STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

Chris Logan,	)	
	)	
Charging Party,	)	
	)	
and	)	Case No. L-CB-21-006
	)	
Illinois Council of Police,	)	
	)	
Respondent.	)	

DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD LOCAL PANEL

On May 23, 2022, Administrative Law Judge (ALJ) Anna Hamburg-Gal issued a Recommended Decision and Order (RDO) concluding that the Respondent Illinois Council of Police (ICOP) violated Section 10(b)(1) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315/1 *et seq*., when it restrained employees from exercising their rights under the Act by telling Charging Party it would not process his grievance or represent him in disciplinary matters based on his status as a non-dues paying member and breached its duty of fair representation by refusing to file grievances on Charging Party's behalf. Respondent timely filed exceptions, and Charging Party timely responded.

Upon review of the RDO, the record, exceptions, responses to the exceptions, and the parties' supporting briefs, we find Respondent's exceptions unavailing and accept the ALJ's recommendations as discussed below.

I. DISCUSSION

The dispute in this case arises in the aftermath of the United States Supreme Court's decision in Janus v. Am. Fed'n of State Cnty. & Mun. Emps., Council 31, 138 S. Ct. 2448 (2018),

which held that the compulsion of fair share fees from public employees is unconstitutional. Sometime before October 29, 2022, Charging Party, an Aviation Sergeant employed by the City of Chicago (Employer) and a member of a bargaining unit represented by Respondent (Unit), informed Respondent that he wished to become a non-dues paying member of the Unit. On October 29, 2019, Respondent sent Charging Party a letter designating Charging Party as a non-dues paying member and included a refund of the dues Charging Party had paid to Respondent. Respondent included a form with the letter requesting that Charging Party affirm that as a non-dues paying member, he would not receive the same benefits as dues paying bargaining unit members, *i.e.*, filing of grievances, free legal representation, participating in contract negotiations, etc. Charging Party did not sign the form.

After becoming a non-dues paying Unit member, Charging Party received five notices of disciplinary actions sent by the Employer: (1) verbal reprimand sent on January 22, 2020; (2) 5-day suspension sent on January 24, 2020; (3) 8-day suspension sent on March 19, 2020; (4) 15-day suspension on June 26, 2020; and (5) 29-day suspension sent on January 21, 2020. The allegations in this case involve Respondent's conduct in response to Charging Party's requests for representation in the foregoing disciplinary actions and related matters.

ALJ Hamburg-Gal first amended the complaint for hearing *sua sponte* to add the allegations that (1) Respondent breached its duty of fair representation by refusing to file a grievance over the Charging Party's 29-day suspension due to his non-member status and (2) Respondent's June and August 2020 statements to Charging Party that it would not represent him due to his non-member status constituted unlawful threats. She reasoned that both allegations were closely related to the original allegations, and Respondent proffered or would have proffered the same or similar defenses.

Unlawful Threats

Applying an objective standard articulated in Village of Skokie, 14 PERI ¶ 2014 (IL SLRB 1998), aff'd, 306 Ill. App. 3d 489 (1999), the ALJ determined Respondent's June and August 2020 statements to the Charging Party, that the Respondent would not represent him in the disciplinary and grievance process because was no longer a member of the Union, were unlawful threats against protected activity. Noting Charging Party's statutory right to refrain from joining a labor organization, she found that Respondent's statements would tend to restrain that right because they leave a reasonable employee with the impression that he/she must join the labor organization to receive adequate representation from it. Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013 (IL LRB-LP 2002). The ALJ rejected Respondent's claim that it believed it was privileged in its refusal to represent Charging Party because of the advice it received from its attorney, relying on the NLRB's decision in Intertown Corp., 90 NRLB 1145, 1178-79 (1950), which noted that "A mistake of law does not . . . excuse what is otherwise a coercive statement).

Breach of Duty of Fair Representation

The ALJ found that Respondent breached its duty of fair representation in violation of Section 10(b)(1) when it refused to file grievances on behalf Charging Party due to his non-member status. She noted that a violation of Section 10(b)(1) requires a charging party to prove that (1) the union's conduct was intentional, invidious and directed at the charging party, and (2) the intentional action occurred because of and in retaliation for some past activity by the charging party or because of the charging party's status (such as race, gender, or national origin), or animosity between the charging party and the union's representatives. Metro. Alliance of Police v. Ill. Labor Relations Bd., Local Panel, 345 Ill. App. 3d 579, 588 (1st Dist. 2003).

Regarding the first prong, the ALJ concluded that Respondent's refusal to file grievances on Charging Party's behalf was intentional conduct directed at Charging Party. She found that Respondent intentionally and deliberately refused to process Charging Party by informing him, in writing, on four occasions between March 2020 and December 2021, that it would not file grievances on his behalf and then did not in fact file grievances over Charging Party's four suspensions until after the record closed in the instant case.

Next the ALJ, employed a burden shifting analysis to review the second element. She noted that a charging party must establish a prima facie case of unlawful discrimination by showing that: (1) the charging party has engaged in activities tending to engender the animosity of the union agents or that the employee's mere status may have caused animosity; (2) the union was aware of the charging party's activities and/or status; (3) there was an adverse representational action by the union; and (4) the union took the adverse action against the charging party for discriminatory reasons, i.e., because of animus toward the charging party's activities or status. Id. A charging party can prove the requisite causal connection by direct or circumstantial evidence establishing the union's unlawful motive. In duty of fair representation cases, circumstantial evidence may include timing, expressions of hostility toward protected activity, disparate treatment of employees or a pattern of conduct targeting certain employees for adverse representation action, and shifting or inconsistent explanations for the adverse representation action. Id. at 589 (citing City of Burbank v. Ill. State Labor Relations Bd., 128 Ill. 2d 335, 345-46 (1989)).

The ALJ determined that Charging Party established a prima facie case that Respondent's refusal to file grievances on his behalf for unlawful reasons. She found that Charging Party by resigning his union membership and ceasing to pay dues, engaged in activity tending to engender

the animosity of union agents. She then found that such activity was protected by the Act, that Respondent was aware of Charging Party's actions, and that Respondent's refusal to file grievances constituted an adverse representation action against Charging Party. Finally, she determined that the documentary evidence—Respondent's October 29, 2019 letter to Charging Party in response to request to terminated union membership; Respondent's June 3, 2020 email refusing to file a grievance over 5-day suspension; and Respondent's August 27, 2020 email attaching attorney Blass's letter explaining that the resignation from union membership meant Charging Party was no longer entitled to Respondent's representation in disciplinary and grievance matters—demonstrated that Respondent's refusal to file grievances was due to Charging Party's protected activity.

Once a charging party establishes a prima facie case, the burden then shifts to the union to demonstrate that it would have taken the same action in the absence of animus by proffering a legitimate explanation for its adverse representational actions. Id. at 589. However, if the proffered explanations are mere litigation figments or were not in fact relied upon, then the reasons are pretextual and the inquiry ends. City of Burbank v. Ill. State Labor Relations Bd., 128 Ill. 2d 335, 345-46 (1989) (applying similar burden-shifting framework to cases arising under Section 10(a) of the Act).

The ALJ determined that Respondent failed to demonstrate a legitimate and non-pretextual reason for its refusal to file grievances on Charging Party's behalf. She found that the evidence failed to show that Respondent fairly and objectively considered the merits of Charging Party's grievances over his four suspensions. The ALJ found the evidence demonstrated that it was Charging Party's non-paying status that drove Respondent's refusal to file grievances over Charging Party's suspensions, not Respondent's consideration of the merits of Charging Party's

potential grievances. The ALJ also found that Respondent offered shifting explanations for its actions, further supporting a finding that Respondent's merit-based explanations for its refusals were pretextual.

<u>Respondent's Exceptions</u>

Respondent filed exceptions challenging the ALJ's findings and determinations recommending the Board find that Respondent violated Section 10(b)(1) of the Act. Respondent contends the RDO includes misstatements of facts, misapplications of legal authority, and an ongoing reliance on evidence outside the record, and demonstrates "a palpable bias against the [Respondent] and in favor of the Charging Party."

We find Respondent's exceptions meritless. Respondent's claims that the ALJ's findings and conclusions were the result of her bias against the Respondent are baseless. Instead of pointing to evidence or providing an explanation as to how or why the ALJ may have been biased against it, Respondent merely makes bald assertions that the ALJ was biased.

Similarly, Respondent's contentions that the ALJ misstated facts and mischaracterized testimony are also unfounded. In its brief, Respondent opens with a quote from page 2 of the RDO: "'it [Respondent] asserts that it relied in good faith on its counsel's advice that the Respondent could require non-members to pay for representation in discipline cases and that it could decline representation if the non-member refused to pay'" and claims that this statement is "both a misstatement of facts and a mischaracterization" of Bruno's testimony. It claims that the quote is a "misstatement" because it is not supported by the record and provides two citations to Bruno's testimony that ostensibly demonstrate that the ALJ's statement misstated facts or mischaracterized Bruno's testimony. But those citations do neither.

