

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

Illinois Fraternal Order of Police Labor	)	
Council,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. S-CA-11-016
	)	
Illinois Secretary of State,	)	
	)	
Respondent	)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

On August 12, 2011, Administrative Law Judge Martin Kehoe issued a Recommended Decision and Order in the above-captioned case, recommending that the Illinois Labor Relations Board, State Panel (Board) find that the Illinois Secretary of State (Respondent) violated Section 10(a)(4) and (1) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), as amended (Act) by breaching its duty to provide certain information to the Illinois Fraternal Order of Police Labor Council (Charging Party) during collective bargaining. He found that duty arose from the parties' negotiation ground rules, not from the general obligation to provide information under Section 10(a)(4).

Respondent filed timely exceptions to the Recommended Decision and Order pursuant to Section 1200.135 of the Board's Rules and Regulations, 80 Ill. Admin. Code Parts 1200 through 1240. Charging Party filed a timely response and cross-exceptions to which Respondent filed a timely response. After reviewing the record, exceptions and responses, we uphold in part and reverse in part the recommendation of the Administrative Law Judge, and find no violation of the Act.

Charging Party is the exclusive representative of a bargaining unit of all persons employed by Respondent in its Department of Police in the classification of Investigator. Respondent also has an Office of the Inspector General which conducts audits of all Respondent departments to detect ongoing or potential misconduct as well as bureaucratic inefficiency. The audit process includes interviews with Respondent's bargaining unit and non-bargaining unit personnel at all operational levels and results in a final master report of the audit findings. The final audit report is distributed by Respondent to its directors and administrators and has a cover page stating that it is a confidential document that a recipient should not distribute to other persons. The audit document usually begins with reports of the interviews conducted by the auditors which, along with the audit findings, are reviewed by an audit review committee of Respondent's administrators. That review leads to committee recommendations to the incumbent Secretary of State for changes in Respondent policies or operations. In 2008 an audit of the Department of Police began which included interviews with Investigators about such topics as scheduling, training, efficiency, equipment, safety, manpower, how to improve the Department, and their thoughts about Department operations.

On June 23, 2009, the parties had their first bargaining session for a successor agreement covering the Investigators. Jerry Lieb was Charging Party's chief spokesperson with Mark Bennett serving in that capacity for Respondent. Proposed ground rules for the negotiations included the following:

Both parties agree to exchange information or comply with reasonable requests for information as long as that information is available to the parties, at no cost.

Neither Bennett nor any other member of Respondent's bargaining team asked Lieb any questions about the proposed ground rules or suggested any changes to them. The parties signed off on the ground rules.

On February 5, 2010, Lieb asked Bennett for a copy of the audit and any related reports. Bennett subsequently told Lieb that Respondent had no obligation to provide a copy of the audit/reports.

We agree with the ALJ that Respondent did not violate its general statutory duty under Section 10(a)(4) of the Act to provide Charging Party with relevant and necessary information when it denied Charging Party's request for a copy of the audit report. While the audit report addressed terms and conditions of employment which were the subject of the parties' negotiations, we find with the ALJ that Respondent's interest in maintaining the confidentiality of the audit outweighed Charging Party's interest in having a copy. As we see from the record, the audit was an internal assessment by Respondent of its operations, the value of which would be seriously compromised if subject to general public disclosure. Moreover, some, if not all, of the information in the audit regarding mandatory subjects of bargaining was available to Charging Party through its bargaining unit members who were subject to audit interviews. We also observe that while Respondent may have been able to provide Charging Party with a redacted copy of the audit, there is no record of Charging Party having made such a request of Respondent.

There is no dispute that in their written ground rules for conducting negotiations, the parties mutually agreed to comply with reasonable requests for information. Nonetheless, we reverse the ALJ's conclusion of law that Respondent, in failing to provide a copy of the audit to Charging Party, violated Section 10(a)(4) and (1) of the Act by breaching the parties' agreed-upon negotiation ground rules. Whether the refusal to provide the audit was a breach of the agreement to comply with "reasonable requests for information" is, in the first instance, a matter of interpretation which is not for the Board to resolve. Moreover, even assuming Charging

Party's request for a copy of the audit were to be considered a "reasonable request" within the meaning of the agreed-upon ground rule, Respondent's single failure to comply with that request would not rise to the level of an unfair labor practice. We have long held that the mere breach of a collective bargaining agreement is not an unfair labor practice or an issue properly before this Board. City of Hickory Hills, 28 PERI ¶87 (IL ILRB-SP 2011); City of Creve Coeur, 3 PERI ¶2063 (IL SLRB 1987), aff'd on reconsideration, 4 PERI ¶2002 (IL SLRB 1987). This case involves merely an alleged breach of negotiation ground rules—a one-time refusal to provide information pursuant to those rules. Our conclusion that the instant facts do not evidence an unfair labor practice is supported by our observation in County of Kane (Kane County Sheriff), 4 PERI ¶2031 (IL SLRB 1988), that disputes over ground rules should not be permitted to deter negotiations over wages, hours and terms and conditions of employment as such would compromise the policy of the Act to promote collective bargaining and would instead allow a party to impede that process.<sup>1</sup>

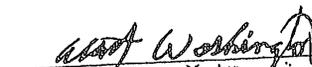
For these reasons, we affirm the ALJ's recommended decision in part, reverse the ALJ's recommended decision in part, find that Respondent did not violate Sections 10(a)(4) and (1) of the Act, and dismiss the complaint.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD<sup>2</sup>

  
Jacaly J. Zimmerman, Chairman

  
Paul S. Besson, Member

  
James Q. Brennwald, Member

  
Albert Washington, Member

<sup>1</sup> County of Kane, concerned one party's insistence, to the point of impasse and in violation of the Act, that the parties' ground rules provide that bargaining sessions be transcribed by a stenographer.

<sup>2</sup> Because the date of the Board's March meeting was rescheduled, Board Member Coli was unable to participate in consideration of this case.

Decision made at the State Panel's public meeting in Chicago, Illinois on March 13, 2012;  
written decision issued at Chicago, Illinois March 28, 2012.