State - Ecology (Washington Federation of State Employees), Decision 9243 (PSRA, 2006)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE - ECOLOGY, Employer.	)	
KENNETH KOCH, Complainant,	)	CASE 19114-U-05-4859
vs.	)	DECISION 9243 - PSRA
WASHINGTON FEDERATION OF STATE EMPLOYEES, Respondent.	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Kenneth Koch, appeared *pro se*.

Parr Younglove Lyman & Coker, by *Christopher J. Coker*, Attorney at Law, for the union.

Kenneth Koch filed an unfair labor practice complaint with the Public Employment Relations Commission on January 12, 2005. Koch is an employee of the State of Washington (employer) working at the Department of Ecology (agency), in a position within a bargaining unit of nonsupervisory employees represented by the Washington Federation of State Employees (union). He alleged the union restrained or coerced him in the exercise of his rights under the Personnel System Reform Act of 2002 (PSRA), Chapter 41.80 RCW, by the manner in which the union conducted its master contract ratification vote in September 2004.

Examiner Karl Nagel held a hearing on August 1, 2005. The parties submitted post-hearing briefs on several issues, including a union claim that the Commission lacks jurisdiction in the matter. The

Examiner suspended the decision-making process while the Commission considered and ruled on the same jurisdictional issue in other unfair labor practice cases filed under the PSRA. The Commission issued its decisions on the related cases on June 20, 2006, and the Examiner now issues the decision in this case.

ISSUES

1. Does the Commission have jurisdiction to adjudicate allegations of union restraint of employee rights concerning the ratification of a collective bargaining agreement?

2. Can Koch file or process an unfair labor practice claim asserting the rights of other employees?

3. Did Koch demonstrate that the union's actions or inactions concerning notice of a collective bargaining agreement ratification vote personally affected him?

I make the following determinations:

1. The Commission has jurisdiction in this matter.

2. Koch cannot file or process an unfair labor practice claim that does not affect his own rights.

3. Koch failed to demonstrate how the union's action or inaction compromised his rights.

No unfair labor practice violation can be found on the basis of this complaint, and no remedy can be ordered. The complaint is dismissed.

ISSUE 1 - Does the Commission Have Jurisdiction?

Applicable Legal Standards

RCW 41.80.050 provides that employees under the PSRA have the right to "bargain collectively through representatives of their own choosing for the purpose of collective bargaining free from interference, restraint or coercion. . . . " RCW 41.80.110(2)(a) protects that right by stating that it is an unfair labor practice for an employee organization "[t]o restrain or coerce an employee in the exercise of the rights guaranteed by this chapter . . . "[1]

The Legislature gave the Commission jurisdiction in unfair labor practices arising under Chapter 41.80 RCW. RCW 41.80.120(1) empowers and directs the Commission to "prevent any unfair labor practice and to issue appropriate remedial orders . . . "

The Commission recently ruled it has jurisdiction over unfair labor practice claims arising from union contract ratification processes under Chapter 41.80 RCW, in cases with generally similar facts. The Commission issued decisions on three cases on June 20, 2006: *Western Washington University,* Decision 8849-B (PSRA, 2006); *Community College District 7 (Shoreline Community College)*, Decision 9094-A (PSRA, 2006); and *Community College District 19 (Columbia Basin Community College)*, Decision 9210-A (PSRA, 2006). Those decisions are referred to in the aggregate here as the *Ratification Trilogy*. In all three cases, the Commission rejected the same jurisdictional arguments raised by the union here.[2]

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[1] One curiosity to note is the fact RCW 41.80.112(2)(a) does not reference "interference" in relation to union unfair labor practices.

[2] In fact, *Shoreline Community College* involved the same union as this case, albeit a different employer and different master contract.

The Commission reviewed its general policy of non-involvement in union internal affairs in the *Ratification Trilogy*, but it found that "when a union agrees to allow all bargaining unit employees the opportunity to vote on a question, it lowers the shield of protection" that normally precludes Commission scrutiny of internal union affairs. Specifically, the Commission found that an agreement to give all employees the right to vote in a ratification election gave the non-member employees "an expectation that their votes would count in the collective bargaining process."

The Commission stated that a "union entering into such an agreement thus exposes itself to scrutiny regarding any allegation that it restrained employees from the right to vote granted to them by the agreement." The Commission concluded that the unions "created voting rights that non-member employees ordinarily would not have had" and thereby "obligated" themselves to provide fair representation to all bargaining unit employees in the ratification process.

