employees who did not work on Friday, February 10, 1978, but who did work at least one day, either Tuesday, Wednesday, or Thursday; and (3) Group 3, consisting of employees who were absent for various reasons, Tuesday, February 7 through Friday, February 10, inclusive.

The voting pattern study showed that approximately 80% of Group 1 -- those officers working any shift on Friday, February 10 -- voted in this election. Of those employees in Group 2 -- who did not work on Friday but who did work on either Tuesday, Wednesday, or Thursday -- 53% elected to return in order to vote in the election. The survey indicated that there were 110 officers in Group 3 -- who did not work at any time Tuesday through Friday. Of this group, 37 returned to vote and 73 did not vote.

It is apparent from the above that the officers in Group 1 were exposed to each of the three notice factors relied upon by the Commission and discussed above. Accordingly, this group showed the highest voting percentage, almost 80%. The officers in Group 2 were exposed to at least two and possibly three of the notice factors. This group demonstrated a 53% voter turnout on a day on which these employees did not work. Group 3 consisted of employees who did not work any day during the Tuesday through Friday period inclusive, because they were either on leave, on vacation, sick,

injured, or suspended. This group may have been exposed to the first notice factor and would have received information about the rescheduled date by making inquiries, or receiving communications from the competing organizations or fellow employees. This group exhibited a 34% voting turnout.

In view of the fact that it is argued that employees in Group 3 may not have been exposed to the notice factors outlined above, the undersigned has studied this group carefully. Since a number of the employees in this group were sick or injured for a considerable period, it is questionable whether they would have voted in this election, in an election on February 7, 1978, or in any other election scheduled during this period of time.

This group of 73 non-voters, who did not work any day during the Tuesday, February 7 through Friday, February 10 period, was studied in order to determine whether the potential votes in this group could have been determinative of the outcome of the election.

The undersigned notes that, of the total votes tallied, the PBA received 44.5% of the vote; and it is further noted that if the 73 non-voters in Group 3 are removed from among the eligible voters, the percentage of voting among all other officers was 72.5%. The tally of ballots reveals that there were 28 challenged ballots and the FOP received 86 more votes than the PBA. From the above, it is apparent that it is practically a mathematical impossibility for the 73 non-voters in Group 3 to have turned the election in favor of the PBA, even if the PBA had received 100% of the challenged ballots.

The PBA objections, and Mr. Solomon's objection, which has been incorporated by the PBA, state that the second teletype provided by the City incorrectly advised employees that the polls would remain open until 5:30 p.m. The PBA's objections state that the succeeding City notices which stated the correct voting time, did not specifically state that they were in correction of the above mentioned teletype, which the PBA alleges is the usual practice. Mr. Solomon's objection alleges that many voters intended to vote between 5 p.m. and 5:30 p.m., and were turned away from the polls when they arrived. While both the PBA and the Solomon objections speculate and allege that a great many officers were mistaken as to the correct voting hours and were deprived of the opportunity to vote, only one affidavit of an individual has been provided, which states that the individual arrived at 5:20 p.m. and "was advised that the polls were closed and I would not be able to cast my ballot." While the evidence presented is insufficient to establish a prima facie case, the accuracy of the notice has been placed in question. The undersigned is satisfied that the voters were adequately advised by means of three different notices of the correct hours of the election. Although several Commission agents remained in the polling location from the close of polls until nearly 7 p.m., no individual approached an agent inquiring as to his ability to vote after 5 p.m., or indicating that he was being turned away due to lateness. Accordingly, this objection is found to be without merit.

In summation, all of the objections have been analyzed and it has been determined that insufficient evidence has been produced to support a prima facie case warranting the setting aside of the election. In addition, the Commission has conducted an investigation to determine that the elements of notice relied upon were actually implemented. The investigation has revealed that not only were these elements of notice implemented, but that additional elements of notice were provided. On the basis of the above, the undersigned is convinced that the integrity of the election process has been maintained and, accordingly, the party receiving a majority of the valid ballots in the election is entitled to a Certification of Representative, conditioned upon any eventual determination of the pending Unfair Practice Charge.

Based upon the above and in accordance with the policy of the Commission, the undersigned concludes that the objections should be and hereby are dismissed and that the FOP should be certified as the exclusive representative of all the employees in the unit described in the certification below.

#### CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above matter under the supervision of the undersigned in accordance with the New Jersey Employer-Employee Relations Act, as amended, and Chapter 11 of the Commission's Rules and Regulations; and it appearing from the Tally of Ballots that an exclusive representative for collective negotiations has been selected:



Pursuant to authority vested in the undersigned, IT IS  
HEREBY CERTIFIED that

Fraternal Order of Police, Newark Lodge No. 12  
has been designated and selected by a majority of the employees  
of the above-named Public Employer, in the unit described below  
as their representative for the purposes of collective negotiations,  
and that pursuant to the New Jersey Employer-Employee Relations Act,  
as amended, the said representative is the exclusive representative  
of all the employees in such unit for the purposes of collective  
negotiations with respect to terms and conditions of employment.  
Pursuant to the Act, the said representative shall be responsible  
for representing the interests of all unit employees without dis-  
crimination and without regard to employee organization membership;  
the said representative and the above-named Public Employer shall  
meet at reasonable times and negotiate in good faith with respect  
to grievances and terms and conditions of employment; when an agree-  
ment is reached it shall be embodied in writing and signed by the  
parties; and written policies setting forth grievance procedures  
shall be negotiated and shall be included in any agreement.

UNIT: Included: "All police officers of the Police Department of  
the City of Newark, including all police officers currently  
enrolled at the Academy. Excluding: All superior officers,

professionals and craft employees, confidential employees,  
managerial executives, and supervisors within the meaning  
of the Act."

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: May 17, 1978  
Trenton, New Jersey

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of  
CITY OF NEWARK

-and-

FOP NEWARK LODGE #12

-and-

PBA

Docket No. RO-78-54

Election Date: February 10, 1978

Type of Election: (Check one)

Consent Agreement

Commission Direction

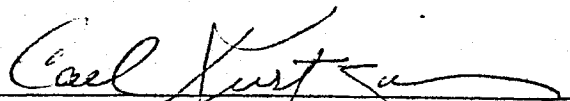
ED Direction

REVISED TALLY OF BALLOTS

The undersigned Director Of Representation certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated above, were as follows:

- |  |      |
|--|------|
| 1. Approximate number of eligible voters.....  | 1279 |
| 2. Void ballots.....   | 1    |
| 3. Votes cast for <u>FOP Newark Lodge #12</u>  | 447  |
| 4. Votes cast for <u>PBA</u>   | 361  |
| 5. Votes cast for _____  |      |
| 6. Votes cast against participating employee representative(s) ..  | 4    |
| 7. Valid votes counted (sum of 3, 4, 5, and 6).....  | 812  |
| 8. Challenged ballots.....   | 28   |
| 9. Valid votes counted plus challenged ballots (sum of 7 and 8).   | 840  |
| 10. Challenges are not sufficient in number to affect the results of the election.                           |      |
| 11. A majority of the valid votes counted plus challenged ballots (Item 9) has <del>not</del> been cast for: |      |

FOP Newark Lodge #12



Carl Kurtzman, Director  
of Representation

DATED: May 17, 1978  
Trenton, New Jersey

BEFORE THE  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

.. .. .

In the Matter of: :

THE CITY OF NEWARK, :

Public Employer :

and :

F.O.P. NEWARK LODGE #12, : DOCKET NO. RO-78-54

Petitioner :

and :

P.B.A. LOCAL #3, :

Intervenor. :

.. .. .

OBJECTIONS TO THE ELECTION

On February 10, 1978, the Public Employment Relations Commission, hereinafter referred to as PERC, conducted an election in a unit of police officers employed by the City of Newark, hereinafter referred to as the City, pursuant to a petition filed by the Fraternal Order of Police, Newark Lodge #12, hereinafter referred to as the F.O.P., and pursuant to which the Policemen's Benevolent Association, Local No. 3, hereinafter referred to as the P.B.A., intervened. The tally of ballots was as follows:

Approximate number of eligible voters. . . . .	1,200
Void ballots . . . . .	1
Votes cast for FOP, Newark Lodge #12 . . . . .	447

Votes cast for PBA. . . . .	361
Votes cast against participating employee representative(s) . . . . .	4
Valid votes counted . . . . .	813
Challenged ballots. . . . .	28
Valid votes counted plus challenged ballots . . . . .	841

In accordance with Rule 19.11-9.2 of the Rules of PERC, the P.B.A. hereby objects to the following conduct affecting the results of the election or the following conduct of the election:

1. At all times material herein, the City and the F.O.P. have allowed supervisors to hold positions as officers of the F.O.P. which is conduct which affected, or which may reasonably be expected to have affected, the outcome of the election.