The ALJ's statement that Respondent claims is a misstatement of facts and a mischaracterization of Bruno's testimony, is a recitation of Respondent's defense in this case that appears in the "ISSUES AND CONTENTION" section of the RDO. Indeed, Respondent states as much in asserting a justification for its conduct on pages 1-4 of its post-hearing brief and continues asserting this justification throughout its exceptions brief. Respondent then asserts nine misstatements of facts made by the ALJ. We find, however, these assertions to be unfounded. Although Respondent points to the portions of the RDO containing the alleged misstatements of facts, it fails in most instances to provide citations to record evidence supporting its contentions that such facts were misstated and merely argues that the ALJ misstated the facts. Moreover, instead of citing to record evidence to support its claims of factual error, Respondent attaches materials that were not introduced into evidence as support of its contentions that the ALJ committed error. Respondent fails to provide a basis or authority on which we can rely on such outside evidence or to explain why those materials were not introduced at hearing for the ALJ to consider. Accordingly, we disregard the exhibits attached to Respondent's brief.

We likewise find unavailing, Respondent's challenges to the substance of the ALJ's findings and recommendations that Respondent's refusal to represent Charging Party in disciplinary and grievance matters constituted a breach of Respondent's duty of fair representation as well as an unlawful threat. Respondent's challenges to the ALJ's unlawful threat findings and recommendations are unfounded for they are based on a misapprehension of the ALJ's analysis. The ALJ applied an objective standard established by our decision in Village of Skokie, 14 PERI ¶ 2014 (IL SLRB 1998), that considers whether the complained-of conduct would be regarded by a reasonable employee as threatening or coercive. Instead of pointing to record evidence or citing legal authority rebutting the ALJ's analysis and findings in this regard,

Respondent provides baseless accusations and personal attacks against the ALJ, *e.g*., "It is simply a conclusion drawn by the ALJ *based on what must be her own irrational perception of a threat if she were in the shoes of Charging Party";* "Without evidence to support a conclusion that is cloaked in vengeance, the entire decision must be called into question." (Resp. Exp. Br. pp. 10-11, emphasis in the original).

Respondent also misapprehends the ALJ's reliance on Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013 (IL LRB-LP 2002); Newport News Shipbuilding & Drydock Co., 631 F.2d 263, 270 (4th Cir. 1980); and Painting & Graphic Communications Union No. 180, 238 NRLB 24, 25-26 (1978). It claims these decisions are distinguishable because the unions in those cases were "lashing out at employees for no reason other than they are taking action against the [u]nion[s]. The [u]nion's behavior is therefore tantamount to a temper tantrum." In contrast, Respondent claims that in the instant case, it was merely relying on its attorney's legal opinion regarding the implications of the Supreme Court's decision in Janus, which it contends "arguably turned the world of Union representation upside down." While Respondent's contentions regarding the implications of Janus may or may not be true, its reliance on its attorney's legal opinion does not undermine the ALJ's finding that a reasonable employee would regard Respondent's statements as restraining the exercise of the right under the Act to refrain from union membership. Moreover, Respondent does not challenge the amendment of the complaint to include allegations that Respondent's conduct constituted an unlawful threat and thus, has waived that exception pursuant to Section 1200.135(b)(2) of the Board's rules. 80 Ill. Adm. Code § 1200.135(b)(2).

We also find Respondent's challenges the ALJ's findings and conclusions that Respondent breached it duty of fair representation, are without merit. First, Respondent

misapprehends the ALJ's analysis regarding intentional conduct. Relying on Board precedent, the ALJ considered whether Respondent took some deliberate action or whether, instead, Respondent acted with mere negligence. She found Respondent's conduct to be intentional because there was no evidence that Respondent made those statements at issue due to negligence or mistake. Respondent, however, confuses actions taken by mistake or through negligence with the actions it took under the alleged *mistaken* belief that it was engaging in lawful conduct. The ALJ rejected the claim that Respondent's reliance on its attorney's advice concerning the Janus decision excused it from intentional misconduct. Thus, we find that Respondent's exceptions insufficiently undermine the ALJ's findings with respect to Respondent's reliance on its attorney's advice.

We further find that the remainder of Respondent's exceptions to the ALJ's findings regarding its improper motive for refusing to file grievances on Charging Party's behalf are unpersuasive. Respondent's claims that its conduct was lawful because its decision to not file grievances on Charging Party's behalf was based in the merits of Charging Party's potential grievance are without merit. Although Respondent correctly notes that the Act and precedent afford unions considerable discretion in handling grievances, it fails to identify evidence or provide sufficient authority or argument to undermine the ALJ's findings that there was insufficient evidence that Respondent fairly and objectively assessed the merits of Charging Party's potential grievances. Respondent also fails to offer any basis to challenge the ALJ's determinations that Respondent's proffered reason for refusing to file grievances was pretextual.

Finally, we find Respondent's contentions regarding Charging Party's testimony unavailing. Respondent disputes the ALJ's findings regarding motive by pointing to discrepancies in Charging Party's testimony. The ALJ, however, acknowledged the defects in

Charging Party's testimony but found that such defects did not take away from the compelling documentary evidence demonstrating Respondent's controlling unlawful motive.

For the above reasons, we accept the ALJ's findings and recommendations that Respondent violated Section 10(b)(1) of the Act and adopt the ALJ's RDO as a decision of the Board.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ Lynne O. Sered
Lynne O. Sered, Chairman

/s/ Charles E. Anderson
Charles E. Anderson, Member

/s/ Angela C. Thomas
Angela C. Thomas, Member

Decision made at the Local Panel's public meeting in Chicago, Illinois, on September 8, 2022; written decision approved at the Local Panel's public meeting in Chicago, Illinois, on October 12, 2022, and issued on October 12, 29022.

This Decision and Order is a final order of the Illinois Labor Relations Board. Aggrieved parties may seek judicial review of this Decision and Order in accordance with the provisions of Section 11(e) of the Act and the Administrative Review Law. Petitions for review of this Decision and Order must be filed within 35 days from the date the Decision and Order is served upon the party affected by the decision. 5 ILCS 315/11(e).

NOTICE TO EMPLOYEES

FROM THE
ILLINOIS LABOR RELATIONS BOARD

Case No. L-CB-21-006

The Illinois Labor Relations Board, Local Panel, has found that the Illinois Council of Police has violated the Illinois Public Labor Relations Act and has ordered us to post this Notice. We hereby notify you that the Illinois Public Labor Relations Act (Act) gives you, as an employee, these rights:

- To engage in self-organization
- To form, join or assist unions
- To bargain collectively through a representative of your own choosing
- To act together with other employees to bargain collectively or for other mutual aid and protection
- To refrain from these activities

Accordingly, we assure you that:

WE WILL cease and desist from failing to accord our duty of fair representation to all employees we represent for purposes of collective bargaining;

WE WILL cease and desist from restraining or coercing public employees in the exercise of their rights guaranteed in the Act by telling employees that we will not process their grievances or represent them in disciplinary matters if they resign their membership in the union and do not otherwise pay for representation.

WE WILL cease and desist from discriminating against public employees because they have resigned their membership with the union.

WE WILL cease and desist from, in any like or related manner, restraining or coercing public employees in the exercise of the rights guaranteed in the Act because they have resigned their membership in the union.

WE WILL promptly process the Charging Party's grievances to arbitration in good faith.

WE WILL permit the Charging Party to be represented by his own counsel during the arbitration proceeding and pay the reasonable legal fees of such counsel.

DATE ____________ ________________________

Illinois Council of Police
(Labor Organization)

ILLINOIS LABOR RELATIONS BOARD

One Natural Resources Way, First Floor
Springfield, Illinois 62702
(217) 785-3155

160 North LaSalle Street, Suite S-400
Chicago, Illinois 60601-3103
(312) 793-6400

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

Chris Logan,	)	
	)	
Charging Party,	)	
	)	
and	)	Case No. L-CB-21-006
	)	
Illinois Council of Police,	)	
	)	
Respondent.	)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On August 30, 2020, Chris Logan (Charging Party or Logan) filed a charge with the Illinois Labor Relations Board's Local Panel (Board) alleging that the Illinois Council of Police (ICOP or Respondent) engaged in unfair labor practices within the meaning of Section 10(b)(1) of the Illinois Public Labor Relations Act (Act) 5 ILCS 315 (2019), as amended. The charge was investigated in accordance with Section 11 of the Act.

On October 20, 2021, the Board's Executive Director issued a Complaint for Hearing. A hearing was conducted on March 2, 2022, via WebEx, at which time the Charging Party presented evidence in support of the allegations and all parties were given an opportunity to participate, to adduce relevant evidence, to examine witnesses, to argue orally, and to file written briefs. After full consideration of the parties' stipulations, evidence, arguments, and briefs, and upon the entire record of the case, I recommend the following:

I. PRELIMINARY FINDINGS

The parties stipulate, and I find that:

1. At all times material, the Respondent has been a labor organization within the meaning of Section 3(i) of the Act.
2. The Respondent is and was, during all times relevant to this proceeding, the exclusive bargaining unit representative for the Aviation Security Sergeant position employed by the City of Chicago.
3. At all times material, the Charging Party has been a public employee within the meaning of the Act.

4. Richard L. Bruno has been the Respondent's President and agent since May 1, 2020.
5. At some time before October 29, 2019, the Charging Party indicated to the Respondent his desire to become a non-dues paying member of the Unit.
6. On or around October 29, 2019, the Respondent refunded the Charging Party his dues paid to Respondent and designated Charging Party as a non-dues paying individual.