Analysis

The union is the exclusive bargaining representative of classified employees of the employer. As an employee in a bargaining unit represented by the union, Koch has rights under Chapter 41.80 RCW.

In 2004, the union and the Governor's designee, acting as the employer, engaged in negotiations for their initial master contract under the PSRA. That master contract was to cover all state general government employees in bargaining units represented by the union, including the bargaining unit which included Koch.

The union and employer reached a tentative agreement in the early morning hours of September 13, 2004. The tentative agreement included a union security provision requiring all represented employees to pay dues or fees. In the course of bargaining, the union and the employer made a *quid pro quo* trade to include the

union security provision if the union allowed all represented employees (regardless of union membership status) to vote on the ratification of the master agreement.

The union held a statewide ratification vote during the week of September 20, 2004. The union counted the ballots and certified the results in favor of ratification on September 28, 2004. Koch filed his unfair labor practice complaint concerning that election on January 12, 2005.

Conclusion

Although this case involves a different master agreement than those in the *Ratification Trilogy*, the jurisdictional circumstances are the same, if not virtually identical. I determine that the Commission has jurisdiction over this complaint.

ISSUE 2 - Can Koch Assert Rights on Behalf of Other Employees?

Applicable Legal Standards

An individual may only pursue an unfair labor practice that occurs to him or her. The complainant must be affected by the complained of action in order to state a claim.[3] In *Seattle School District*, Decision 5774 (EDUC, 1996), where an employee purported to file a complaint on behalf of herself and other employees, the Commission's unfair labor practice manager dismissed the complaint stating that "individual employees have legal standing only to file and pursue complaints asserting their own rights." Other complaints in this vein have likewise been dismissed at the preliminary ruling stage. *C-TRAN*, Decision 4005 (PECB, 1992); *Enumclaw School District*, Decision 5979 (PECB, 1997); *Tacoma School*

[3] Although the preliminary ruling in this case did not address this particular issue, it is proper that I examine it as the union raised the issue.

District, Decision 6070 (EDUC, 1997); *City of Bellingham*, Decision 6951 (PECB, 2000).

Of particular note and relevance here are the *Ratification Trilogy* cases.

- In both *Community College District 7 (Shoreline)*, Decision 9094-A, and *Community College District 19 (Columbia Basin)*, Decision 9210-A, the Commission specifically stated causes of action are personal to individual employees. "A breach of the duty of fair representation is specific to the individual, and does not generally apply to the bargaining unit as a whole." *Shoreline Community College; Columbia Basin Community College*.

- When rejecting a request for a new ratification vote in *Columbia Basin Community College*, the Commission explained that "permitting the entire bargaining unit a second opportunity to vote would allow numerous other individuals who did not file complaints to benefit from the efforts of these two complainants."

- In the examiner-level decision in *Columbia Basin Community College*, Decision 9210 (PSRA, 2006), Examiner Ramerman followed the Commission precedents cited above when determining the remedy in that case. Although the Commission modified that remedy in the *Ratification Trilogy*, it did so in accord with her reasoning on the issue of personal rights.

- In *Western Washington University*, Decision 8849 (PSRA, 2005), Examiner Stuteville held the employee who asserted a lack of notice and who did not vote, could not raise balloting issues, since those issues did not directly affect her.[4]

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[4] Although the case was part of the *Ratification Trilogy*, the parties there did not appeal that particular issue and the Commission did not address that determination.

The *Ratification Trilogy* decisions all utilized a duty of fair representation analysis. The standard in interference, restraint or coercion unfair labor practice cases also is applicable here.

> To establish an "interference" violation under RCW 41.56.140(1), a complainant need only establish that a party engaged in conduct which employees could reasonably perceive as a threat of reprisal or force or promise of benefit associated with their union activity. *City of Seattle*, Decision 3066 (PECB, 1989); affirmed, Decision 3066-A (PECB, 1989). See, also, *City of Pasco*, Decision 3804-A (PECB, 1992), and cases cited therein. A showing that the employer acted with intent or motivation to interfere is not required. Nor is it necessary to show that the employees concerned were actually coerced. It is not even necessary to show anti-union animus for an interference charge to prevail. *Clallam County v. Public Employment Relations Commission*, 43 Wn.App. 589 (1986). An employer commits a violation if it creates the impression that it is engaged in [illegal activity] even if there was no [illegal activity]. *City of Longview*, Decision 4702 (PECB, 1994).

