

D.U.P. No. 2006-5

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF UNFAIR PRACTICES

In the Matter of

NEW JERSEY STATE LODGE,
FRATERNAL ORDER OF POLICE,

Respondent,

-and-

Docket Nos. CO-2006-102 &
CO-2006-103

FRATERNAL ORDER OF POLICE LODGE 183/
NEW JERSEY SUPERIOR OFFICERS
LAW ENFORCEMENT ASSOCIATION,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses charges filed by one of the FOP lodges alleging that the State FOP interfered with its political action committee and an election of its officers. The Director found that the charges primarily involve an intra-union dispute over which the Commission has no jurisdiction.

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FRATERNAL ORDER OF POLICE LODGE 183/
NEW JERSEY SUPERIOR OFFICERS
LAW ENFORCEMENT ASSOCIATION,

Charging Party.

Appearances:

For the Respondent,
Markowitz and Richman, attorneys
(Stephen C. Richman, of counsel)

For the Charging Party,
Mario A. Iavicoli, attorney

REFUSAL TO ISSUE A COMPLAINT

On October 20, 2005, the Fraternal Order of Police Lodge 183/New Jersey Superior Officers Law Enforcement Association, Inc. (Lodge 183) filed two unfair practice charges with the Public Employment Relations Commission (Commission) alleging that the New Jersey State Lodge, Fraternal Order of Police (FOP)

violated subsections 5.4a(2)^{1/} and 5.4b(1)^{2/} of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (Act), when it attempted to interfere with Lodge 183's political action committee and its upcoming Executive Board nominations and elections.

The Commission has authority to issue a complaint where it appears that the Charging Party's allegations, if true, may constitute an unfair practice within the meaning of the Act. N.J.S.A. 34:13A-5.4c; N.J.A.C. 19:14-2.1. The Commission has delegated that authority to me. Where the complaint issuance standard has not been met, I may decline to issue a complaint. N.J.A.C. 19:14-2.3. Based upon the following, I find that the complaint issuance standard has not been met.

On October 25, 2005, I wrote to the parties to acknowledge receipt of the unfair practice charges. I requested a written statement of position from the Respondent and invited the Charging Party to submit a statement of position by November 8, 2005. The Respondent submitted a timely response.

1/ This subsection prohibits public employers, their representatives or agents from: "(2) Dominating or interfering with the formation, existence or administration of any employee organization."

2/ This subsection prohibits employee organizations, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act."

For the reasons stated below, I find that the Commission's complaint issuance standard has not been met in this case.

Initially, the portions of Lodge 183's charges alleging violations of subsection 5.4a(2) of the Act must be dismissed because that subsection prohibits certain conduct by "public employers." The FOP's relationship to Lodge 183 and its members is not that of an "employer" under subsection 3(c) of the Act.^{3/}

With regard to the 5.4b(1) allegation, Lodge 183 alleges that the FOP attempted to interfere with Lodge 183's Executive Board nominations and elections, especially with Lodge 183 Executive Vice President Scott Derby's candidacy for his third re-election (CO-2006-102). Lodge 183 alleges in its second charge (CO-2006-103) that the FOP attempted to interfere with the activities and endorsements of Lodge 183's political action committee/legislative committee. I find that both Lodge 183's Executive Board elections and its political action committee are internal union matters, thus these charges are based on intra-union disputes between the statewide FOP and Lodge 183.

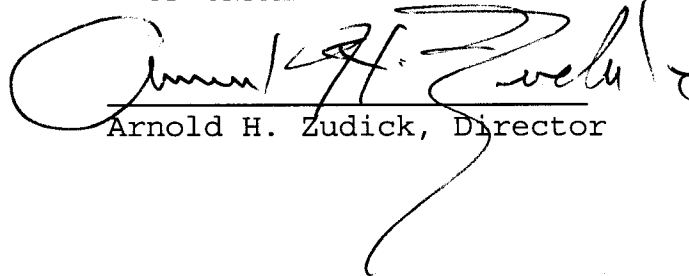
The Commission has declined to intercede in matters involving the internal affairs of employee organizations. City of Jersey City, P.E.R.C. No. 83-32, 8 NJPER 563 (¶13260 1982)

^{3/} This subsection provides: "...a labor organization, or any officer or agent thereof, shall be considered an employer only with respect to individuals employed by such organizations."

[app. dismiss. App. Div. Dkt. No. A-768-82T1 (7/22/83)]; Hoboken Teachers Association, D.U.P. No. 90-14, 16 NJPER 375 (¶21149 1990). In Hoboken Teachers Association, the Director dismissed an unfair practice charge brought by the Hoboken Teachers Association which alleged that the New Jersey Education Association assisted a dissident group to successfully gain control of the Hoboken Teachers Association. 16 NJPER 375. The Director noted that labor organizations are essentially private associations and that the Act's conferral of unfair practice jurisdiction does not empower it to resolve intra-union disputes. Id. at 376; See City of Jersey City.

Consequently, I find the above-captioned unfair practice charges to primarily involve the internal affairs of Lodge 183 and, accordingly, refuse to issue a Complaint. The unfair practice charges are dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Arnold H. Zudick, Director

DATED: March 17, 2006
Trenton, New Jersey

This decision may be appealed to the Commission pursuant to N.J.A.C. 19:14-2.3.

Any appeal is due by March 30, 2006.