

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF SPOKANE MANAGERIAL & PROFESSIONAL ASSOCIATION,)	
)	
Complainant,)	CASE 17963-U-03-4629
)	
vs.)	DECISION 8494 - PECB
)	
CITY OF SPOKANE,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	

On November 3, 2003, the City of Spokane Managerial & Professional Association (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Spokane (employer) as respondent. The allegations of the complaint concern employer domination or assistance of a union in violation of RCW 41.56.140(2), by having the incumbent employee in a new attorney IV position sign a confidential employee contract.

The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on February 13, 2004, indicated that it was not possible to conclude that a cause of action existed at that time. The union was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

No further information has been filed by the union. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

¹ At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

DISCUSSION

The complaint is defective. The complaint is unclear as to how the provisions of RCW 41.56.140(2) were violated by the employer's conduct. None of the facts alleged in the complaint suggest that the employer has involved itself in the internal affairs or finances of the union, or that the employer has attempted to create, fund, or control a "company union." See *City of Anacortes*, Decision 6863 (PECB, 1999). If the employer or union have a question as to whether the duties of the attorney IV position are confidential under WAC 391-35-320, either party may file a unit clarification petition at any time under WAC 391-35-020(1)(e).

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above captioned matter is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 5th day of April, 2004.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Unfair Labor Practice Manager

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.