City of Tacoma, Decision 6793-A (PECB, 2000). A violation will be found when a complainant establishes that an employer engaged in conduct that a typical employee in a similar circumstance reasonably could perceive as an attempt to discourage protected activity, without the need to show that the employee involved was actually coerced.

This concept has been cited with approval by the Commission in *King County*, Decision 7104-A (PECB, 2001); *King County*, Decision 6994-B (PECB, 2002); and *City of Tacoma*, Decision 8031-B (PECB, 2004). In *King County*, Decision 8630-A (PECB, 2005), the Commission reiterated that test when considering a complaint filed by an employee against both his employer and his union:

> An interference violation exists when an employee could reasonably perceive actions as a threat of reprisal or force or promise of benefit associated with the union

> activity of that employee or of other employees. *Kennewick School District*, Decision 5632-A (PECB, 1996). The employee is not required to show an intention or motivation to interfere on the part of the respondent to demonstrate an interference with collective bargaining rights. *See City of Tacoma*, Decision 6793-A (PECB, 2000). Nor is it necessary to show that the employee involved was actually coerced or that the respondent had an anti-union animus for an interference charge to prevail. *City of Tacoma*, Decision 6793-A. However, the complainant bears the burden of demonstrating that the employer's conduct results in harm to protected employee rights.

(emphasis added.) Whether the actor is an employer or a union, the test for interference, restraint or coercion is the same. *Seattle School District*, Decision 9135 (PECB, 2005).

The Commission's interpretations of similar statutory language are persuasive in its interpretations of the PSRA.[5] RCW 41.80.110(2) is applicable here, and is similar to the unfair labor practice language of the Public Employees' Collective Bargaining Act, at RCW 41.56.150(2).

Analysis

The main thrust of Koch's claim is the union did not properly notify all of the employees in the bargaining unit of either the opportunity to vote or the contract provisions themselves. The union parries that, asserting an employee cannot bring an unfair labor practice on behalf of anyone else in the bargaining unit without being affected himself.

I find the oft-quoted passage of *City of Tacoma*, implying that the "reasonable employee" standard means it is not necessary to show the actions actually coerced the employees, applies in the context

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[5] *Ratification Trilogy; State - Natural Resources*, Decision 8458-B (PSRA, 2005).

of a union filing charges on behalf of the employees. Under our statutory scheme, only a union that is the exclusive representative of the employees may file an action on behalf of those employees. An employer cannot pursue such a case on behalf of employees and one employee cannot do so on behalf of the rest. An individual complainant must have been affected by the complained of action.

Conclusion

Koch does not have standing to enforce other employees' rights under the statute.

ISSUE 3 - Did Koch Demonstrate that the Union's Actions or Inactions Personally Affected Him?

Applicable Legal Principles

In *Columbia Basin Community College*, Decisions 9210, *aff'd*, Decision 9210-A (PSRA, 2006), the examiner found and the Commission affirmed that a union committed an unfair labor practice under the PSRA when it failed to give a bargaining unit employee adequate notice of her right to vote in its ratification election. The employee in that case did not cast a ballot in the ratification vote.

Analysis

Koch alleges that union actions or inactions affected him by resulting in a low turnout weighted with more union members voting than non-members, thereby ratifying an agreement that contained a union security provision which ended up costing him money. In fact, the union demonstrated more non-member employees of this agency voted than did member employees. Koch also did not prove, and in all reality, could not prove, that membership status correlated with how that employee voted on ratification. Without that correlation, Koch did not show he was affected.

Since Koch voted, he could raise issues about balloting procedures.[6] As to his claims concerning balloting irregularities:

- Koch alleged the union made absentee ballots available only to union members, but the evidence shows that approximately 300 employees requested absentee ballots, but the parties made no showing as to how many of those were members or even how many of them were returned.[7]

- Koch alleged that having to vote at the union's Olympia headquarters was coercive, but he offered no evidence showing that he was reasonably coerced by the voting location. Koch did not meet the burden of proof on this allegation.

Much of Koch's argument in this case contrasted the union's notification regarding the master agreement ratification vote with the notification given to employees about an interim agreement the union previously negotiated with the agency. Regarding that agreement:

- The union and the agency negotiated that interim agreement under the limited-scope collective bargaining process that continued to exist under RCW 41.06.150(11) through June 30, 2004, under the PSRA's phase-in period.[8]

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[6] This is the opposite of the situation of the employee in *Western Washington University*, who lacked standing to assert claims concerning balloting procedures because she did not vote on the ratification.

[7] The union designed the initial absentee ballot procedures for just members because, at that time, only members could vote. Following the tentative agreement allowing all employees to vote, the union extended its absentee return deadlines.