II. ISSUES AND CONTENTIONS

The issue is whether the Respondent violated Section 10(b)(1) of the Act when it allegedly breached its duty of fair representation by discriminating against the Charging Party because he was a non-dues-paying member of the bargaining unit.

The Charging Party alleges that the Respondent breached its duty of fair representation by failing to represent him in pre-disciplinary hearings and refusing to file grievances on his behalf because he resigned his membership in the union.[1] The Charging Party argues that the Respondent clearly and repeatedly stated that it would not represent him because of his non-dues paying status, and that these clear assertions demonstrate the Respondent's unlawful conduct. As a remedy, the Charging Party seeks monetary damages for the suspensions he served, decertification of the Respondent as the exclusive representative of his job title and/or sanctions against the Respondent. He also seeks leave to represent himself individually in all grievances and arbitrations going forward.

The Respondent denies that it breached its duty of fair representation in any respect. Initially, the Respondent denies that it engaged in any intentional misconduct. It asserts that it relied in good faith on its counsel's advice that the Respondent could require non-members to pay for representation in discipline cases and that it could decline representation if the non-member refused to pay. It contends that its conduct was devoid of vindictiveness, discrimination, or enmity, and also notes that it changed its position on the matter once it received guidance from the Board.

The Respondent next contends that the Charging Party has not presented any evidence of a causal connection between his activities and the alleged adverse representation actions. The Respondent states that the Charging Party failed to show that the Respondent acted to disadvantage

[1] The Charging Party also argues that the City of Chicago violated the Act. However, these allegations are not addressed below because the City of Chicago is not a party to this case and the complaint does not allege violations of the Act by the City of Chicago.

him because of personal hostility or animus. The Respondent emphasizes that it harbored no grudge or bias against the Charging Party as a result of his non-dues-paying status. In addition, the Respondent asserts that the Charging Party failed to show that the Respondent treated him differently than similarly situated dues-paying members. Finally, the Respondent contends that it declined to represent the Charging Party because his proposed grievances lacked merit, and it asserts that the Board must not second guess its assessment of this issue.

In addition to its brief, the Respondent filed a motion to dismiss, arguing, in most relevant part, that it filed grievances over the Charging Party's suspensions post-hearing and thereby effectively resolved the matter before the Board. The Charging Party filed a response arguing that dismissal was inappropriate and that the disputed matters were not resolved to his satisfaction.

III. FINDINGS OF FACT

The Respondent is the exclusive bargaining unit representative for the Aviation Security Sergeant position employed by the City of Chicago ("City"). Richard Bruno was the Respondent's vice president from 2019 through May 1, 2020, when he became the Respondent's president.

The City and the Respondent are parties to a collective bargaining agreement that includes provisions regarding the disciplinary process.[2] For discipline other than oral warnings, the employee's direct supervisor notifies the employee of the accusations and gives the employee an opportunity to answer them in a pre-disciplinary meeting. The contract further states that "[i]f the employee requests the presence of a Union representative at a meeting, one will be provided, if available, who shall be given the opportunity, if the employee requests, to rebut the discipline and request further pertinent information."

The contract also has a grievance procedure. Pursuant to the grievance procedure, the Union is responsible for filing grievances. There is no provision in the contract that allows an individual employee to file their own grievance.

The grievance procedure has three steps with time limits for filing and moving forward at each step. The Union must file a grievance with the employee's immediate supervisor within 15 days after either the affected employee or the Union obtain knowledge of the events that give rise to the grievance. If the parties do not resolve the grievance at the first step, the Union has 10 days

[2] I take notice of the complete collective bargaining agreement between the Respondent and the City of Chicago, which the Board maintains in its records, because only an excerpt was submitted into evidence.

to appeal the first-step decision to the department head or his designee. If the parties do not resolve the grievance at the second step, the Union may request arbitration within 15 days after the response after the second step was given or due. Under the contract, the Union or the Employer hold the exclusive right to determine whether to submit a matter to arbitration. An individual employee may not submit a grievance to arbitration on his own.

1. Janus decision

In June 2018, the United States Supreme Court issued its decision in Janus v. Am. Fed'n of State, County, & Mun. Employees, Council 31, ("Janus"). Janus v. Am. Fed'n of State, County, & Mun. Employees, Council 31, 138 S. Ct. 2448 (2018). There, the court addressed the constitutionality of requiring employees of a public-sector bargaining unit to pay agency fees (i.e., fair share fees) if they elected to become non-members of the union. The court held that the "extraction of agency fees from nonconsenting public-sector employees violate[d] the First Amendment." Janus, 138 S. Ct. at 2456. The court acknowledged "the statutory requirement that unions represent members and nonmembers alike," and it also noted that the elimination of an agency fee requirement created the potential for free riders, employees who might opt out of membership while enjoying the benefits bargained for by the union. Id. at 2457. However, the court held that free rider concerns did not overcome First Amendment objections. Id. It opined that the State's interest—labor peace—could be achieved "'through means significantly less restrictive of associational freedoms' than the assessment of agency fees," provided for under Section 6(g) of the ILPRA. Id. at 2466 (internal quotes omitted). As an example, it noted that individual nonmembers could be required to pay for those services or could be denied union representation altogether, and it further noted that there was precedent for such arrangements in the laws of other states. Id. at 2468-9 & n. 6.

In 2019, after the Supreme Court issued its decision, then-Vice President Bruno asked Union attorney Richard Blass for an opinion on the Janus case and an explanation of how the Janus decision impacted the Union's responsibilities towards those employees in the bargaining unit who elected to become non-dues-paying members of the union. Bruno made this inquiry because he wanted the Respondent to be in compliance with the law. Blass informed Bruno that he had no obligations to handle disciplinary matters for a non-member. At this time, both Bruno and Blass

consulted other unions to discuss how they handled disciplinary matters and concluded that other unions were also charging non-members for representation in disciplinary matters.

2. Charging Party Resigns His Union Membership

Sometime before October 29, 2019, the Charging Party indicated to the Respondent his desire to become a non-dues-paying member of the Unit.

On October 29, 2019, the Respondent's office manager sent the Charging Party a letter that designated the Charging Party as a non-dues paying individual and included a refund of the Charging Party's dues to the Respondent. The letter enclosed a form, and the office manager asked the Charging Party to sign and return it. The form asked the Charging Party to affirm that as a non-dues paying member of the bargaining unit he would "not be able to receive those benefits awarded to Dues Paying Bargaining Unit Members (i.e., filing of grievances, free legal representation, voting in Union elections, holding office, participating in contract, negotiations, etc.)." The Charging Party did not sign the form.

3. The Charging Party's Discipline and Requests for Representation

The City issued the Charging Party repeated disciplinary actions including a verbal reprimand, a five-day suspension, an eight-day suspension, a fifteen-day suspension and a 29-day suspension. In each case, the City conducted a pre-disciplinary meeting to determine the propriety of discipline for each alleged instance of misconduct and gave the Respondent notice of the meeting. The Charging Party also requested assistance from the Union in filing grievances over the suspensions, as outlined below.

4. Verbal Reprimand

On January 22, 2020, the City informed the Charging Party that it had scheduled a pre-disciplinary meeting to consider discipline for the Charging Party's alleged failure to complete required duties in December 2019. The Union received notice of the pre-disciplinary meeting but did not attend to represent the Charging Party. The Charging Party contacted Bruno and requested representation at this pre-disciplinary meeting. Bruno testified that he did not appear because the

Union does not attend pre-disciplinary meetings for verbal reprimands. However, Bruno could not explain how he would know the disciplinary outcome before the pre-disciplinary hearing.

The City issued the Charging Party a verbal reprimand as a result of this incident.

5. 5-day Suspension

On January 24, 2020, the City sent the Charging Party and the Respondent a notice that it had scheduled a pre-disciplinary meeting to consider discipline for the Charging Party's alleged failure to show up for work without calling in on January 1, 2020 and January 8, 2020. The City initially scheduled the meeting for January 28, 2020, but rescheduled it to February 6, 2020, and then rescheduled it again to February 20, 2020. The Union received notice of the pre-disciplinary meeting and all the scheduling changes.

A day before the meeting, Union attorney Richard Blass informed the City that he could not attend, and he requested that the meeting be rescheduled yet again. The City refused to reschedule and also informed the Charging Party that his personal attorney could not attend.

The witnesses offered conflicting testimony about whether Union representative Bruno ultimately attended the meeting instead of Blass. I credit Bruno's testimony that he was present at the meeting because Bruno offered consistent testimony on this point, while the Charging Party did not, and Bruno was also able to name the attendees of the meeting. In addition, Bruno's subsequent emails to the charging party express some knowledge of what occurred in the meeting. I further credit Bruno's assertion that the Charging Party insisted that he would do all the talking during the meeting.

The City issued the Charging Party a five-day suspension, and the Charging Party requested that the Union file a grievance over that discipline.

On March 5, 2020, the Charging Party sent an email to Bruno explaining the circumstances of his five-day suspension. The Charging Party included some Kronos timekeeping documents in his email. The following day, Bruno forwarded the Charging Party's email to union representative Sergeant Bernard Pudowski and asked Pudowski to advise him on the appropriate course of action.[3]

[3] At hearing, the Charging Party asserted that Pudowski was biased against him because the Charging Party had filed a violence in the workplace complaint against him. Bruno testified that he was not aware of the Charging Party's complaint against Pudowski.

