

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



ROBERT C. ECKSTEIN,)	
)	
Charging Party,)	Case No. S-CO-21-S
)	
v.)	PERB Decision No. 643-S
)	
CALIFORNIA UNION OF SAFETY)	December 18, 1987
EMPLOYEES,)	
)	
Respondent.)	

Appearances; Anthony T. Caso, Attorney, Pacific Legal Foundation, for Robert C. Eckstein; William L. Williams, Jr., Attorney, Policy Officers Research Association of California, for the California Union of Safety Employees.

Before Hesse, Chairperson; Craib and Cordoba, Members.

DECISION

HESSE, Chairperson: Charging party, Robert C. Eckstein, appeals the partial dismissal of his charge that California Union of Safety Employees (CAUSE) violated the Ralph C. Dills Act,¹ specifically Government Code section 3519.5(b), when it: (1) failed to give him an adequate explanation as to how his fair share fee was expended by CAUSE; (2) deducted his fair share fee without providing a mechanism for rebates prior to deduction; (3) failed to conform the rebate procedures to Government Code section 3515.8; (4) paid agency fee monies to

¹Formerly known as the State Employer-Employee Relations Act, the Ralph C. Dills Act is codified at Government Code section 3512 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code.

the Police Officers Research Association of California (PORAC) and California Association of Food and Drug Officials (CAFDO) for activities unrelated to the negotiation or administration of a collective bargaining agreement; and (5) refused to provide a hearing on charging party's challenge to the use of his fair share fee.

The general counsel issued a complaint on allegations 1, 2, and 3, but dismissed allegations 4 and 5. We disagree.

Unlike the regional attorney, the Public Employment Relations Board has the guidance of the United States Supreme Court, as articulated in Chicago Teachers Assn. v. Hudson (1986) 475 US 292. That decision sets forth certain procedural requirements that must precede any deductions of an agency fee or fair share fee.² Charging party has stated a prima facie case that certain procedures were not followed by CAUSE. CAUSE, as exclusive representative, must provide an accounting of all fees collected, including fees paid to consultants and affiliates.

We also disagree with the regional attorney's assessment that the monies expended by PORAC and CAFDO were necessarily chargeable to charging party's agency fee. The determination by the regional attorney relating to the PORAC and CAFDO

²The court held that nonmembers must be given notice and adequate explanation of the basis of the fee prior to collection, a reasonably prompt opportunity to challenge the fee before an impartial decision maker, and an escrow account for the amounts reasonably in dispute.

portion of the fees and whether the fees were chargeable is a factual finding, appropriately made only after an evidentiary hearing. Certainly any accusation by charging party that CAFDO and PORAC did not use the funds paid by agency fee payors in an appropriate manner is part and parcel of an accusation that CAUSE, the source of the funds to CAFDO and PORAC, used the monies in an objectionable manner. We see no reason to separate the challenge to CAUSE'S procedures for fixing the amount of the agency fees from the challenge to the use by CAUSE of those agency fees. We will, therefore, reverse the partial dismissal in this case and order that the partial complaint already issued be amended to include all allegations made in the unfair practice charge.

ORDER

The Public Employment Relations Board hereby ORDERS that the partial dismissal of charges in Case No. S-CO-21-S be REVERSED, and that the General Counsel issue a complaint consistent with this opinion.

Members Craib and Cordoba joined in this Decision.