

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DALE POEPEL, P. WILLIAM GREER,	:	
THOMAS J. VOGT, KATHRYN KUMMER,	:	
DEBRA HOLSCHBACH, JANE KLINZING,	:	Case XI
DONNA NICOLLAJ, CATHY LADER,	:	No. 30570 MP-1397
ELMER J. THOMPSON, MARLENE	:	Decision No. 20081-A
REEDER, DARLEEN FREESE, LYNN	:	
WINTER, SUSAN J. REINKE,	:	
CHERYL L. PRICE, LINDA	:	
LERNBRICH, GENE TAYLOR, EVELYN	:	
PROPP, DENNIS DIDERICH, LINDA W.	:	
POLGLAZE, LAWRENCE HOOD,	:	
DONAVAN JONES,	:	
	:	
Complainants,	:	
	:	
vs.	:	
	:	
BOARD OF EDUCATION, CLINTON	:	
COMMUNITY SCHOOL DISTRICT,	:	
CLINTON, WISCONSIN; CLINTON	:	
EDUCATION ASSOCIATION,	:	
WISCONSIN EDUCATION ASSOCIATION	:	
COUNCIL, AND NATIONAL EDUCATION	:	
ASSOCIATION,	:	
	:	
	:	
Respondents.	:	
	:	

ORDER DENYING MOTION TO ESCROW FAIR SHARE PAYMENTS

Dale Poeppel, P. William Greer, Thomas J. Vogt, Kathryn Kummer, Debra Holschbach, Jane Klinzing, Donna Nicollai, Cathy Lader, Elmer J. Thompson, Marlene Reeder, Darleen Freese, Lynn Winter, Susan J. Reinke, Cheryl L. Price, Linda Lernbrich, Gene Taylor, Evelyn Propp, Dennis Diderich, Linda W. Polglaze, Lawrence Hood, and Donovan Jones, Complainants, having on October 28, 1982 filed a prohibitive practice complaint with the Wisconsin Employment Relations Commission, hereinafter referred to as the Commission, wherein it was alleged that the Board of Education, Clinton Community School District, Clinton, Wisconsin, Clinton Education Association, Wisconsin Education Association Council, and National Education Association, had committed prohibited practices contrary to the provisions of Section 111.70 Municipal Employment Relations Act by requiring Complainants to pay and by deducting without individual authorization fair share fees in excess of their proportionate share of the cost of collective bargaining and contract administration; and the Commission, having appointed Stephen Schoenfeld, a member of the Commission's staff, to act as Examiner in the matter to make and issue Findings of Fact, Conclusions of Law and Order; and on December 6, 1982, Complainants, by counsel, having filed a motion to place in escrow, pending the final determination of this matter, the full "share fees" extracted by the Respondents from the earnings of each of the Complainants herein; and the parties having been afforded the opportunity to submit briefs with respect to this issue the last of which was received by the Examiner on January 3, 1983; and the Examiner being fully advised in the premises and being satisfied that Complainants' motion should be denied;

NOW, THEREFORE, it is

ORDERED

That the Complainants' motion is denied.

Dated at Madison, Wisconsin this 10th day of January, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld
Stephen Schoenfeld, Examiner

MEMORANDUM ACCOMPANYING ORDER DISMISSING MOTION
TO ESCROW FAIR SHARE PAYMENTS

The Wisconsin Employment Relations Commission in Browne vs. Milwaukee Board of School Directors (18408) 2/81, resolved the issue concerning the appropriateness of escrowing contested fair share monies. In refusing to require the escrowing of fair share deductions, the Commission set forth a position that was consonant with the prior circuit and supreme court's resolution of the identical issue in Browne. 1/ In said decision the Commission said:

The Commission is not granting the Complainants' request that it issue an interlocutory order requiring the escrowing of fair-share deductions of the Complainants and the class of employees that they represent pending final determination of the issues herein for the same reason given by the trial court in the proceeding before it, and which was approved by the Supreme Court, namely, that it would be pure speculation to determine what percentage of fair-share funds have been spent for impermissible activities, and therefore, we are unable to determine "the required danger of irreparable injury" justifying such an order.

Complainants have failed to cite any persuasive authority which would convince the Examiner to depart from the Commission's decision in Browne. For these reasons, the Examiner has denied the Complainants' motion herein.

Dated at Madison, Wisconsin this 10th day of January, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld
Stephen Schoenfeld, Examiner

1/ See Browne v. Milwaukee Board of School Directors, 83 Wis. 2d 316, 340A.