[8] The duty to bargain under the PSRA took effect on July 1, 2004, when the bargaining process shifted from the agency to the Governor's designee and the scope of bargaining was broadened to include employee wages, benefit contributions, union security, and other issues associated with "full scope" collective bargaining.

- The union and the agency signed the interim agreement on May 10, 2004.[9]
- In Article 2.8 of that agreement, the agency agreed to place copies of the agreement on its computer intranet and explicitly did not preclude other forms of distributing the agreement.
- Article 6 of the interim agreement provided for joint union/agency training of the employees on the provisions of that agreement.
- That interim agreement did not include a union security provision.[10]
- The union and agency jointly sent an e-mail message to all affected employees on September 8, 2004, announcing a schedule of employee training sessions and linking to a copy of the interim agreement. The e-mail distribution list for that message included all employees of the agency.

This case arises out of negotiations for the subsequent initial master agreement under PSRA provisions that took effect on July 1, 2004. The union and the employer engaged in negotiations for a master agreement covering all employees represented by the union in general government bargaining units. Of specific interest here:

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[9] The parties submitted no evidence of the ratification process undertaken on the interim agreement.

[10] In connection with the limited-scope collective bargaining process that existed under the State Civil Service Law, union shops could be created only by an affirmative vote of a majority of the employees in a particular bargaining unit in an election administered by the Department of Personnel. RCW 41.06.150(11)(a)(as it existed prior to July 1, 2004). That statutory provision remained in effect when the union and the agency negotiated the interim agreement, but the terms of the PSRA repealed it on July 1, 2005.

- The parties reached tentative agreement on that master agreement in the early morning of September 13, 2004.
- The tentative master agreement included a union security provision requiring all employees of bargaining units represented by the union to join the union and pay dues or pay a representation fee or nonassociation fee in lieu of membership.
- As a *quid pro quo* trade with the employer for union security, the union agreed to allow all employees in its bargaining units to participate in the ratification vote, regardless of union membership status.
- The PSRA effectively required that bargaining on the master agreements had to be concluded by October 1, 2004, to become effective July 1, 2005.[11] The union and the employer interpreted that language to require completion of any union ratification process by October 1, 2004.[12]

The union utilized various methods of notifying employees of the master contract and the ratification vote. It distributed and posted a flyer, sent e-mail messages to the home e-mail addresses of its members, used word of mouth, and used press reports. Several e-mail messages sent to some bargaining unit employees over

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[11] RCW 41.80.010(3) imposes an October 1 deadline for submission of tentative agreements to the director of the Office of Financial Management, and then requires that the Governor request funds from the Legislature to implement the compensation and fringe benefit provisions of the master agreements.

[12] Diane Lutz, the union's chief negotiator on the master contract, testified that there were some contracts at Washington State University that "weren't ratified in a timely manner" but received funding anyway.

the agency's computer network disseminated various levels of notification:[13]

- On September 17, 2004, bargaining unit employee and union steward Mary Gaddy sent an e-mail to a distribution list that included only employees of the agency's Eastern Regional Office in Spokane. That message announced the tentative agreement and gave times and locations for voting on ratification. It also indicated that paper copies of the master agreement were available in the employee kitchen and on the union bulletin board in Spokane. It also referred employees to the union's website, but made no reference to union security. Gaddy sent that e-mail message without first gaining approval to use the agency's e-mail system.

- On September 20, 2004, bargaining unit employee and union supporter Norm Peck sent an e-mail to distribution lists that included only employees in the Northwest Regional Office in Bellevue, the Padilla Bay office, and the Bellingham field office. That message contained links to the tentative agreement on the union's website and gave a summary of the master contract provisions, including the union security clause. It also stated that all employees were eligible to vote on ratification, and announced a lunchtime meeting to be held at the Northwest Regional Office on September 21, 2004. It did not state voting times and places, but referred readers to a list posted on the union's website and posted at two places in an agency office. Peck also sent his message without first gaining the approval to use the e-mail system.

- On September 22, 2004, bargaining unit employee Jo Sohneronne sent an e-mail message to a distribution list that included

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[13] This does not constitute a ruling that the union's efforts were adequate.

only employees in the agency's Olympia headquarters, the Manchester lab, the Southwest Regional Office, and in the Vancouver Office. That message informed employees that a tentative agreement had been reached, highlighted that all employees were eligible to vote on ratification, and directed employees to a website for information on voting times and locations. It also contained a link to the union website, where a copy of the tentative agreement could be viewed and downloaded. The message contained no reference to union security. Sohneronne obtained the approval to use the agency's e-mail system.

