

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of

THE PROFESSIONAL POLICEMEN'S PROTECTIVE  
ASSOCIATION OF MILWAUKEE, ROBERT  
KLEISMET, JEROME DUDZIK, DONALD ABBOTT,  
WILLIAM GENGLER AND KENNETH KOSIDOWSKI

Case CXXXV  
No. 17536 DR(M)-52  
Decision No. 12448-A

For a Declaratory Ruling  
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Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. David Loeffler, appearing on behalf of the Association.

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND DECLARATORY RULING

The Professional Policemen's Protective Association of Milwaukee, and Robert Kleismet, Jerome Dudzik, Donald Abbott, William Gengler and Kenneth Kosidowski, members of the Board of Trustees of said Association, having on January 14, 1974, filed a petition requesting the Wisconsin Employment Relations Commission to issue a Declaratory Ruling on whether the Board of Trustees of the Professional Policemen's Protective Association of Milwaukee, herein Board or Board of Trustees, is a collective bargaining policy-making body under Section 111.70(3)(a)2 of the Municipal Employment Relations Act, herein MERA, whether Police Lieutenant Carl Hanneman is a supervisor within the meaning of MERA, whether, if he is a supervisor, Lieutenant Hanneman's presence on the board of Trustees would be a prohibited practice under Section 111.70(3)(a)2 of MERA, and, if so, what remedy would the Commission issue to rectify such a prohibited practice; and hearing<sup>1/</sup> having been held on February 27, 1974, at Milwaukee, Wisconsin, before Commissioners Zel S. Rice II and Howard S. Bellman; and the Commission being fully advised in the premises, makes and files the following Findings of Fact, Conclusions of Law and Declaratory Ruling.

FINDINGS OF FACT

1. That the Professional Policemen's Protective Association of Milwaukee, herein Association, is a labor organization representing law enforcement personnel.
2. That the City of Milwaukee, herein the Municipal Employer, is a Municipal Employer, and has its offices at Milwaukee, Wisconsin.
3. That the Association is the recognized collective bargaining representative for certain non-supervisory law enforcement personnel in the employ of the Municipal Employer.
4. That the Association has a Board of Trustees, elected by its membership, which conducts certain executive functions, which are related to the Association's operations; that said Board draws up and submits collective bargaining demands to the Municipal Employer relating to wages, hours and conditions of employment of

<sup>1/</sup> Although served with the Order for Hearing and copy of the instant petition on January 29, 1974, Hanneman did not attend the hearing herein.

bargaining unit personnel; that the Board determines collective bargaining strategy and it has negotiated collective bargaining agreements with the Municipal Employer; that the Board selects the Association's full-time labor relations liaison officer to represent the Association in certain relations with the Municipal Employer; and that the Board selects individuals to represent it in conventions and other meetings.

5. That prior to 1974 Police Lieutenant Carl Hanneman was a member of the Association's Board of Trustees for a number of years; that Hanneman was removed from the Board in early 1974 because of his alleged supervisory status; that at all material times hereto, Hanneman has directed police officers under his command, has evaluated such officers for the purpose of determining whether they should be promoted, has the authority to discipline officers, and has the responsibility to investigate all complaints and charges of laxity or misconduct involving officers under his command.

6. That by Order dated July 5, 1973, the Commission issued a Direction of Election 2/ involving a petition filed by the Milwaukee Police Supervisors Organization, wherein the Commission directed that an election be conducted among certain supervisory police personnel employed by the Municipal Employer; that the Commission noted therein that the parties had stipulated that individuals holding the rank of Lieutenant were supervisors; that pursuant thereto the Commission included Lieutenants in the supervisory unit established therein; and that Lieutenant Hanneman has become a member of the Milwaukee Police Supervisors Organization, and has also served as a Trustee of said supervisory organization.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes the following

#### CONCLUSIONS OF LAW

1. That the Board of Trustees of the Professional Policemen's Protective Association of Milwaukee serves as the policy-making body of the Professional Policemen's Protective Association of Milwaukee in collective bargaining within the meaning of Section 111.70(1)(d) of the Municipal Employment Relations Act; with respect to wages, hours and working conditions of non-supervisory law enforcement personnel in the employ of the City of Milwaukee.

