

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any formal errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD**

)

In the Matter of:)

)

Clarence Mack, Shirley Simmons,)

Hazel Lee and Joseph Ott)

)

Complainants,)

) PERB Case No. 97-S-01

)

v.)

) Opinion No. 541

Fraternal Order of Police/)

Department of Corrections)

abor Committee, et al.,)

)

Respondent.)

)

)

DECISION AND ORDER

The events and issues underlying this case are set out by the Hearing Examiner in his Report and Recommendation.^{1/} The Hearing Examiner found that the Respondent Fraternal Order of Police/Department of Corrections Labor Committee (FOP) brought false and invalid charges against Complainants Clarence Mack, Hazel Lee and Shirley Simmons and denied them fair process during the disciplinary proceedings. Consequently, the Hearing Examiner concluded that FOP violated the Comprehensive Merit Personnel Act's (CMPA) standards of conduct for labor organizations as codified under D.C. Code Sec. 1-618.3(a)(1).

Based on his findings and conclusions, the Hearing Examiner recommended, among other things, that FOP (1) cease and desist from instituting such charges and (2) "[r]eaffirm and treat as unconditional the reinstatement of Clarence Mack, Hazel Lee and Shirley Simmons to their respective offices [(as chairperson,

^{1/} The Hearing Examiner's Report and Recommendation is attached as an appendix to this Opinion.

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treasurer and executive secretary, respectively)] on the Executive Board"; and (3) accord Complainants all the rights and privileges to which they are entitled under the union By-laws." (R&R at 10.) No exceptions were filed by either party to the findings, conclusion and recommendations made by the Hearing Examiner.

Pursuant to D.C. Code Sec. 1-605.2(9) and Board Rule 544.7, the Board has reviewed the findings, conclusions and recommendations of the Hearing Examiner and the entire record. The Board hereby adopts the Hearing Examiner's findings and conclusions that FOP violated the CMPA's standards of conduct for labor organizations as codified under D.C. Code Sec. 1-618.3(a)(1) by the acts and conduct against the Complainants as described above and in the Hearing Examiner's Report. See, e.g., Clarence Mack and Ellowese Barganier, et al.v. FOP/DOC Labor Committee, et al., Slip Op. No. 507, PERB Cases Nos. 95-S-02 and 95-S-03 (1997). We also adopt the Hearing Examiner's recommended remedy as set forth in our Order below.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Department of Corrections Labor Committee (FOP), and its officers and agents, shall cease and desist from denying fair process in disciplinary proceedings under the governing rules of FOP to Complainants Clarence Mack, Hazel Lee and Shirley Simmons and other elected officers and members of the FOP/DOC Labor Committee by: (a) instituting, in bad faith, disciplinary charges against them to circumvent the democratic process of FOP; (b) conducting disciplinary proceedings inconsistent with its governing rules in furtherance of this violative objective; and, (c) otherwise violating the Comprehensive Merit Personnel Act (CMPA) standards of conduct for labor organizations as codified under D.C. Code § 1-618.3(a)(1).
2. The FOP, and its officers and agents, shall cease and desist from failing to adopt, subscribe, or comply with the standards of conduct for labor organizations prescribed under the CMPA in any like or related manner.
3. The preliminary relief ordered in this proceeding in Slip Op. No. 516 reinstating Complainants Lee and Simmons as treasurer and executive secretary, respectively, of FOP and (2) authorizing Complainant Mack to assume the office of chairperson of FOP is hereby continued as part of our permanent relief herein.

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4. FOP shall post conspicuously within ten (10) days from the service of this Opinion the attached Notice where FOP notices to employees are normally posted.

5. FOP shall notify the Public Employee Relations Board (PERB), in writing, within fourteen (14) days from the date of this Order that the Notice to Members have been posted accordingly and as to the steps it has taken to comply with the directives in paragraphs 3, 4 and 5 of this Order.

6. Pursuant to Board Rule 559.1, and for purposes of D.C. Code Sec. 1-618.13(c), this Decision and Order is effective and final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

March 11, 1998



Public
Employee
Relations
Board

Government of the
District of Columbia



415 Twelfth Street, N.W.
Washington, D.C. 20004
[202] 727-1822/23
Fax: [202] 727-9116

NOTICE

TO ALL EMPLOYEES REPRESENTED BY THE FRATERNAL ORDER OF POLICE/DEPARTMENT OF CORRECTIONS LABOR COMMITTEE (FOP/DOC) AT THE DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS: THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 541, PERB CASE NO. 97-S-01.

WE HEREBY NOTIFY our bargaining unit members that the Public Employee Relations Board has found that the Fraternal Order of Police/Department of Corrections Labor Committee (FOP) violated the standards of conduct for labor organizations and, thereby, the law, and has ordered us to post this notice.

WE WILL cease and desist from denying fair and equal treatment under the governing rules of FOP to Clarence Mack, Hazel Lee, Shirley Simmons and other elected officers and members of the FOP/DOC Labor Committee by: (a) instituting, in bad faith, disciplinary charges against them to circumvent the democratic process of FOP; (b) conducting disciplinary proceedings inconsistent with its governing rules in furtherance of this objective; and, (c) otherwise violating the Comprehensive Merit Personnel Act (CMPA) standards of conduct for labor organizations as codified under D.C. Code § 1-618.3(a)(1).

WE WILL NOT, in any like or related manner fail to adopt, subscribe, or comply with the standards of conduct for labor organizations prescribed under the Labor-Management subchapter of CMPA.

Fraternal Order of Police/
Department of Corrections
Labor Committee,