

A.B.D. NO. 2002-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION APPEAL BOARD

OAL DKT NO. PRB 7870-00
AGENCY DKT NO. AB-00-2

JOHN V. SIGNORELLI,

Petitioner,

v.

**COMMUNICATIONS WORKERS OF
AMERICA,**

Respondent.

John V. Signorelli, petitioner, pro se

William G. Schimmel, Esq. member of the Michigan bar,
admitted pro hac vice for respondent
Attorney of Record: **Steven P. Weissman,** Esq. (Weissman &
Mintz, attorneys)

DECISION AND ORDER

On July 4, 1999, John V. Signorelli submitted a petition of appeal to the Public Employment Relations Commission Appeal Board ("Appeal Board") which he perfected on November 8, 1999. Signorelli paid representation fees in lieu of dues to the Communications Workers of America, Local 1032 while he was employed by the Sussex County Health Department.^{1/} The petition sought a refund for representation fees in lieu of dues paid by

^{1/} Signorelli may now be retired. During proceedings before the Office of Administrative Law he stated that he was 80 years old and had worked for over 60 years.

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the petitioner to CWA for the dues year commencing July 1, 1995 and all dues years thereafter.^{2/} The petition alleges, in part, that CWA is using agency fees to advance a political agenda. It also generally challenges the accuracy of figures provided by CWA in notices sent to fee payers. It also objects to the law allowing majority representatives to collect representation fees in lieu of dues, asserting that the petitioner is capable of, and should be permitted to, negotiate his own working conditions.

On December 20, 1999, the CWA filed an Answer asserted that the representation fee it assessed to the petitioner was proper and lawful and that it had complied with all statutory and regulatory requirements. The Answer appended a copy of the notices sent by CWA to agency fee payers and two reports from separate auditing firms reviewing the expenses incurred by both CWA Local 1032 and its parent organization, CWANational, respectively.^{3/}

On September 13, 2000, the case was referred to the Office of Administrative Law ("OAL") for hearing and assigned to Administrative Law Judge Edith Klinger. On November 27, 2000, CWA filed a motion for summary decision asserting that there were no material facts in dispute and that, as a matter of law, CWA was

^{2/} Prior to the 1995-1996 dues year, Signorelli was a CWA member. He resigned from membership on December 31, 1994.

^{3/} Local 1032 gets 58 per cent of representation fees. CWA-National gets the remainder.

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entitled to a judgment dismissing the petition. On April 14, 2001, both parties appeared before Judge Klinger and orally argued the motion.

On May 16, 2001, Judge Klinger issued an "Initial Decision"/"Summary Decision" which has been served on the parties. The decision recommends granting CWA's motion for a summary decision dismissing the petition. The decision concludes that: (1) The petition was untimely to the extent it challenged representation fees assessed for dues years prior to the dues year which commenced July 1, 1999; (2) The reports of the independent auditors, which identified and allocated expenses between chargeable and non-chargeable sums, were accurate and satisfied CWA's burden to prove its entitlement to the representation fee in lieu of dues assessed to the petitioner for the 1999-2000 dues year. The Initial Decision (p. 5) shows how Signorelli's fee, which was adjusted by an advance reduction of \$1.16, was computed.

On May 27, 2001, the petitioner filed a letter constituting exceptions to the Initial Decision/Summary Decision. He asserts that the audit reports and other financial information produces were inadequate to prove the accuracy of the CWA expense statements because the reports "did not break down each and every allocation," including those related to political expenditures. On July 9, 2001, CWA filed a response asserting that summary decision was appropriate because there were no material facts in

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dispute. It asserted that the petitioner's representation that a large segment of CWA membership did not support its political aims is not material.

We have reviewed the record including the evidence introduced by CWA to support its calculation of the petitioner's representation fee. We conclude that the amount assessed comports with applicable law. We specifically reject the petitioner's contention that he has been assessed expenses related to CWA political activities.

N.J.S.A. 34:13-5.5 and 5.6, both as written and as construed in light of pertinent state and federal court rulings, bar a majority representative from assessing nonmembers for any expense related to political activity or legislative lobbying, except lobbying necessary to secure ratification of a collectively negotiated agreement. See In re Board of Education of Boonton, 99 N.J. 523, 544 (1985), cert. denied 475 U.S. 1072 (1986); Lehnert v. Ferris Faculty Ass'n, 500 U.S. 507, 522 (1991). The CWA's list of nonchargeable activities conforms to these principles and includes these expense categories: legislative activity; political contributions to state and local candidates; CWA publications, citizen related; COPE (political action committee) activities and expenses; committees and conferences identified as political or ideological unrelated to employees representation; Education programs-topics identified as political, ideological or unrelated to employee representation.

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The figures in the auditors' reports reflect the categorization of these expenses as non-chargeable. For example, during the year ending June 30, 1998, CWA-National spent \$118,135.00 on its legislative agenda. That entire amount is listed as non-chargeable. And, \$711,365.00 of the total expenses of \$1,269,162.00 incurred in publishing the "CWA News" is listed as non-chargeable.

Finally, although the petitioner's objections to having CWA negotiate his working conditions and to their adoption of a representation fee system appear to be sincere and passionate, as demonstrated by his references to the Founding Fathers, they must be rejected.

Both the system of exclusive representation and the right of a majority representative to collect representation fees in lieu of dues, have been part of the New Jersey EmployerEmployee Relations Act since 1968 and 1980 respectively. Both have been scrutinized by the Supreme Court and have passed constitutional muster. See Lullo v. Intern. Assoc. of Fire Fighters, 55 N.J. 409 (1970) and Boonton, supra., respectively.

As we conclude that the petitioner's exceptions lack merit, we adopt the Initial Decision.

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ORDER

The Initial Decision of the Office of Administrative Law (attached hereto) in AB-94-5 is hereby adopted. The petitioner's appeal of his representation fees assessed for all years prior to 1999-2000 is hereby dismissed as untimely. The petitioner's appeal of his representation fee assessed for the 1999-2000 dues year is hereby dismissed.

BY ORDER OF THE APPEAL BOARD

CATHERINE FRANK-WHITE
Chairman

DATED: August, 3, 2001
Trenton, New Jersey
ISSUED: August 3, 2001