2. At all times material herein, the City, through supervisors who are members or officers of the F.O.P., encouraged, induced, urged or caused employees employed by the City to support the instant decertification petition filed by the F.O.P., or the supervisor - members of the F.O.P. have themselves participated in or influenced the decision to file the said petition.

3. At all times material herein, supervisors employed by the City, who are also members of the F.O.P., have induced, encouraged, or threatened employees to support, join or vote for the F.O.P.

4. At all times material herein, the City and the F.O.P., through supervisors employed by the City who are also members

of the F.O.P., have maintained a blacklist of certain P.B.A. members for use against the P.B.A. and have in fact utilized the said blacklist to discriminate against members of the P.B.A.

5. At all times material herein, the City, in the period prior to the election and throughout the collective bargaining relationship between the P.B.A. and the City, has embarked upon a plan to assist and promote the F.O.P., to discourage and harass the P.B.A., to crush the P.B.A.'s morale and spirit, to embarrass the P.B.A. with the rank and file, to decimate the P.B.A. treasury by protracted litigation and the like, all to the end that the F.O.P. can replace the P.B.A. as the representative of the employees in question.

In this connection, the P.B.A. adopts and incorporates by reference all of the allegations made by the P.B.A. in CO-78-106.

6. At all times material herein, the F.O.P. has admitted employees other than police officers to membership. Such conduct disqualifies the F.O.P. from representing the employees in this unit.

7. At all times material herein, the City has affected the conduct of the election and engaged in conduct which may have affected the results of the election by not providing adequate parking to employees who desired to vote, in contrast to prior elections when adequate parking was furnished, and, further, the City caused some employees who did attempt to park to be "ticketed". All of the foregoing conduct either prevented or discouraged employees from voting in the election.


8. At all times material herein, notices posted by the P.B.A., after February 7, 1978, advising employees of the new election date of February 10, 1978, were removed by other parties as a result of which many employees did not know of the February 10 election date and did not vote.

9. At all times material herein, the City, through supervisor - members of the F.O.P., prepared literature for the F.O.P. for distribution and circulation during the election campaign.

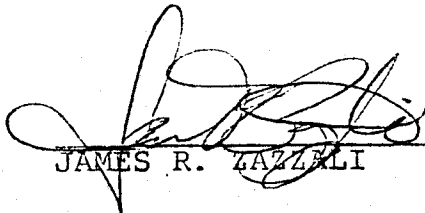
10. At all times material herein, absentee balloting was not permitted.

11. By these and other acts, the conduct of the election has been affected and the City and the F.O.P. have interfered with a free election and the laboratory conditions essential for a free election and have engaged in conduct which affected, or which may reasonably be expected to have affected, the results of the election.

ZAZZALI, ZAZZALI & WHIPPLE  
Attorneys for the P.B.A.

BY   
\_\_\_\_\_  
JAMES R. ZAZZALI

I certify that a copy of these objections has been served simultaneously herewith upon the F.O.P. and the City.

  
\_\_\_\_\_  
JAMES R. ZAZZALI

western union

Telegram

TNA050(1207)(4-024090E048)PD 02/17/78 1207

ICS IPMMTZZ CSP

2016231822 TDMT NEWARK NJ 36 02-17 1207P EST

PMS CARL KURTZMAN, PUBLIC EMPLOYMENT RELATIONS COMMISSION, REPORT  
DELIVERY BY MAILGRAM, DLR

JOHN FITCH PLAZA LABOR AND INDUSTRY BLDG  
TRENTON NJ 08625

THE OBJECTIONS TO THE ELECTION FILED BY PBA #3 IN RO-78-54 ARE  
HEREBY AMENDED TO ADD THE FOLLOWING OBJECTION:

#12 "THE CITY FAILED TO GIVE PROPER AND SUFFICIENT NOTICE OF THE  
ELECTION TO THE EMPLOYEES."