On March 9, 2020, the Charging Party asked the Union to file a grievance over his five-day suspension. Bruno responded by requesting a full Kronos (timekeeping reports), and when the Charging Party provided it, Bruno forwarded it to Sergeant Pudowski. Bruno testified that he provided the materials to Pudowski in an effort to determine whether there was a good faith basis on which to file a grievance and because he, Bruno, was unfamiliar with the pay system used by the City.

On March 13, 2020, the Charging Party sent an email to Bruno inquiring about the status of the grievance that he requested the Union file on his behalf. That day, Bruno responded that the Respondent would not file a grievance over his pay and benefit dispute. He stated the following: "Your pre-disciplinary meeting, which included discussion of the days in question, when remedied should resolve your issue with pay status for the days in question." At hearing, Bruno testified that he had determined that the Union would not file a grievance based on the information that the Charging Party provided.

6. 8-day Suspension

On March 19, 2020, while the Charging Party was challenging his five-day suspension, the City informed the Charging Party that it had scheduled a pre-disciplinary meeting to consider discipline for the Charging Party's alleged insubordination in the form of threats and intimidation of a supervisor. The City scheduled the meeting for April 1, 2020. The Union received notice of the meeting. No union representative attended the meeting to represent the Charging Party.

The Charging Party ultimately received an eight-day suspension for this violation on July 11, 2020.

7. Charging Party Tries to Appeal His 5-day Suspension and Respondent Explains its Refusal To File Grievances on His Behalf

On May 21, 2020, the Charging Party received a formal disciplinary notice, scheduling his five-day suspension to take place from May 27, 2020 to June 1, 2020. On May 24, 2020, the Charging Party sent an email to City agent Michael Landers objecting to the issuance of the 5-day suspension and urging the City to reconsider it.

On June 3, 2020, Bruno sent the Charging Party and City representatives an email stating that the Respondent would not represent him in his grievances. Bruno then stated the following:

> First, you were designated as probationary by the City during the shift bid process and by contract you had no seniority until your probation was completed. In fact, nothing in your settlement agreement stated you did not need to complete your contractual probation.
>
> Second, you forgot to tell everyone you withdrew your membership to the Union in writing besides exercising your right to not pay dues. The Union sent you a certified letter detailing your status with the Union and the benefits you would lose by withdrawing from the Union. The Union then refunded any dues you had paid to the Union since your promotion. You still withdrew from the Union and refused to pay dues knowing the Union would no longer represent you in matters concerning personal grievances or discipline.
>
> Bottom line is, you want all the other Sergeants to finance your legal bills when you were told otherwise after your Union withdrawal.

Later that day, Union attorney Blass replied to all recipients of the email stating, "I concur, good luck."

8. 15-day suspension

On June 26, 2020, the City sent the Charging Party and the Respondent a notice that it had scheduled a pre-disciplinary meeting for the Charging Party on July 8, 2020. The purpose of the meeting was to consider the propriety of discipline for the Charging Party's alleged unauthorized switch of his subordinates' schedules, in violation of a Roll Call Modification Order issued by Assistant Commissioner Kevin Zator. No union representative attended the meeting to represent the Charging Party.

On July 21, 2020, the Charging Party attempted to file a grievance at the third step of the grievance-arbitration procedure, but City representatives informed him that he could not file grievances individually and without the Union.

On August 25, 2020, the Charging Party emailed the Respondent a request to process a grievance on his behalf regarding his fifteen-day suspension.

On August 27, 2020, the Respondent emailed the Charging Party to inform him that it would not file a grievance on his behalf based on the rationale set forth in an attached letter drafted by attorney Blass, dated July 16, 2020. The letter set forth the Respondent's interpretation of the United States Supreme Court's decision in Janus v. Am. Fed'n of State, County, & Mun. Employees, Council 31, 138 S. Ct. 2448 (2018). The letter quoted from the decision in part,

stating that "individual nonmembers could be required to pay for service or could be denied union representation altogether." Janus, 138 S. Ct. at 2468. The letter concluded by stating the following:

> Last year you requested the City of Chicago to cease withholding of Union membership dues to the Illinois Council of Police. In addition, you requested and received a refund for dues that you had already paid to the Illinois Council of Police in correspondence sent to you on October 29, 2019. As of that time, you were no longer a member of the Illinois Council of Police Union although, pursuant to the holding in Janus, you have continued to receive the negotiated benefits of the collective bargaining agreement as required. Unfortunately, that does not include representation in the disciplinary grievance process.

Three days later, on August 30, 2020, the Charging Party filed his charge against the Respondent alleging a breach of the duty of fair representation.

9. 29-day Suspension

On January 12, 2021, the City sent the Charging Party a notice of pre-disciplinary meeting to consider discipline for his alleged unapproved authorization of overtime for 21 Aviation Security Officers (ASOs) and for allegedly forging the signatures of 16 of those ASOs. The meeting was scheduled for January 19, 2021 and the Union received notice of the meeting. No union representative attended the meeting to represent the Charging Party.

On September 8, 2021, the Charging Party sent an email to management in the Department of Aviation and requested an immediate appeal of his 29-day suspension, which was set to begin on September 11, 2021.

Sr. Labor Relations Specialist Steven Nowicki responded the following day. He told the Charging Party that pursuant to the contract between the City and the Respondent, the Charging Party would need to work with the Respondent and have the Respondent file an appeal on his behalf.

On September 10, 2021, the Charging Party forwarded his correspondence with Nowicki to Bruno and asked the Union to file a grievance over his 29-day suspension. That day, Bruno responded asking the Charging Party to send him the documents related to the discipline, stating that the Union would review them. The Charging Party sent Bruno the materials he had available to him.

On September 13, 2021, the Charging Party sent the Union an email to follow up on his request that the Union file a grievance on his behalf.

On September 14, 2021, the Union responded that it would not file a grievance on the Charging Party's behalf because it believed that any grievance filed with regard to the discipline would be without merit. The Union explained that it based its decision on the review of the materials the Charging Party provided, his explanation of the circumstances giving rise to the discipline, and relevant City policy. The Union commented that it believed the City would have had just cause to terminate his employment for the identified offense of falsification of attendance records in lieu of the suspension it ultimately issued him. The Union concluded that it would not grieve his 29-day suspension.

On October 6, 2021, the Charging Party attempted to again file a grievance individually over his 29-day suspension, but HR representative Nowicki directed him to work with the Respondent to file a grievance.

On December 21, 2021, the Respondent forwarded the Charging Party its email from September 14, 2021. It stated that the existence of a new issue did not render a grievance over the Charging Party's suspension meritorious.

At hearing, Bruno testified that he did not file grievances on the Charging Party's behalf over any of the suspensions because he believed the grievances lacked merit due to the severity of the offenses and believed that filing grievances on such allegations would therefore be frivolous. He further stated that the Union's decision not to file grievances on the Charging Party's behalf was based on cost, noting that it costs anywhere from $250 to $2500 to simply file a grievance. While he initially indicated that this cost represented rent and salaries paid to union employees, he later clarified that the majority of the legal expenses of grievances arise from the arbitration process.[4]

However, Bruno stated that he also relied on Blass's legal opinion on Janus in deciding whether to represent the Charging Party. He further conceded that before late 2021, the Respondent did not represent any non-dues paying members and that the Respondent treated non-dues-paying members differently with respect to grievances. He subsequently clarified that the

[4] Union attorney Blass's description of impressions and statements conveyed to him by Union President Bruno are not given great weight as they are reasonably considered hearsay.

Union did represent non-members for collective bargaining and matters that affect the unit as a whole, but that it treated personal grievances differently.

10. The Respondent Allegedly Changes its Approach To Representation in Late 2021

Bruno testified that in late 2021, the Respondent changed how it conducted its business under the Janus ruling. He stated that, based on his current understanding of Janus, the Respondent is obligated to investigate and file grievances on behalf of all bargaining unit members, even those who are not dues-paying members of the union. Bruno also suggested that the Respondent changed its position based on guidance it had received from the Board on this issue. Bruno stated, "we had another dealing with the Labor Board, and we were given the Labor **B**oard's opinion on how the –what the Union's conduct should be." Tr. P 83. However, Bruno made no reference to any case number, written decision, or date on which the Union received such guidance, and no evidence of such guidance by the Board was submitted into evidence. Attorney Blass similarly testified that the Respondent changed its position due to an opinion from the Illinois Labor Relations Board but likewise provided no details about the opinion the Respondent relied upon.

11. Developments following the hearing

On March 15, 2022, the Charging Party again asked the City if he could appeal all four of his suspensions. On March 22, 2022, Nowicki responded that the City would hear his grievances and stated that the City would invite the Respondent to represent him. Nowicki further stated that if the Respondent chose not to represent him, he should be prepared to represent himself.

On March 23, 2022, Union attorney Trevarthen-Escarcida stated that the Respondent accepted the City's invitation to represent the Charging Party in his grievances.

On April 7, 2022, the Union filed grievances with the City over the Charging Party's four suspensions including the 5-day, 8-day, 15-day, and 29-day suspensions.[5] The first-step grievance hearing was scheduled for April 21, 2022.

[5] The Union provided copies of these grievances, after the hearing concluded, together with a motion to dismiss. The Charging Party had an opportunity to respond to the Union's motion and did not deny that the Union filed these grievances.

IV. DISCUSSION AND ANALYSIS

1. Amending the Complaint

The complaint is amended *sua sponte* in two respects, as outlined below.

