STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

DISTRICT COUNCIL 48, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

Involving Certain Employes of

SOJOURNER TRUTH HOUSE

Case I No. 26484 E-2983 Decision No. 18063-A

ORDER SETTING ASIDE DIRECTION OF ELECTION AND ORDER OF DISMISSAL

The Wisconsin Employment Relations Commission, pursuant to a Direction of Election previously issued by it, scheduled an election to be conducted on Friday, September 19, 1980 between 11:00 a.m. and 12:00 noon on said date at the Sojourner Truth House, Milwaukee, Wisconsin, to determine whether all regular full-time and regular part-time employes of the Sojourner Truth House, Milwaukee, Wisconsin, including Children's Advocate, Transitional Living Advocate, Volunteer Coordinator, Counselor/Advocate, and Relief Staff, excluding the Coordinator, Counselor/Advocate, and Relief Staff, excluding the Executive Director, Administrative Assistant, Program Coordinator and secretary/bookkeeper, desire to be represented by District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO, for the purposes of collective bargaining on wages, hours and conditions of employment; and the Commission's agent having been Present to conduct said election at the time and place noted above, and having remained there at least between 11:00 a.m. and 12:00 noon on the date noted, and none of the eligible employes having appeared to vote at said election, and the polls having been closed by the Commission's agent immediately following the time period set for said election; and prior to any further action by the Commission, and on September 26, 1980, a representative of said Labor Organization having, in writing, indicated that he had previously intended, prior to the in writing, indicated that he had previously intended, prior to the date set for the election, to withdraw its request that such election be held but having neglected to do so, and as a result, was now requesting, in effect, that the Commission not certify the results, but rather dismiss the matter; and on September 26, 1980, the Commission having advised said representative, as well as the Employer involved herein, that the Commission would permit the Labor Organization to withdraw its petition provided the Employer, in writing, advised the Commission by October 6, 1980, that it had no objection thereto; and as of this date the Employer having not responded in any manner; and the Commission, being fully advised in the premises and being satisthe Commission, being fully advised in fied that the proceeding be dismissed;

NOW, THEREFORE, it is

That the Direction of Election previously issued in the above entitled matter be, and the same hereby is, set aside, and that

The formation or region to be product to the record of the second of the the matter be, and the same hereby is, dismissed with prejudice to refiling another petition or stipulation within six months from the date hereof.

Given under our hands and seal at the City of Madison, Wisconsin, this 27th day of October, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Herman Torosian, Commissioner

Gary L/ Covelli, Commissioner

SOJOURNER TRUTH HOUSE, I, Decision No. 18063-A

MEMORANDUM ACCOMPANYING ORDER SETTING ASIDE DIRECTION OF ELECTION AND ORDER OF DISMISSAL

The Commission directed an election among certain employes of the Employer to determine whether they desire to be represented by District Council 48, AFSCME, AFL-CIO. While the proceeding was initiated by a petition filed by the Union prior to the issuance of the Direction, the parties executed a Stipulation for Election wherein they agreed upon the appropriate unit, as well as the employes eligible to participate in the election. The Direction was issued on September 12, 1980. On the same date, the Commission sent to the parties Notices containing the details with regard to the election as well as a copy of the sample ballot. The Notices indicated that the election was to be held between 11:00 a.m. and 12:00 noon on Friday, September 19, 1980 at the place of business of the Employer.

The Commission's election agent 1/ appeared at the polling place for the purpose of conducting the election. Upon his arrival he was told by one of the eligible employes that the employes were under the impression that the election had been cancelled. The election agent contacted the Commission's office and was advised that the election was not cancelled by the Commission and the election agent was ordered to remain at the polling place for the period of time originally set for the conduct of the vote. The Commission's agent remained on the premises during this entire period. No employes present themselves to vote.

On September 26, 1980, the Commission received a letter, dated September 24, 1980, from a representative of the Union indicating that he had intended to withdraw his request that the election be conducted and that however, he had forgotten to submit such request to any representative of the Commission. In the letter said representative requested that the election be cancelled.

On September 26, 1980, the Commission directed a letter to said representative with a copy to the Employer, indicating that the Commission would withhold action in the matter in light of a possible response from the Employer. Therein the Commission stated that should the Employer advise the Commission, in writing, at least by October 6, 1980, that the Employer had no objection to the request, the Commission would grant same, and, that if no answer was forthcoming, the Commission would make a formal determination based on the request of the Union representative.

The Employer has not responded in any way. Since no one appeared to vote, and in light of the Union's request, the Commission has set aside the Direction of Election and dismissed the instant proceeding with prejudice. The Commission will not entertain another petition or stipulation for election involving the same employes of the Employer for a period of six months.

Dated at Madison, Wisconsin, this 27th day of October, 1980.

By Morris Slavney, Chairman

Herman Torosian, Commissioner

Gary V. Covelli, Commissioner

^{1/} Oscar N. Eisendrath, the election agent, at the request of the Commission, filed a report with the Commission on September 22, 1980, setting forth the facts relating to his participation in the matter.