JAMES R ZAZZALI, ZAZZALI ZAZZALI AND WHIPPLE

NNNN



BEFORE THE  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

PBA LOCAL NO. ~~2~~<sup>3</sup> and  
FOP LODGE NO. 12 )

Docket No. RO-78-54

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OBJECTIONS TO CONDUCT OF ELECTION AND  
TO CONDUCT AFFECTING RESULTS OF ELECTION

---

Mario Genzone, Gilvo Gialanella, Thomas DiFederico and Richard Giordano and all others similarly situate, numbering in excess of 200 individuals, all members of the bargaining unit currently represented by PBA Local 3 in the City of Newark file these objections to conduct of the election and to conduct affecting results of election pursuant Rule 19:11-9.1(h). The parties filing these objections are all employees of the City of Newark represented by PBA Local 3 in a collective bargaining unit. Each of the individuals were eligible to vote in the representation election which was eventually conducted on February 10, 1978 at City Hall, City of Newark, New Jersey. The representation election was by agreement,

originally scheduled to be conducted on Tuesday, February 7th, between the hours of 8:30 a.m. and 5:00 p.m. Due to extreme weather conditions resulting in heavy snow, the representatives of the Public Employment Relations Commission at 5:30 a.m. on February 7, 1978 decided to cancel the election scheduled for that day. The election was rescheduled for Friday, February 10, 1978, between the hours of 8:30 a.m. and 5:00 p.m. The new date was apparently agreed to by representatives of the PBA and the FOP. The parties filing this objection were unaware that the election had been rescheduled for Friday, February 10, 1978, and were thereby prevented from casting their ballots for the representative of their choice.

On Wednesday, February 8, 1978, a teletype was transmitted over the police communication system notifying all personnel that the new date for the election was February 10, 1978 between the hours of 8:30 a.m. to 5:30 p.m. at City Council Chambers. Many of the parties herein filing these objections, intended to vote between the hours of 5:00 p.m. and 5:30 p.m. When they arrived at the polling place, between the hours of 5:00 p.m. and 5:30 p.m., they were advised that the polls had closed at 5:00 p.m. and were further advised that they would not be able to cast a ballot in this election. A copy of the aforementioned

teletype is attached hereto.

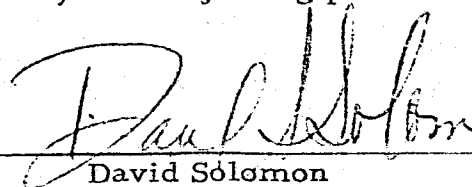
The number of voters who were, through no fault of their own, denied the opportunity to vote in this election are sufficient to affect the outcome of this election. By failing to give proper notification of the rescheduled time and date of the election and by the employer's action in falsely advising the eligible voters that the polls would be opened to 5:30 when, in fact, they were only opened until 5:00 p. m., the members of the bargaining unit were denied the opportunity to freely designate a representative of their own choosing to represent the bargaining unit for the purpose of collective negotiation and presentation of grievances.

For the foregoing reasons, the parties herein object to the conduct of the election and to the conduct which affected the results of the election and respectfully urge that the election not be certified and that another election be scheduled with proper notice being afforded to all members of the bargaining unit.

Respectfully,

SCHNEIDER, COHEN & SOLOMON  
Attorneys for objecting parties

By

  
David Solomon

7204

CHIEF OF POLICE

7204

PERC ELECTION / PBX - FOR/

THE CHIEF HAS ANNOUNCED THAT THE ELECTION FOR TODAY  
HAS BEEN CANCELLED DUE TO THE SEVERE CONDITION CREATED BY  
THE SNOW STORM.

THE NEW DATE FOR ELECTION IS SET FOR FRIDAY FEB 10, 1956  
8550 AM TO 1730 HRS AT CITY COUNCIL CHAMBERS

CHARLES H ZIEGLER

CHIEF OF POLICE

0715 DS RHK ALL COMMAND NOT

PM 82 ADDED

3 BELLS