The Act gives the administrative law judge discretion to amend the complaint. Section 11(a) provides, in relevant part: "Any such complaint may be amended by the member or hearing officer conducting the hearing for the Board in his discretion at any time prior to the issuance of an order based thereon." 5 ILCS 315/11(a) (2018). Section 1220.50(f) of the Board's Rules likewise provides that "[t]he Administrative Law Judge, on the judge's own motion or on the motion of a party, may amend a complaint to conform it to the evidence presented in the hearing or to include uncharged allegations at any time prior to the issuance of the Judge's recommended decision and order." 80 Ill. Admin. Code § 1220.50(f). Interpreting these provisions, the Board has held that it is appropriate to amend a complaint in the following circumstances: (1) where, after the conclusion of the hearing, the amendment would conform the pleadings to the evidence and would not unfairly prejudice any party; and (2) to add allegations not listed in the underlying charge, so long as the added allegations are closely related to the original allegations in the charge, or grew out of the same subject matter during the pendency of the case. Forest Preserve Dist. of Cook Cnty. v. Ill. Labor Relations Bd., 369 Ill. App. 3d 733, 746-7 (1st Dist. 2006); Chi. Park Dist., 15 PERI ¶ 3017 (IL LLRB 1999); City of Chi. (Police Dep't), 14 PERI ¶ 3010 (IL LLRB 1998); Cnty. of Cook, 5 PERI ¶ 3002 (IL LLRB 1988); but see Cnty. of Cook and Sheriff of Cook Cnty., 6 PERI ¶ 3019 (IL LLRB 1990).

The complaint is amended to add the allegation that the Respondent breached its duty of fair representation by refusing to file a grievance over the Charging Party's 29-day suspension, based on his non-member status. This amendment is closely related to the original allegations, which likewise concern the Respondent's refusal to represent the Charging Party based on his non-member status. Furthermore, no prejudice would result from the amendment because evidence related to the amended allegation was presented at hearing such that the Respondent had the chance to defend against it. See Chi. Park Dist., 15 PERI ¶ 3017.

In addition, the complaint is amended to include the allegation that the Respondent's June and August 2020 statements to the Charging Party, that it would not represent him because of his non-member status, violate Section 10(b)(1) as unlawful threats. This allegation is closely related to those raised in the original complaint, such that Respondent would have proffered the same or

similar defenses. Indeed, the complaint includes reference to these statements and the Respondent developed evidence concerning their context and its impetus for making them. Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013 ALJ n. 2 (IL LRB-LP 2002) (making same amendment).

2. Interference, Restraint and Coercion

The Respondent violated Section 10(b)(1) of the Act when it informed the Charging Party in June and August 2020 that it would not represent him in disciplinary and grievance matters because he resigned his membership in the union and was no longer a dues paying member.

Section 10(b)(1) of the Act states, in relevant part, that it shall be an unfair labor practice for a labor organization or its agents "to restrain or coerce public employees in the exercise of the rights guaranteed in this Act [.]" To state a claim under Section 10(b)(l) of the Act that a labor organization or its agents "restrained or coerced public employees," a charging party must demonstrate that the complained-of conduct would be regarded by a reasonable employee as threatening or coercive of their rights under Section 6(a) of the Act. Village of Skokie, 14 PERI ¶ 2014 (IL SLRB 1998), aff'd, 306 Ill. App. 3d 489 (1999). Section 6(a) of the Act provides that employees...may engage in concerted activities such as collective bargaining and have the right form, join or assist any labor organization. 5 ILCS 315/6. They also have the right to refrain from participating in any such concerted activities. Id.

The Respondent's statements to the Charging Party, that the Respondent would not represent him in the disciplinary and grievance process because he resigned his union membership, qualify as unlawful threats against protected activity. The Charging Party has the statutory right to refrain from joining a labor organization. In turn, the Respondent's statements would have a reasonable tendency to restrain this right because they leave a reasonable employee with the impression that he must join the labor organization to receive adequate representation. Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013 (union unlawfully threatened employee that his support for rival union would forfeit current union's protection in future employment disputes); Newport News Shipbuilding & Drydock Co., 631 F.2d 263, 270 (4th Cir. 1980) (threats of unequal representation to non-members violated similar provision of NLRA); Painting & Graphic Communications Union No. 180, 238 NLRB 24, 25-26 (1978).

The Respondent's claim, that it believed it was privileged in its refusal to represent Charging Party because of the advice it received from its attorney, does not mitigate the coercive effect of its statements. Intertown Corp., 90 NLRB 1145, 1178-9 (1950) ("A mistake of law does not...excuse what is otherwise a coercive statement.").

Thus, the Respondent's statements to the Charging Party in this case violated Section 10(b)(1) of the Act.

3. Breach of the Duty of Fair Representation

The Respondent breached its duty of fair representation in violation of Section 10(b) of the Act when it refused to file grievances on behalf of the Charging Party due to his non-member status.

Section 10(b)(1) of the Act provides that "[i]t shall be an unfair labor practice for a labor organization or its agents...to restrain or coerce public employees in the exercise of the rights guaranteed in this Act, provided...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." 5 ILCS 315/10(b)(1).

A violation of Section 10(b)(1) of the Act, requires a charging party to prove by a preponderance of the evidence that: (1) the union's conduct was intentional, invidious and directed at the charging party, and (2) the union's intentional action occurred because of and in retaliation for some past activity by the unit member or because of the unit member's status (such as race, gender, or national origin), or animosity between the unit member and the union's representatives (such as that based upon personal conflict or the employee's dissident union practices). Metro. Alliance of Police v. Ill. Labor Relations Bd., Local Panel, 345 Ill. App. 3d 579, 588 (1st Dist. 2003); see also Murry and AFSCME, Local 1111, 14 PERI ¶ 3009 (IL LLRB 1998), aff'd, sub nom. Murry v. AFSCME, Local 1111, 305 Ill. App. 3d 627 (1st Dist. 1999) and International Brotherhood of Teamsters, Local 700, 31 PERI ¶ 5 (IL LRB-LP 2014).

To establish the second element of a Section 10(b)(1) violation, the charging party must establish a *prima facie* case of unlawful discrimination by demonstrating by a preponderance of the evidence that: 1) the employee has engaged in activities tending to engender the animosity of union agents or that the employee's mere status, such as race, gender, religion or national origin, may have caused animosity; 2) the union was aware of the employee's activities and/or status; 3)

there was an adverse representational action by the union; and 4) the union took the adverse action against the employee for discriminatory reasons, i.e., because of animus toward the employee's activities or status. Metro. Alliance of Police, 345 Ill. App. 3d at 588.

To prove the requisite causal connection between the employee's protected activities and the adverse representation action, the charging party must submit direct or circumstantial evidence establishing the union's unlawful motive. Metro. All. of Police, 345 Ill. App. 3d at 589; American Federation of State, County, and Mun. Empl., Council 31, (Robertson), 18 PERI ¶ 2014 (IL LRB-SP 2002). In-duty-of-fair-representation cases, circumstantial evidence may include the timing of the union's adverse action in relation to the protected activity, expressions of hostility toward protected activities, disparate treatment of employees or a pattern of conduct that targets certain employees for adverse representation action, and shifting or inconsistent explanations for the adverse representation action. Metro. All. of Police, 345 Ill. App. 3d at 589 (citing City of Burbank v. Illinois State Labor Relations Bd., 128 Ill. 2d 335, 345-6 (1989)).

Once the charging party establishes a *prima facie* case, the burden will then shift to the union to demonstrate that it would have taken the same action in the absence of the animus. Metro. All. of Police, 345 Ill. App. 3d at 589. The union can escape liability if it proffers a legitimate explanation for its adverse representational actions and if the Board ultimately determines that its explanation is not pretextual. Id. However, if the proffered reasons are merely litigation figments or were not in fact relied upon, then the reasons are pretextual and the inquiry ends. City of Burbank, 128 Ill. 2d at 345-46 (applying similar framework to cases arising under Section 10(a) of the Act).

Here, the Respondent's refusal to file grievances on the Charging Party's behalf was an intentional act, directed at the Charging Party. In considering whether a union's conduct is intentional, the Board looks to whether the union took some deliberate action or whether, instead, the union acted with mere negligence. Murry and AFSCME, Local 1111, 14 PERI ¶ 3009; see also State and Municipal Teamsters Chauffeurs and Helpers, Local 726 (Colello), 10 PERI ¶ 3026 (IL SLRB 1994) (requiring more than mere negligence). In considering whether a union's conduct is directed at the charging party, the Board looks to whether the union's actions affected solely the charging party or whether it also affected others. American Federation of State, County, and Mun. Empl., Council 31, (Robertson), 18 PERI ¶2014.

Here, the Respondent intentionally and deliberately refused to process the Charging Party's grievances. On four occasions between March 2020 and December 2021[6] the Respondent informed the Charging Party in writing that it would not file grievances on his behalf. The Respondent did not in fact file grievances over the Charging Party's 5-day, 8-day, 15-day, and 29-day suspensions, until after the record close in this case, though the Charging Party repeatedly requested that the Respondent do so. See cases infra.

