GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

Teretha Spain, Carlton Butler,
Ernest Durant and Deon Jones

and

Ellowese Barganier,

Complainants,

v.

Fraternal Order of Police/
Department of Corrections
Labor Committee, et al.,

Respondents.

PERB Case Nos. 98-S-01
and 98-S-03

Opinion No. 596

Motion for Reconsideration

DECISION AND ORDER

The issues presented by these cases are set forth in Opinion No. 581. In that Opinion the Board issued a Decision and Order dismissing the Complaints in PERB Case Nos. 98-S-01 and 98-S-03.1 The Board also directed Complainants pay Respondent its reasonable costs incurred in this proceeding within ten (10) days after the Board determined the amount of those reasonable costs.

The Board's Decision and Order was issued on February 9, 1999. On February 19, 1999, Mr. Carlton Butler, on behalf of the

1 The Hearing Examiner found that Respondent FOP's conduct in suspending Complainants Teretha Spain and Carlton Butler from office; expelling Ms. Spain from office for non-payment of dues; failing to furnish Ms. Spain and Mr. Butler with keys, office space and other union resources; failing to conduct a recall referendum; and removing Complainant Barganier from office as chief shop steward, did not violate the standards of conduct for labor organizations as codified under D.C. Code Sec. 1-618.3(a)(1). The Board Adopted these findings.
Complainants in PERB Case No. 99-S-01 (hereinafter Complainants) filed this "Reconsideration Motion" of the Board's Decision and Order pursuant to Board Rule 559.2. Respondent's "Opposition to Reconsideration Motion" was filed on February 24, 1999.

On February 22, 1999, Complainants filed a document styled "Application of Issuance of a Subpoena", requesting that the Executive Director issue a subpoena duces tecum for comprehensive financial documents and records and other evidence to establish FOP's costs in these proceedings. Pursuant to the Board's Order, on February 24, 1999, FOP submitted a Statement of Costs, with copies of invoices and a list of its in defending against Complaint's charges. "Complainants' Exception Motion to Respondents' Statement of Costs and Request for Production of Documents and Complainants' Motion Request for Extension of Time" responded to FOP's submission. This filing questioned the adequacy of FOP's documentation of its costs and requested additional time to respond to additional documentation.

On March 3, 1999, FOP filed an "Opposition to Motion for Extension of Time and to Discovery Application." FOP's opposition is essentially a motion to quash the Complainants' request for additional financial documents as overly broad. FOP further avers that the documents its has submitted are adequate. On March 5, 1999, the Complainants filed a documents entitled "Complainants' Amended Exception to Respondent Statement of Cost." FOP filed a Response to this submission on March 15, 1999. A final submission was made by the Complainants on March 18, 1999, responding to FOP's Response.

The Complainants request that we reconsider our Order directing the Complainants to pay FOP's costs in this proceeding. In Opinion No. 585, we found the Complainants' Exceptions to the Hearing Examiner's Report and Recommendation were untimely and granted FOP's Motion to strike them. The Complainants cannot challenge by Motion for Reconsideration what it could not by

2/ However, the document contains scarcely any additional arguments or contentions concerning FOP's Statement of Costs. Rather, the "Amended Exception" is a rambling narrative that goes far afield of issues of costs (over 20 pages) and reiterates the history of the dispute involving these parties that have been addressed by Board Decisions in the instant and past cases.
Exceptions.  

In view of the above, the Complainants' Motion contains no properly raised grounds for reconsideration. Therefore, the Complainants' Motion for Reconsideration of our Decision and Order in Opinion No. 581 is denied.

Turning to FOP’s Statement of Costs, we find the expense items for which FOP seeks reimbursement are the kind of costs that are ordinarily incurred in proceedings before the Board. However, with the exception of invoices that document transcript costs, FOP's prepared list lacks documentation. On the other hand, Complainants' requests for additional documentation of FOP's costs is clearly overly broad and unreasonable.

FOP is directed to provide an affidavit explaining how it calculated its costs or other documentary evidence verifying these other costs. We further note that FOP's single biggest expense is its copying costs. FOP seeks reimbursement at a rate of 0.20$ a page. It is our practice to reimburse copying at 0.10$ a page in the absence of proof that higher cost were actually incurred.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Motion for Reconsideration is denied.

2. The Respondent shall submit to the PERB and the
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and 98-S-03
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Complainants, within fourteen (14) days from the date of
this Order, an affidavit and/or other documentary evidence
verifying the costs items set forth in its Statement of
Costs.

3. The Complainants Carlton Butler, Teretha Spain and Ellowese
Barganier shall pay the Respondent, the costs so verified in
paragraph 2, within thirty (30) days from service of the
verification upon it, unless the parties mutually agree to
provide otherwise.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

June 18, 1999
CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Cases Nos. 98-S-01 and 98-S-03 was mailed (U.S. Mail) to the following parties on this the 18th day of June, 1999.

Carlton Butler
Vice Chairperson
FOP/DOC Labor Committee
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Washington, D.C. 20003

Teretha Spain
Recording Secretary
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Clarence Mack
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In view of the above, the Complainants application for subpoenas should be denied. There is some question concerning the appropriateness of subpoena requests at this phase of these proceedings. If the Board found additional documentation necessary to any further disposition of an existing Order, the Board could so direct in an order upon a parties' request to the Board. The Complainants' Exception Motion to Respondent's Statement of Costs (such that it is) and Request for Production of Documents and Extension of Time should be granted to the very limited and circumscribed extent directed by the Board in its Decision and Order on these Motions. The Board may want to provide some guidance as to what it would find sufficient documentation of the costs outlined in FOP's Statement of costs.