- Bargaining unit employee Ken Dean replied to Sohneronne's e-mail later the same day, with copies to all employees on Sohneronne's distribution list. Dean's message called attention to the union security requirement, and quoted an excerpt from the agreement on that issue.

- The agency's labor relations manager, Michael South, thereafter sent a message to all employees on the distribution list for the Sohneronne and Dean messages, stating that the agency's e-mail system should not be used to debate issues concerning the ratification of the tentative master agreement.

The union's website contained a three-page summary of the tentative master agreement. Bargaining unit employee and union activist Peter Kmet posted that summary on the union bulletin board in the agency's Lacey office, and handed copies of it to employees when they had questions about the contract. The union included union security as a "non-economic" item on that list, as the next-to-last item on the last page.[14]

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[14] That summary formed the bulk of an e-mail sent by Peck to the agency offices in the Northwest Region.

The union also distributed a flyer in the agency's Lacey office sometime prior to the ratification vote. Koch testified he received a copy that had been placed on the chair at his workstation.

In order for Koch to prevail on a claim in this case, he needed to prove that the union's actions affected him. *Ratification Trilogy*. The union asserts Koch was not affected by a lack of notice. It argues that Koch clearly received notice because he voted in the election. That critical fact distinguishes this case from the *Ratification Trilogy* cases.

Conclusion

Koch was not affected by a lack of notice in this case. Koch works in the agency's Lacey office. A flyer that he received from the union at his desk disclosed the balloting dates and locations. He received e-mail messages which notified him of the balloting, summarized the tentative agreement being voted, and clearly pointed out the union security provision of the tentative agreement. Furthermore, and decisively, he voted on the ratification of the tentative agreement.

I also conclude the "reasonable employee" standard was not met in this case. A reasonable person is responsible for knowing the laws and rules that apply to them within general society and the same should be true in the employment context. Employees should particularly pay attention to what is happening in their workplace. With the passage of the PSRA, the Legislature changed how union security obligations could be created in state employment. Koch should have been aware that union security was an issue in the negotiations and that negotiated union security obligations could be made applicable to him as an employee in a covered bargaining unit. The message sent by Ken Dean to e-mail addresses that

included Koch called attention to the union security requirement. It is clear that Koch paid attention, knew what the issues were, and voted.

That does not mean I believe the union did a stellar (or even adequate) job of informing the employees in its bargaining units of the ratification election or the existence of the union security agreement. The union clearly communicated more information about other provisions of the master agreement, such as compensation, than about the union security clause. The time frame imposed by the statute and the interpretations thereof by the union and the employer yielded a particularly tight ratification window which, in turn, may have reduced the ability of employees to debate and consider the issues.[15] Koch, however, learned of the ratification vote and he exercised the rights conferred upon him by the tentative agreement.

FINDINGS OF FACT

1. The State of Washington (employer) employs employees covered by the Personnel System Reform Act of 2002 (PSRA), Chapter 41.80 RCW, and the Department of Ecology (agency) is a general government agency of the employer.

2. The Washington Federation of State Employees (union), an employee organization within the meaning of RCW 41.80.005(7), is the exclusive bargaining representative of a bargaining unit of nonsupervisory employees of the employer working at

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[15] The Commission held in the *Ratification Trilogy* that it "will not allow PSRA parties to use the October 1 deadline as a method to circumvent their other responsibilities under Chapter 41.80 RCW."

the agency. The Commission certified the union as exclusive representative of the bargaining unit on July 29, 2003.

3. Kenneth Koch is an employee of the employer, working for the agency in a bargaining unit represented by the union.

4. Prior to July 1, 2004, the union and the agency negotiated a interim collective bargaining agreement under Chapter 41.06 RCW and the existing civil service rules in Chapter 356-42 WAC. That interim agreement was effective from May 10, 2004, through July 1, 2005. The union and agency jointly sent an e-mail message to all affected employees on September 8, 2004, announcing a schedule of employee training sessions and linking to a copy of the interim agreement. The e-mail distribution list for that message included all employees of the agency.

5. Throughout 2004, the union and the employer, under the new provisions of the PSRA, bargained for a master contract covering all the employees the union represented in general state government. The employer and the union reached a tentative agreement in the early morning hours of September 13, 2004. The agreement included a *quid pro quo* trade that the employer would agree to union security if the union would allow all represented employees, regardless of union membership status, to vote on the ratification of the master agreement.