In addition, the Respondent's refusal to file the Charging Party's grievances was directed at the Charging Party because each of the requested grievances arose from individual disciplinary actions, unique to the Charging Party. See American Federation of State, County and Municipal Employees, Council 31, (Hughes), 20 PERI ¶ 88 (IL LRB-SP 2004) (refusal to arbitrate charging party's grievance was intentional and directed at her); Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013, aff'd, 345 Ill. App. 3d 579 (2003) (express refusal to arbitrate suspension grievance was intentional and directed at the charging party); but see American Federation of State, County, and Mun. Empl., Council 31, (Robertson), 18 PERI ¶2014 (union did not intentionally act to disadvantage charging party's particular interests where its actions also affected her job share partner, toward whom the union harbored no animus).

The Respondent's reliance on the advice of its counsel concerning the impact of the Supreme Court's decision in Janus does not change the intentional character of its conduct or transform it into negligence. Courts have long recognized the common maxim that "ignorance of the law will not excuse any person, either civilly or criminally." Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA, 559 U.S. 573, 581 (2010). It "normally applies where a defendant possesses the requisite mental state in respect to the elements of the crime but claims to be unaware of a law forbidding his conduct**.**" Cf. Rehaif v. United States, 139 S. Ct. 2191 (2019). In turn, an intentional violation of the law may be proven even if the actor lacked actual knowledge that its conduct violated the law. Jerman, 559 U.S. at 582-3 (citing Ellis v. United States, 206 U.S. 246, 255). Here, the Respondent asserts that it relied in good faith on a memo from its attorney, which opined that the Respondent could legally refuse to represent bargaining unit members in discipline and grievance matters if they resigned their union membership and did not otherwise pay for representation. The Respondent further asserts that it then believed its conduct to be lawful, though

[6] The dates were March 13, 2020, August 27, 2020, September 14, 2021, and December 21, 2021.

it now appears to concede that it has a duty to represent all members equally under the Act.[7] Nevertheless, the Respondent's professed lack of knowledge that its deliberate actions violated the law are insufficient to undermine the conclusion that the Respondent's actions were intentional and directed at the Charging Party. See cases supra.

Turning to the second prong of the test, the Charging Party in this case has also proven, by a preponderance of the evidence, that the Respondent's refusal to file grievances on his behalf was unlawful discrimination and evidence of its hostility toward his protected activity. All the elements of the Charging Party's *prima facie* burden are met here. First, the Charging Party engaged in activities tending to engender the animosity of union agents when he resigned his membership from the union and ceased paying any union dues in October 2019. The Charging Party's actions were protected under Section 6 of the Act and are similar in character to other types of conduct that the Board has considered to have a tendency to engender the animosity of union agents, such as testifying against the union in Board proceedings[8] or collecting signatures for another union.[9]

Furthermore, the Respondent was clearly aware that the Charging Party resigned his membership because it refunded his dues and thereafter repeatedly referenced his non-dues-paying status.

Next, the Respondent took adverse representation actions against the Charging Party by refusing to file any grievances on his behalf. Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013; American Federation of State, County and Municipal Employees, Council 31, (Hughes), 20 PERI ¶ 88.

Finally, it is clear that the Respondent refused to file grievances on the Charging Party's behalf because the Charging Party resigned his membership in the union and refused to fund the Respondent in any respect. The documentary evidence makes this apparent. In October 2019, the Respondent informed the Charging Party that it would no longer file grievances on his behalf or

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[7]The Respondent has not argued that it lacks the obligation to represent all members, and it has made no claim that the Supreme Court's decision in Janus narrowed the duty of fair representation. Furthermore, the Respondent's witnesses stated that they now understand that the Respondent has the obligation to represent all bargaining unit members equally, irrespective of dues-paying status.

[8] See American Federation of State, County and Municipal Employees, Council 31, (Hughes), 20 PERI ¶ 88.

[9]See Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013 (IL LRB-LP 2002), aff'd,345 Ill. App. 3d 579(2003).

give him free legal representation after he resigned his membership in the Union. The Respondent even asked the Charging Party to acknowledge this change in writing. Later in June 2020, when the Charging Party asked the Respondent to file grievances over suspensions he received, President Bruno replied on behalf of the Respondent stating, "you forgot to tell everyone you withdrew your membership to the Union in writing besides exercising your right to not pay dues...The Union sent you a certified letter detailing...the benefits you would lose by withdrawing from the Union...You still withdrew from the Union and refused to pay dues knowing the Union would no longer represent you in matters concerning personal grievances or discipline." The Respondent reiterated this position in August 2020, when the Charging Party again asked the Respondent to file a grievance on his behalf, this time over his 15-day suspension. Attorney Blass observed that the Charging Party resigned his union membership and ceased paying dues in 2019, and as a result, retained some benefits of union representation, such as the benefits of the collective bargaining agreement. However, those benefits did "not include representation in the disciplinary and grievance process." Consistent with this stance, the Respondent once again refused to represent the Charging Party in a disciplinary action resulting in a 29-day suspension and also refused to file a grievance over that discipline until after the hearing in this case. Thus, the Charging Party has met his initial burden to show that the Respondent refused to represent him in the disciplinary and grievance processes because he resigned his membership in the union and ceased paying dues.

There is no merit to the Respondent's suggestion that the Charging Party's claim of discrimination must fail absent evidence of specific instances in which the Respondent treated dues-paying union members more favorably in analogous circumstances. Disparate treatment is circumstantial evidence of unlawful motive and is oftentimes compelling in cases where direct evidence cannot be found, but it is not required to prove discrimination. County of Bureau and Bureau County Sheriff, 29 PERI ¶ 163 (IL LRB-SP 2013). Here, it is unnecessary to conduct a disparate treatment analysis where the Respondent explicitly informed the Charging Party of its intent to treat the Charging Party differently from dues-paying members because of his non-dues-paying status.

There is likewise no merit to the Respondent's suggestion that the Charging Party can only prove unlawful discrimination by showing that union agents harbored personal animosity against him. Rather, he need merely show that he engaged in activities tending to engender the animosity of union agents. Metro. Alliance of Police, 345 Ill. App. 3d at 588. Here, the Charging Party made

that showing when he presented evidence that he resigned his union membership and refused to fund the union in any respect thereafter. The Charging Party is not required to additionally show that union agents' feelings towards him were personal.

In the same vein, the Respondent's expressed refusal to represent other non-dues-paying members in grievance and disciplinary matters, absent payment, is no defense to the Respondent's conduct here. The fact that the Respondent made a policy of its discriminatory practices does not render them lawful. Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013, aff'd, 345 Ill. App. 3d 579 (2003) (union breached duty of fair representation where it declined to pursue employee's grievance on the grounds that it "did not pursue grievances for individuals who are working for other unions.").

Contrary to the Respondent's assertion, there is insufficient evidence that the Charging Party rejected the Respondent's assistance or otherwise absolved the Respondent of its obligation to represent him. Certainly, a union has no affirmative duty to intercede on a charging party's behalf, absent evidence that the charging party requested representation. American Federation of State, County, and Mun. Empl., Council 31, (Robertson), 18 PERI ¶2014. Here, however, the Charging Party expressly requested the Respondent's assistance on at least three occasions, March 9, 2020, August 25, 2020, and September 10, 2021, when he asked the Respondent to file grievances on his behalf. While the witnesses dispute the extent to which the Charging Party welcomed the Union's assistance on an earlier occasion, at a pre-disciplinary hearing on February 20, 2020 involving the Charging Party's 5-day suspension,[10] the Charging Party's subsequent and repeated requests for assistance were unambiguous. Indeed, he could not challenge his discipline without the Respondent's assistance because under the applicable collective bargaining agreement only the Respondent can file grievances.

In sum, the Charging Party has satisfied his *prima facie* burden to show that the Respondent unlawfully discriminated against him, and the burden therefore shifts to the Respondent to show that it would have taken the same action irrespective of the Charging Party's decision to resign his membership in the union. However, as discussed below, the Respondent has not met that burden here.

[10]The Respondent's conduct at this meeting does not serve as the basis for the unfair labor practice complaint. It is not referenced in the complaint and also falls outside the limitations period.

The Respondent failed to demonstrate a legitimate and non-pretextual basis for refusing to file grievances on the Charging Party's behalf. To overcome the blatant reasoning set forth in the Respondent's June and August 2020 communications to the Charging Party, in which the Respondent stated that it would not represent him due to his non-member status, the Respondent must demonstrate that it fairly and objectively considered the Charging Party's grievances on their merits. Metro. All. of Police, 345 Ill. App. 3d at 591. Furthermore, the Respondent's explanations for the adverse representation actions must be deemed non-pretextual and in fact relied upon. Metro. All. of Police, 345 Ill. App. 3d at 591; City of Burbank, 128 Ill. 2d at 345-46.

Here, the preponderance of the evidence demonstrates that the Respondent did not fairly and objectively consider the merits of the Charging Party's potential grievances over his four suspensions. Rather, the Respondent's controlling motivation for refusing to file the Charging party's grievances was the Charging Party's refusal to fund the Respondent. The Respondent unabashedly characterized this as the "bottom line" because, as President Bruno explained, the Respondent did not want to provide legal representation for free: "you want all the other Sergeants to finance your legal bills when you were told otherwise after your Union withdrawal [in October 2019]." The Respondent reiterated these sentiments in subsequent correspondence to the Charging Party in August 2020, where it noted that the Charging Party's rights as a non-dues-paying member did "not include representation in the disciplinary grievance process" absent separate payment. The Respondent's claim, that it seriously considered the merits of the Charging Party's grievances is inconsistent with its repeated statements to him that he would "lose rights" to union representation in personal disciplinary grievances as a non-dues-paying member and that the Respondent would not represent him without payment.

