

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

Edward White,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. S-CB-12-003
	)	
American Federation of State, County	)	
and Municipal Employees, Council 31,	)	
	)	
Respondent	)	

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

On September 27, 2011, Executive Director John F. Brosnan dismissed the unfair labor practice charge filed by Edward White (Charging Party) in the above-captioned case. The Charging Party alleged that American Federation of State, County and Municipal Employees, Council 31 (Respondent) violated Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), as amended (Act), by failing to (1) pursue a grievance relating to Charging Party's denial of a promotion; (2) assist him in challenging a fine imposed for a late Statement of Economic Interests; and (3) assist him with the denial of a worker's compensation claim. The Executive Director dismissed the charges, finding the first two allegations were outside the six-month limitation period established by Section 11(a) of the Act,<sup>1</sup> and that the third claim failed to raise an issue for hearing in that there was no evidence Respondent's failure to assist with worker's compensation claims constitutes intentional misconduct, the standard articulated in

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<sup>1</sup> In relevant part, Section 11(a) provides:

[N]o complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of a charge with the Board and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby did not reasonably have knowledge of the alleged unfair labor practice or was prevented from filing such a charge by reason of service in the armed forces, in which event the six month period shall be computed from the date of his discharge.

Hoffman v. Lonza, 658 F.2d 519 (7th Cir. 1981), and subsequently incorporated into Section 10(b)(1) of the Act.<sup>2</sup> For these reasons, he dismissed the charge.

The Charging Party filed a timely appeal of the Executive Director's Dismissal pursuant to Section 1200.135(a) of the Board's Rules and Regulations, 80 Ill. Admin. Code, Parts 1200 through 1240, and Respondent filed a response. After reviewing the record, appeal and response, we uphold the Executive Director's dismissal for the reasons he stated. The Executive Director properly found the first two allegations untimely. The six-month limitation period within which to file a charge began to run when Charging Party knew Respondent was not going to file a grievance concerning promotion or contest the fine, not when Charging Party later understood the legal significance of those actions. Moore v. Ill. State Labor Relations Bd., 206 Ill. App. 3d 327, 336 (1st Dist. 1990). Further, the Executive Director properly found a lack of evidence of intentional misconduct relating to the worker's compensation claim. Even if Charging Party could demonstrate that Respondent had breached a fiduciary duty (and we do not find that he has), that fact alone would not be sufficient to raise an issue for hearing as to whether Respondent had committed the intentional misconduct required to establish a violation under Section 10(b)(1) of the Act. Murry v. Am. Fed'n of State, Cnty. & Mun. Employees, Local 1111, 305 Ill. App. 3d 627, 631-32 (1st Dist. 1999).

We affirm the dismissal of the charges.

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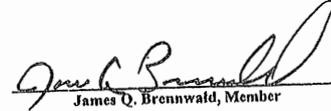
<sup>2</sup> Section 10(b)(1) of the Act provides:

- (b) It shall be an unfair labor practice for a labor organization or its agents:
- (1) to restrain or coerce public employees in the exercise of the rights guaranteed in this Act, provided, (i) that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein or the determination of fair share payments and (ii) that a labor organization or its agents shall commit an unfair labor practice under this paragraph in duty of fair representation cases only by intentional misconduct in representing employees under this Act;

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD<sup>3</sup>

  
Jacaly J. Zimmerman, Chairman

  
Paul S. Besson, Member

  
James Q. Brennwald, Member

  
Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago, Illinois, on March 13, 2012;  
written decision issued at Chicago, Illinois, March 23, 2012.

<sup>3</sup> Because the date of the Board's March meeting was rescheduled, Board Member Coli was unable to participate in consideration of this case.

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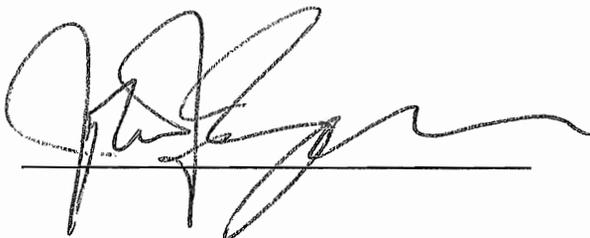
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Respondent	)	

**AFFIDAVIT OF SERVICE**

I, John F. Brosnan, on oath state that I have this 23<sup>rd</sup> day of March, 2012 served the attached **DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD STATE PANEL** issued in the above-captioned case on each of the parties listed herein below by depositing, before 5:00 p.m., copies thereof in the United States mail at 100 W Randolph Street, Chicago, Illinois, addressed as indicated and with postage prepaid for first class mail.

Edward White  
P.O. Box 81671  
Chicago, Illinois 60681

Thomas Edstrom  
AFSCME Council 31  
205 N Michigan Ave, Suite 2100  
Chicago, Illinois 60601



**SUBSCRIBED and SWORN to**  
before me this 23<sup>rd</sup> day  
of March 2012.

  
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**NOTARY PUBLIC**