2. That Carl Hanneman, a Lieutenant in the employ of the Police Department of the City of Milwaukee, is a supervisor within the meaning of Section 111.70(1)(o)1 of the Municipal Employment Relations Act, and, therefore, Lieutenant Carl Hanneman, pursuant to Section 111.70(3)(a)2 of the Municipal Employment Relations Act, cannot be a member of the Professional Policemen's Protective Association of Milwaukee, nor may he be a member of its Board of Trustees.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes the following

#### DECLARATORY RULING

That should Lieutenant Carl Hanneman, or any other supervisory

would constitute a prohibited practice within the meaning of Section 111.70(3)(a)2 of the Municipal Employment Relations Act; and should any complaint be filed with the Wisconsin Employment Relations Commission, wherein it would be alleged that membership in, and participation by, supervisory law enforcement personnel in the Professional Policemen's Protective Association of Milwaukee constituted a prohibited practice within the meaning of the aforementioned statutory provision, the Commission would conduct hearing therein, and if the evidence at said hearing established the facts as alleged, the Commission would issue a decision finding that such membership and participation constituted a prohibited practice within the meaning of said statutory provision, and would, at the same time, issue an appropriate remedial order.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 21st  
day of October, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slawney  
Morris Slawney, Chairman

Zel S. Rice II  
Zel S. Rice II, Commissioner

Howard S. Bellman  
Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING  
FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND DECLARATORY RULING

The primary legal issue raised herein is whether a supervisor can participate in the activities of labor organizations consisting of non-supervisory personnel.

Here, in light of the various functions detailed in paragraph 4 of the Findings of Fact, it is clear that the Board of Trustees of the Professional Policemen's Protective Association of Milwaukee serves as the policy-making body for that labor organization.

That being so, it follows that no supervisor can participate in the functions of said Board of Trustees by virtue of the language contained in Section 111.70(3)(a)2 of MERA, which provides that it is a prohibited practice:

"To initiate, create, dominate or interfere with the formation or administration of any labor or employe organization or contribute financial support to it, but the employer shall not be prohibited from reimbursing its employes at their prevailing wage rate for the time spent conferring with the employes, officers or agents. Supervisors may remain members of the same labor organization of which their subordinates are members, but such supervisor shall not participate in determinations of the collective bargaining policies of such labor organization or resolution of grievances of employes. After January 1, 1974, said supervisors shall not remain members of such organizations."  
(Emphasis added)

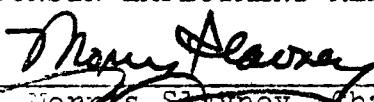
With respect to the facts herein, the Commission finds that Lieutenant Hanneman is a supervisor by virtue of his duties enumerated in paragraph 5 of the Findings of Fact, as well as the Commission's prior determination to that effect. As a result, the Commission finds that Section 111.70(3)(a)2 precludes Lieutenant Hanneman, or any other supervisor, from participating in the affairs of either the Association or its Board of Trustees.

Accordingly, if the Commission were to be presented with a factual situation in a prohibited practice case which showed prohibited supervisory participation in the affairs of such a labor organization, the Commission in that case would be required to issue an appropriate remedy to rectify that prohibited practice. In fashioning such a remedy, the Commission would have the power to consider a variety of effective remedies, including ordering supervisory law enforcement personnel to cease their membership in, and activity on behalf of, the Association. Failure to comply with such an order could affect the representative status of the Association.

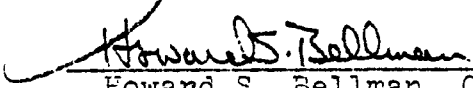
Dated at Madison, Wisconsin, this 21st day of October, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
Howard S. Bellman, Commissioner