The Respondent's claim, that it considered the merits of the Charging Party's grievances, is also inconsistent with President Bruno's admission that the Respondent did not in fact represent non-dues-paying members until late 2021, when it allegedly reconsidered its interpretation of the Janus case. While Bruno later attempted to narrow his testimony, he still maintained that the Respondent treated non-union-members' personal grievances differently than it treated members' personal grievances. Thus, the Respondent's outright and repeated admissions of unlawful motive are inconsistent with the Respondent's asserted claim that it refused to file the Charging Party's grievances because it found them to be unmeritorious. See American Federation of State, County

and Municipal Employees, Council 31, (Hughes), 20 PERI ¶ 88 (applying similar analysis when presented with direct evidence of unlawful motive).

The record contains additional evidence that the Respondent's merit-based justification for refusing to file any grievances on the Charging Party's behalf was pretextual. For example, Bruno offered shifting explanations for the Respondent's actions with respect to the Charging Party's 5-day suspension. He initially informed the Charging Party that the Respondent would not file a grievance over that matter because it would get resolved on its own without the need for a grievance.[11] At hearing, however, Bruno claimed that the Respondent did not file a grievance over that suspension, or any of the others, because the alleged offenses were too severe. County of DeKalb and State's Attorney of DeKalb County, 6 PERI ¶ 2053 (IL SLRB 1990), aff'd by unpub. order, 7 PERI ¶ 4020 (1991) (finding the respondents' "shifting and alternative approach to justifying their actions" to be "further indication of the inherent unreliability of their defense").

In addition, when the Respondent refused to file a grievance over the Charging Party's 15-day suspension it failed to inform him that it did so because the grievance lacked merit and instead relied exclusively on the fact that the Charging Party was a non-member who had not separately paid for representation in personal grievances. Where a party in a discrimination case fails to inform an employee of the reason for the adverse action at the time it occurs, the Board infers a discriminatory motive and finds the asserted business rationale pretextual. American Federation of State, County and Municipal Employees, Council 31, (Hughes), 20 PERI ¶ 88 citing County of DeKalb and State's Attorney of DeKalb County, 6 PERI ¶ 2053. The Respondent's failure to rely upon the merits of the Charging Party's proposed grievances over his 15-day suspension further supports a finding of pretext.

Contrary to the Respondent's assertion, President Bruno's request for information about the Charging Party's timekeeping documents in March 2020 does not show that the Respondent considered, in good faith, the merits of a grievance over his 5-day suspension. Although the Respondent went through the motions of soliciting information from the Charging Party, the Respondent's claim that it conducted a dispassionate assessment of the grievance's merits is entirely inconsistent with its blanket policy of refusing to represent non-dues-paying members in personal grievances and discipline. Indeed, there would be little reason for the Union to conduct

[11] Bruno stated, "your pre-disciplinary meeting, which included discussion of the days in question, when remedied should resolve your issue with pay status for the days in question."

a legitimate review of a non-dues-paying member's requested grievance where its policy of non-representation applied irrespective of the grievance's merit.

For the same reason, President Bruno's request for information pertaining to the Charging Party's 29-day suspension is insufficient to show that the Respondent considered, in good faith, the merits of a grievance over that discipline. The Respondent's discriminatory representation policy remained in full force and effect at the time it solicited the information. It therefore strains credulity to believe that the Respondent fairly considered the information it received, when it would have refused to file the grievance irrespective of its merit. Indeed, the Respondent admitted that it did not change its disparate treatment of non-members until "late 2021," and nothing in the Respondent's evidence suggests that it had reconsidered its policy as of September of that year.

The Respondent's renewed refusal to file the Charging Party's grievance in December 2021, adds no legitimacy to its stated merit-based rationale. Although, around this time, the Respondent had purportedly reconsidered its policy concerning the representation of non-members, it did not conduct a *de novo* review of the requested grievance or otherwise repudiate its earlier discriminatory practices and threats against the Charging Party's protected activity. Instead, it effectively relied on its earlier refusal to process the grievance, summarily informing the Charging Party that the existence of a new issue did not render the Charging Party's grievance meritorious. Thus, the Respondent's evidence does not show that it relied in good faith on the merits of the grievance in refusing to represent the Charging Party.

There is no merit to the Respondent's suggestion that its conduct with respect to the Charging Party's grievances should be afforded special deference under Section 6(d) of the Act or Board decisions interpreting this provision. Section 6(d) of the Act provides that nothing in the Act "shall be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious." 5 ILCS 315/6(d). Relying on this provision, the Board ordinarily does not second guess a union's decision not to advance a grievance. International Brotherhood of Teamsters, Local 700 (Brassel), 31 PERI ¶5 (IL LRB-LP 2014). However, a union's discretion is not unlimited, and when there is direct evidence of a union's unlawful motive, as there is here, the Board requires the union to show that its decision-making was "demonstrably unbiased and objective." Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013, aff'd, 345 Ill. App. 3d 579 (2003). The Respondent has not done so here.

Finally, the defects in the Charging Party's testimony do not warrant a finding that the Respondent acted lawfully in this case. The evidence that controls the outcome is the documentary evidence, including emails and letters, in which the Respondent repeatedly relied on the Charging Party's non-dues-paying status in denying him representation. While the Charging Party offered some overly broad testimony that was impeached at hearing, so did the Respondent's key witness, Union President Bruno.[12] The Charging Party's misrepresentations do not warrant disregard of the compelling documentary evidence that shows the Respondent's controlling unlawful motive in this case.

Thus, the Respondent violated Section 10(b)(1) of the Act when it refused to file grievances over the Charging Party's four suspensions.

4. Respondent's Motion to Dismiss[13]

The Respondent's motion to dismiss is denied because there is insufficient evidence that the Respondent repudiated its unlawful conduct.

To permit dismissal on the basis of a party's repudiation of its unlawful conduct, the repudiation must be timely, unambiguous, specific in nature to the unlawful conduct, and free from other proscribed conduct. See State of Illinois, Departments of Central Management Services and Corrections, 25 PERI ¶ 12 (IL LRB-SP 2009) (applying NLRB repudiation principles to unlawful conduct by employer) (United States Service Industries, 324 NLRB 834, 837-838 (1997) and Passavant Memorial Area Hospital, 237 NLRB 138 (1978)). In addition, there must be adequate publication of the repudiation to the employees involved, and the Respondent must not have engaged in any proscribed conduct after the publication. Id. Finally, the repudiation must also

[12]For example, Bruno testified that the cost of merely filing a grievance was $250 to $2500 and attempted to attribute this cost to the Respondent's rent and the salaries it paid its employees. See Tr. 80-1. Bruno later corrected his testimony and conceded that the bulk of the costs of grievance processing comes from arbitration. Tr. P. 85. Similarly, Bruno initially denied that the Union failed to represent non-dues-paying members between 2018 and 2021, but later conceded that, until late 2021, the Union did not in fact represent non-dues-paying members. See Tr. P. 83-4. Bruno again attempted to backtrack, stating that the Union simply handled personal disciplinary matters "differently" for non-dues paying members, in accordance with the advice provided by the Respondent's attorney. Tr. 94. Finally, as discussed above, Bruno offered shifting reasons for the Respondent's refusal to file a grievance over the Charging Party's 5-day suspension.
[13]The Respondent filed a motion to dismiss prior to filing its post-hearing brief. The Charging Party filed a response.

assure employees that the Respondent will not interfere with the charging party's protected rights in the future. Id.

Here, the Respondent has not offered any unambiguous repudiation of its unlawful conduct. It has simply filed grievances over the Charging Party's four suspensions,[14] without any characterization of its past conduct as unlawful and without making it clear that employees have the right to refrain from engaging in union activity. The Respondent has also failed to assure the Charging Party that it will not interfere with employees' protected rights in the future. Finally, the Respondent's alleged repudiation of its unlawful conduct is untimely because it comes more than a year and half after the first instance of alleged misconduct and nearly six months after the complaint issued. Int'l Broth. of Painters & Allied Trades, 312 NLRB 1036, 1042 & n. 7 (1993) (applying Passavant standard to allegations against union); see also Am. Postal Workers (Postal Serv.), 299 NLRB 858, 859 (1990) (union's repudiation of unlawful conduct deemed untimely).

Thus, dismissal of the complaint would be inappropriate here.

5. Remedy

The remedy for the Respondent's threat to refrain from representing the Charging Party in grievances and discipline as long as he remained a non-paying member is a cease-and-desist order and the posting of a notice by the Respondent. Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013; City of Chicago, 10 PERI ¶ 3021 (IL LLRB 1994).

The remedy for the Respondent's refusal to process the Charging Party's suspension grievances is an order that the Respondent process his suspension grievances through arbitration in good faith. American Federation of State, County and Municipal Employees, Local 981 (Pearson), 15 PERI ¶ 1066 (IL ELRB 1998); Iron Workers Local Union 377, International Association of Bridge, Structural and Ornamental Iron Workers, 326 NLRB No. 54 (1998)(applying this remedy where union unlawfully failed to honor employee's request that it file a grievance against the employer). In addition, the remedy includes an order that the Respondent permit the Charging Party to be represented by his own counsel during the arbitration proceeding and to pay the reasonable legal fees of his counsel. Id.