6. Under its interpretation of RCW 41.80.010(3), the union had to have the master agreement ratified before October 1, 2004, in order for it to be submitted to the Office of Financial Management for consideration by the 2005 Legislature.

7. The union set up a state-wide ratification election wherein approximately 38,000 employees covered by the general government master contract were eligible to vote. It provided for on-site balloting and absentee balloting.

8. The union provided information about how to request an absentee ballot on its website and sent absentee ballots to bargaining unit members that requested them prior to September 15, 2004. The union received approximately 300 requests.

9. The union attempted to notify agency employees of the ratification vote through the distribution of a flyer, the posting of that flyer, e-mail to its members' home e-mail addresses, posting on its website, word of mouth, press reports, and a few e-mails sent on the agency's e-mail system.

10. Union supporters distributed and posted the flyer at the agency's Olympia headquarters sometime on or after September 15, 2004. The flyer announced the tentative master agreement, listed dates and locations of on-site voting and urged acceptance of the agreement. The flyer did not refer to union security, but did state copies of the contract were available at voting locations and on the union's website.

11. The union posted on its website and provided its stewards with a summary of the general government tentative master agreement. That summary covered many of the provisions of the agreement, including union security as the next to last item on the third page of the summary. Union security is listed under "Non-economic Issues" and states there will be a requirement that employees will have to pay dues or an agency fee as a condition of employment, effective July 1, 2005.

12. Union stewards utilized this summary in conversation with employees when asked about the tentative master agreement.

13. Union press releases and newspaper and other media reported on the ratification vote and the existence of a union security provision in the tentative master agreement.

14. Between September 17, 2004, and September 22, 2004, employees and union stewards used the agency e-mail system to send messages to agency employees concerning the tentative master agreement and the upcoming ratification vote. The e-mails varied in content and the authors did not send them to all employees of the agency.

15. Employee and union supporter Jo Sohneronne sent an e-mail on September 22, 2004, through distribution lists that did not include all employees, but included Koch's e-mail address. The e-mail highlighted that all employees were eligible to vote and an attachment contained the polling places and times. It also contained a link to a copy of the agreement on the union's website. The e-mail contained no statement about union security.

16. Employee Ken Dean replied to Sohneronne's e-mail on that same date, which was copied to all recipients of the first e-mail. Dean's e-mail called attention to the union security requirement and quoted an excerpt from the agreement on that issue. The agency's labor relations manager, Michael South, sent a reply to all recipients of these two e-mails clarifying that the e-mail system should not be used to debate issues around the ratification of the tentative master agreement.

17. Koch received Sohneronne's e-mail and received a copy of the flyer at his desk in the agency's Olympia headquarters.

18. The union held on-site voting at 21 locations across the state between September 20, 2004, and September 25, 2004.

19. Koch voted an on-site ballot in the ratification election on September 23, 2004.

20. The union counted the ballots on September 27 and 28, 2004, in Olympia. The election resulted in ratification of the master agreement, but the union made no breakdown of the results by individual bargaining unit and there is no evidence in the record regarding the overall vote count. About 302 of the more than 1100 eligible employees of the agency voted on-site in the ratification election.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction of this matter under Chapter 41.80 RCW and Chapter 391-45 WAC.

2. A complainant may assert only those rights personal to himself or herself and may not pursue an action on behalf of other employees. *Ratification Trilogy, Western Washington University*, Decision 8849-A (PSRA, 2005); *Seattle School District*, Decision 5774 (EDUC, 1996).

3. Koch does not have standing to assert the union committed an unfair labor practice under RCW 41.80.110 by inadequately notifying employees of the right to vote in the ratification election or by inadequately notifying employees of the union

security provision contained in the tentative agreement because he received notice and actually voted.

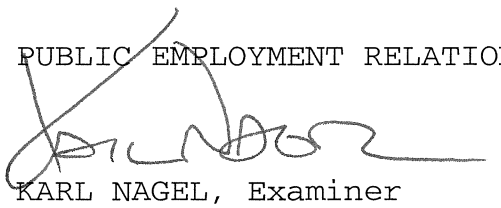
4. Koch did not demonstrate that the union's actions or inactions affected him personally so he did not carry his burden of proving a violation of RCW 41.80.110 under WAC 391-45-270(1)(a).

ORDER

The complaint charging unfair labor practices filed in this matter is DISMISSED on its merits.

Issued at Olympia, Washington, on this 11th day of August, 2006.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



KARL NAGEL, Examiner

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.