

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION TO MAKE
MORE DEFINITE AND CERTAIN AND MOTION TO DISMISS COMPLAINT

Respondents on March 19, 1990, filed a Motion to Make Complaint More Definite and Certain where they asserted that the Complaint is defective because:

(1) Paragraph 8 does not include time as to when the issue of off-duty work has been mentioned as part of the Collective Bargaining process and is unclear as to what is meant by "low wage rates"; 2. Paragraph 9 of the Complaint does not state the time and place and what restrictions and conditions on outside employment are alleged to have been imposed; 3. Paragraph 11 is unclear and not concise as to what outside employment Complainant, Parlow, was engaged in and as to what loss of substantial monies resulted; 4. Paragraph 12 does not state who informed Complainant, Parlow, and when; 5. Paragraph 13 does not indicate what provision of the Collective Bargaining Agreement Complainant, Parlow, is referring to; 6. Paragraph 14 does not provide what specific provision of Section 111.70, Wis. Stats., Complainant is referring to; 7. Paragraph 15 of Complainants' Complaint also does not provide specific, clear and concise information as to what alleged prohibited practice there is under Section 111.70, Wis. Stats.; and 8. Paragraph B of the request to the Commission does not indicate what losses there are that the Commission would have authority to consider.

Complainants on April 23, 1990, responded to said motion by denying that it is necessary to further clarify their Complaint by pointing out that "These questions are more in the nature of discovery questions and for the most part request information that is beyond the basic elements that need to be alleged" Nevertheless, it provided certain information and it clarified that their Complaint charged a violation of Sec. 111.70(a)(1), (3), (4) and (5), Wis. Stats. The rest of the information, they argue, is information within the City's knowledge.

The record here so far does indicate that the City is aware of some of this information; to the extent that it is not, the Complaint nevertheless puts the City on sufficient notice as to what is the graveman of Complainants' case. Accordingly, given the fact that this is an administrative matter rather than a formal court proceeding where formal discovery rules govern, there is no merit to the City's Motion to make the Complaint more definite and certain.

The City's additional, May 1, 1990, Motion to Dismiss asserts that the Complaint should be dismissed because it was not filed "in a form provided by the Commission or a facsimile thereof" and because it does not contain a "clear and concise statement of the facts constituting the alleged prohibited practice or practices"

Wrong. The Complaint herein sufficiently comports with basic pleading requirements even though it is not on a Commission approved form. In such circumstances, there simply is no basis for dismissing it at this time.

Dated at Madison, Wisconsin this 9th day of July, 1990.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Amedeo Greco, Examiner