The purpose of this remedy is to hold the Respondent to the terms of its agreement with the City and to allow the Charging Party to have his grievances resolved on the merits, pursuant

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[14]The employer agreed to waive any timeliness defenses.

to the negotiated grievance procedure. American Federation of State, County and Municipal Employees, Local 981 (Pearson), 15 PERI ¶ 1066 (citing United Rubber, Cork, Linoleum and Plastic Workers of America (Mark-Wayne II), 290 NLRB 817 (1988)).

If the Union is unable to process the grievances to arbitration for procedural or other reasons, the Charging Party may initiate compliance proceedings at which the Charging Party will have the opportunity to show that he would have prevailed at arbitration. American Federation of State, County and Municipal Employees, Local 981 (Pearson), 15 PERI ¶ 1066. If the Charging Party makes such a showing, he will be made whole for any losses he suffered as a consequence of the Respondent's refusal to process his grievances, with interest. Id.

The Board's Local Panel has commented that the remedial approach, outlined above, is more fair than simply directing the Respondent to process the charging party's grievance or, alternatively, requiring the union to pay full backpay. Amalgamated Transit Union, Local 241 (Spratt), 29 PERI ¶ 78 (IL LRB-LP 2012) (declining to accept default judgment, noting problems with the recommended remedy and remanding for hearing). The former approach would be unfair to the charging party, who might be left with no remedy in cases where there are procedural bars to processing the grievance. Amalgamated Transit Union, Local 241 (Spratt), 29 PERI ¶ 78. The latter approach would be unfair to the respondent because it would require the respondent to provide a full backpay remedy without any showing that the grievances have merit.[15] Id.

Here, requiring the Respondent to arbitrate the Charging Party's grievances will avoid any gamesmanship by the Respondent in attempting to forestall the process at a later date. At the same time, it will avoid imposition of a significant penalty against the union, which would amount to 57-days-worth of pay plus interest, based on the unproven assumption that the Charging Party would have prevailed at arbitration.

Notably, an order requiring the Respondent to refund the Charging Party for the suspensions he served would not be appropriate here. Although the Board in Metropolitan Alliance of Police (Cunigan) granted such a remedy, this case is distinguishable. Metropolitan Alliance of Police (Cunigan), 18 PERI ¶ 3013. In Cunigan, the Board not only questioned the union's ability to consider the arbitration request in an unbiased manner, it also suggested that the

[15]The Board also noted that the remedy outlined above might have its own drawbacks in cases where an arbitration cannot proceed, and the Board is left to evaluate the merits of a charging party's grievance without the employer being a party to the proceedings. As discussed below, that is not a concern here. Amalgamated Transit Union, Local 241 (Spratt), 29 PERI ¶ 78.

charging party had reservations about the arbitration process[16] and stated that the charging party likely had no remedy at arbitration. Id. at n. 4.

In this case, while the Respondent's animus toward the Charging Party's protected activity was blatant, the other factors considered by the Board in Cunigan are not present. For example, the Charging Party in this case clearly wants arbitration and will participate fully. In addition, the Charging Party has the opportunity to obtain a remedy at arbitration because the Respondent, subsequent to the hearing in this case, filed grievances over the Charging Party's suspensions, and the City waived procedural bars to grievance processing.

The other remedies sought by the Charging Party, decertification of the Respondent and self-representation on all future grievance matters, are not granted here. Decertification is a representational matter with specific rules and is not a remedy to a union's breach of the duty of fair representation in an unfair labor practice proceeding. 80 Ill. Admin. Code. 1210.60(c) (decertification requires a showing of interest from the unit). A remedy allowing the Charging Party to represent himself on all future grievances is not sufficiently tailored to the unfair labor practice it is intended to address. It is far broader and also runs contrary to the order that effectively requires the Respondent to adhere to its duty of fair representation going forward. Chicago Transit Authority, 29 PERI ¶ 73 (IL LRB-LP 2012) (noting that remedy should be tailored to the unfair labor practice it is intended to redress) (citing Sure-Tan, Inc., 467 U.S. 883, 900 (1984) (addressing backpay).

Finally, the Charging Party's request for sanctions, as an alternative remedy, is also denied. The Board's rules provide for sanctions, but the Board does not consider sanctions where, as here, a party's request is unsupported by citations to the record and arguments specifying which allegations and/or denials and/or incidents of frivolous litigation are alleged to be sanctionable. See 80 Ill. Admin. Code 1220.90 (requiring parties to identify the "allegations and/or denials and/or incidents of frivolous litigation alleged to be subject to sanctions, with citations to the record, and succinct arguments"); Vill. of Elburn, 31 PERI ¶ 194 (IL LRB-SP 2015).

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[16] The Board stated that the success of a remedy requiring the union to process a grievance in good faith was "dependent on the employee[']s willingness to arbitrate the matter." Id. at n. 4.

V. CONCLUSIONS OF LAW

1. The Respondent violated Section 10(b)(1) of the Act when its agents restrained or coerced the Charging Party in the exercise of rights guaranteed by the Act by threatening to deny the Charging Party equal representation in the in disciplinary and grievance matters because he was not a non-dues-paying member of the Respondent.
2. The Respondent breached its duty of fair representation in violation of Section 10(b)(1) of the Act when it refused to file grievances on the Charging Party's behalf.

VI. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the Respondent, its officers and agents, shall:

1) Cease and desist from:
   a. Failing to accord its duty of fair representation to all employees it represents for purposes of collective bargaining;
   b. Restraining or coercing public employees in the exercise of their rights guaranteed in the Act by telling employees that it will not process their grievances or represent them in disciplinary matters if they resign their membership in the union and do not otherwise pay for representation.
   c. Discriminating against public employees because they have resigned their membership with the Respondent.
   d. In any like or related manner restraining or coercing public employees in the exercise of the rights guaranteed in the Act because they have resigned their membership in the union.
   e. In any like or related manner discriminating against public employees because they have resigned their membership in the union.
2) Take the following affirmative action necessary to effectuate the policies of the Act:
   a. Promptly process the Charging Party's grievances to arbitration in good faith.
   b. Permit the Charging Party to to be represented by his own counsel during the arbitration proceeding and pay the reasonable legal fees of such counsel.

c. In the event that it is not possible for the Respondent to pursue the Charging Party's four suspension grievances, and if the Charging Party shows in compliance that timely pursued grievances on those suspensions would have been successful, make the Charging Party whole for any losses he suffered as a consequence of the Respondent's refusal to process those grievances, together with interest.
d. Notify the Charging Party, in writing, that it will not refuse to process grievances filed on his behalf because he resigned his membership with the Respondent and otherwise refused to pay for representation.
e. Post, at all places where notices to bargaining unit members are normally posted, copies of the Notice attached to this document. Copies of this Notice shall be posted, after being duly signed, in conspicuous places, and be maintained for a period of 60 consecutive days. The Respondent will take reasonable efforts to ensure that the notices are not altered, defaced or covered by any other material.
f. Notify the Board in writing, within 20 days from the date of this Decision, of the steps the Respondent has taken to comply with this order.

VII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within seven days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions and cross responses must be filed with the Board's General Counsel, at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, or to the Board's designated email address for electronic filings, at ILRB.Filing@Illinois.gov. All filing must be served on all other parties. Exceptions, responses, cross-exceptions and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement of listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-

exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois this 23rd day of May, 2022

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

/S/ *Anna Hamburg-Gal*

Anna Hamburg-Gal
Administrative Law Judge

NOTICE TO EMPLOYEES

FROM THE
ILLINOIS LABOR RELATIONS BOARD

Case No. L-CB-21-006

The Illinois Labor Relations Board, Local Panel, has found that the Illinois Council of Police has violated the Illinois Public Labor Relations Act and has ordered us to post this Notice. We hereby notify you that the Illinois Public Labor Relations Act (Act) gives you, as an employee, these rights:

- To engage in self-organization
- To form, join or assist unions
- To bargain collectively through a representative of your own choosing
- To act together with other employees to bargain collectively or for other mutual aid and protection
- To refrain from these activities

Accordingly, we assure you that:

WE WILL cease and desist from failing to accord our duty of fair representation to all employees we represent for purposes of collective bargaining;

WE WILL cease and desist from restraining or coercing public employees in the exercise of their rights guaranteed in the Act by telling employees that we will not process their grievances or represent them in disciplinary matters if they resign their membership in the union and do not otherwise pay for representation.

WE WILL cease and desist from discriminating against public employees because they have resigned their membership with the union.

WE WILL cease and desist from, in any like or related manner, restraining or coercing public employees in the exercise of the rights guaranteed in the Act because they have resigned their membership in the union.

WE WILL promptly process the Charging Party's grievances to arbitration in good faith.

WE WILL permit the Charging Party to be represented by his own counsel during the arbitration proceeding and pay the reasonable legal fees of such counsel.

DATE ____________ ________________________

Illinois Council of Police
(Labor Organization)

ILLINOIS LABOR RELATIONS BOARD

One Natural Resources Way, First Floor
Springfield, Illinois 62702
(217) 785-3155

160 North LaSalle Street, Suite S-400
Chicago, Illinois 60601-3103
(312) 793-6400

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED.