STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

WAYNE COUNTY,
Public Employer-Respondent,

MERC Case No. C16 B-015

-and-

AFSCME COUNCIL 25, LOCAL 3317,
Labor Organization-Charging Party.
_____/

APPEARANCES:

Wayne County Assistant Corporation Counsel, Bruce Campbell, and The Mike Cox Law Firm, PLLC, by Michael A. Cox and Joseph P. Furton, Jr., for Respondent

Jamil Akhtar, for Charging Party

DECISION AND ORDER

On September 10, 2018, Administrative Law Judge Travis Calderwood issued his Decision and Recommended Order[1] in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act, 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service, and no exceptions have been filed by either of the parties.

ORDER

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

/s/
Edward D. Callaghan, Commission Chair

/s/
Robert S. LaBrant, Commission Member

/s/
Natalie P. Yaw, Commission Member

Dated: November 1, 2018

[1] MAHS Hearing Docket No. 16-003534

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

WAYNE COUNTY,
Respondent-Public Employer, Case No. C16 B-015
Docket No: 16-003534-MERC

-and-

AFSCME COUNCIL 25, LOCAL 3317,
Charging Party-Labor Organization.
_____/

APPEARANCES:

Wayne County Assistant Corporation Counsel, Bruce Campbell, and The Mike Cox Law Firm, PLLC, by Michael A. Cox and Joseph P. Furton, Jr., for the Respondent-Public Employer

Jamil Akhtar, for the Charging Party-Labor Organization

DECISION AND RECOMMENDED ORDER OF ADMINISTRATIVE LAW JUDGE

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, the above captioned case was assigned to Administrative Law Judge, Travis Calderwood of the Michigan Administrative Hearing System (MAHS), acting on behalf of the Michigan Employment Relations Commission (Commission). Based upon the entire record, including the transcripts of hearings held on October 4, 2017 and November 6, 2017, the exhibits admitted into the record and post hearing briefs, I make the following findings of fact, conclusions of law and recommended order.[2]

Procedural History and Unfair Labor Practice Charge:

For a more detailed procedural history in this matter See Case No. C14 G-079A; Docket No. 15-037169-MERC, issued this same day and incorporated by reference herein.

On February 17, 2016, AFSCME Council 25, Local 3317 ("Charging Party" or the "Union"), filed the present unfair labor practice charge, alleging that the County had failed to engage in good faith bargaining from August 21, 2015, through September 20, 2015, the later date being the date in which the County's duty to bargain under Section 15 of PERA was suspended by nature of the County's Consent Agreement with the State Treasurer. Also alleged within the charge are claims that the County, and more specifically Wayne County CEO Warren

[2] The parties stipulated that exhibits entered into during this proceeding's hearing as well as the hearings for related cases C14 G-079A; Docket No. 15-037169-MERC and Case No. C16 K-126; Docket No. 16-033168-MERC may be considered in total, where relevant, for each of the individual cases.

Evans, attempted to undermine the Union's attorney by refusing to meet with the attorney and communicating to various members of the unit that they should fire said attorney. At the hearing on October 4, 2017, counsel for Charging Party moved under MERC Rule 423.153(1) to amend the Charge and strike the later allegations. Charging Party's request was granted.

Findings of Fact:

For a more complete recitation of the events and actions of the parties leading up to the present dispute set forth herein see *Wayne County*, 31 MPER 17 (2017) (no exceptions). Additionally, my findings as set forth in Case No. C14 G-079A; Docket No. 15-037169-MERC, issued this same day, unless otherwise indicated, are incorporated by reference herein, and will not be repeated except as necessary.

Charging Party represents a bargaining unit comprised of Sergeants, Lieutenants and Captains employed with the Wayne County Sheriff's Department. The parties were signatories to a collective bargaining agreement in effect from October 1, 2011, through September 30, 2014. The parties began bargaining over a successor agreement sometime in the beginning of 2014, with the first formal session occurring in March 2014.

I. Local 3317 Bargaining and the Consent Agreement

On or around April 20, 2015, the Union received its first bargaining proposal from the Evans administration. That proposal, detailed in great length in Case No. C14 G-079A, was less generous economically then the County's prior proposal. Key portions of that proposal for purposes of this proceeding included: (1) Medical plan deductible amounts of $1,300 per member with a maximum out-of-pocket of $2,600.00 per family, with a premium share set at 25 percent of the premium cost; (2) Annual bonuses of $500.00 for single person coverage, $700.00 for two-person coverage, and $1,000.00 for family coverage; (3) A pension multiplier of 1.25% with a lookback of ten years; (4) A 7% employee contribution for defined benefit plans 1, 3, 5 and 6 for those making less than $52,155.00 annual wage and an 8% contribution level for those with a higher annual wage; and (5) A 4% employee contribution to those in the defined compensation plan. The Proposal did not include any wage increase. As testified to by Kenneth Williams, the County's Director of Labor Relations, Case No. C14 G-079A, the County's proposal was guided by the County's Deficit Elimination Plan. Connell testified that Charging Party did not present the County with any proposal.

The parties met again on May 1, 2015. Bargaining Team Chair, Sergeant Daniel Connell testified that here too, Charging Party did not present any proposal or counterproposal to the County. At the parties next meeting, May 28, 2015, Connell admitted that the County's Director of Labor Relations, Kenneth Wilson, told the Union's bargaining team that the County wanted to use the Delinquent Tax Revolving Fund (DTRF) monies to address the County's accumulated deficit.[3] Connell further admitted that the County's structural deficit was also discussed at this

[3] As discussed in C14 G-079A, the County's Delinquent Tax Revolving Fund is a separate fund maintained by the County's Treasurer whereby the County advances funds to municipalities, school districts, and other taxing authorities in Wayne County prior to the actual collection of those taxes, interests and fees. In order to be able to advance those monies, the County Treasurer borrows money which is then paid back upon the collection the taxes and other monies. At the Treasurer's discretion and prerogative any "surplus" funds from the DTRF may be transferred to County's General Fund by Board resolution.

meeting.

At the parties next meeting, June 8, 2015, the County's Deputy Chief Financial Officer Kevin Haney was present and discussed the County's economic difficulties. Haney went on to indicate that the DTRF monies were traditionally lower than the amounts realized by the County in 2014. Here again the Union made no proposal or counter proposal to the County. This was the same for a brief bargaining session held on June 17, 2015.

On June 22, 2015, Charging Party filed a request with the Commission to reinstate Case No. D14 A-0018; the petition was reinstated on June 23, 2015.[4] The Arbitration Chairperson remanded the matter for 21 days of further negotiations pursuant to Section 7 of Act 312, MCL 423.237a. The parties, at that time, engaged in negotiations with the assistance of a mediator. Also, sometime during the negotiations the parties stopped meeting face-to-face and instead separated and bargained through the mediator; this separation lasted throughout most of the remaining sessions.

On July 14, 2015, Akhtar provided Wilson, by letter, a proposal that included what appears to be the first economic proposal made by Charging Party up to this point. That letter indicated that the "proposals are sent to you pursuant to the remand issued by [the Arbitration Chairperson]. The wage portion of that proposal essentially amounted to a pay increase of at least 5% each year.[5] The parties may or may not have met that day for bargaining. They did meet on July 16, 2015, where they discussed medical issues. Wilson testified that upon receipt of the proposal he was initially excited, but that the proposal itself was very disappointing "in light of the concessions . . .we were looking for and the sacrifices from our other unions."

At another bargaining session held on July 21, 2015, Wilson, who was leaving early that day, told the Union that "they would have access to the 31st floor." Connell admitted that he understood this comment to mean that "if something were to happen that they would have access to the [CEO's office]." However, Connell did not recall thinking at that time whether such "access" was a "good or bad thing."

On July 22, 2015, Governor Snyder declared that a local government financial emergency existed in Wayne County pursuant to the Local Financial Stability and Choice Act, 2012 PA 436 (PA 436). That same day, Wilson provided by email an economic proposal for a four-year contract which appears to be identical to the key portions of the April 2015 proposal identified above. The parties also met that day, July 23, and again on July 29, 2015.

On July 31, 2015, the mediator assisting the parties with negotiations pursuant to the remand order in Case No. D14 A-0018 notified the Arbitration Chairperson that the matter should proceed to arbitration. On August 10, 2015, the Act 312 Chairperson directed the parties to exchange their last best offers (LBO) to the other by August 24, 2015, and further provided notice that the arbitration hearings were to take place on several dates between September 10, 2015, and October 13, 2015.

[4] The following facts regarding Case No. D14 A-0018 are derived from the record as developed in the present matter as well as from the Commission's Decision and Order in Case No. D14 A-0018.

[5] The proposal did not explicitly set forth a wage increase but instead styled it as a progressive elimination "of the wage differential between the wages paid to like classifications at the Wayne County Airport Authority Police Department" also represented by Charging Party.

Also, on August 10, 2015, Wilson, again by email, provided another four-year economic proposal which raised the annual bonuses from $500.00, $700.00 and $1,000.00, to $650.00, $1,000.00, and $1,300.00, respectively depending on insurance coverage. Additionally, that proposal included a 2.5% wage increase in the third year as well as a reduction of the employee contribution to defined benefit plans 1, 3, 5 and 6, to 6% and 7% as opposed to 7% and 8%.

On August 12, 2015, Wilson re-sent the August 10, 2015, proposals to Akhtar with a slight change regarding the administration of the retirement system not relevant for purposes of this proceeding. The parties also met this day.

On August 14, 2015, Akhtar provided the County with the Union's "Counter Proposals" dated that same day by email. Those proposals, while very similar to the Union's July proposal, did implement the "elimination of the wage differential" discussed above in Fn 4 at a lightly slower rate.

On August 21, 2015, the County entered into a consent agreement with the State treasurer. The agreement stated on its first page the following as a purpose of its execution:

> The County Commission, County Executive, and State Treasurer want the County to undertake remedial measures to address the County's financial emergency and provide for the financial stability of the County (the "Remedial Measures") to: (1) improve the County's cash position; (2) reduce the underfunded amount needed to pay future pension obligations for participants in the Wayne County Employees Retirement System (the "WCERS") and other post-employment benefit ("OPEB") commitments; and (3) eliminate the County's $52 million structural deficit.

Section 2(b) of that agreement stated:

> Consistent with section 8(11) of Act 436, beginning 30 days after the effective date of this agreement the County is not subject to section 15(1) of 1947 PA 336, as amended, MCL 423.215, for the remaining term of this agreement.[6]

On August 24, 2015, the County provided its LBO as directed by the Arbitration Chairperson in Case No. D14 A-0018. Accompanying the LBO was a letter signed by Floyd E. Allen, one of the County's outside attorneys that had been involved with negotiations with both Charging Party and some, if not all, of the County's other bargaining units. That letter stated in part:

> The parties have not reached agreement on non-economic issues. There were some tentative agreements reached early last year between the parties, however, the new Wayne County Executive Team is reorganizing the county government

[6] Section 8(11) of PA 436, MCL 141.1548, provides:

> Unless the state treasurer determines otherwise, beginning 30 days after the date a local government enters into a consent agreement under this act, that local government is not subject to section 15(1) of 1947 PA 336, MCL 423.215, for the remaining term of the consent agreement.

> consistent with the objectives of the recent Consent Agreement to address the County's financial emergency, the TA's were therefore not ratified and are still open.

The LBO reverted back to the County's April 2015 proposals regarding medical benefit plans, and while there were no changes to the retirement provisions as had been included in each of the County's earlier proposals, the LBO included a 12% wage reduction. The LBO provided that the wage reduction was "necessary to achieve the Wayne County Recovery Plan's objectives in lieu of pension plan savings the Union has objected to in negotiations." Wilson would testify that he did not consider the LBO to be a proposal for purposes of bargaining. Wilson further claimed that the reason the LBO did not contain the retirement proposals present in the County's prior proposals was because of Article 38.01(L) of the parties' expired contract.[7]

Regarding the LBO's statement regarding the tentative agreements that had been agreed to in 2014, and which encompassed non-economic issues, Wilson testified:

> I don't think it's accurate that we threw them out the window. Floyd [Allen] gave a legal position that for purposes of the Act 312 last offers of settlement they would not have been -- they were not being honored. We at the bargaining table continued to look for an agreement on economics. Our position was, as a practical matter, if we reach this agreement on economics, everything would fall into place. The problem is we didn't get even sufficiently close on economics. This non-economics is almost a red herring. The fact is, what we needed to focus on, economics, was not necessarily in our minds being focused on by 3317 realistically until, I will say, at the very end of that 30 day period.

On September 1, 2015, the County filed a motion with the Commission to dismiss the Union's Act 312 petition, Case No. D14 A-0018 on the grounds that as of September 20, 2015, its duty to bargain under Section 15 of PERA would be suspended and that it would be under no obligation to participate in said arbitration. On September 5, 2015, the Arbitration Chairperson postponed the arbitration hearings pending action by the Commission.

The parties met again on September 17, 2015, with a mediator present. During that session, according to Connell, there was significant back and forth between the parties.[8] Connell testified that the Union made movement with respect to the pension terms. Connell claims the Union did so "in order to get the non-economics." However, it is undisputed that the County did not provide a proposal regarding non-economic issues. Furthermore, there is no indication that proposals encompassing non-economic issues were provided by the County anytime in 2015. When discussing this fact, Wilson explained that "as a practical matter… economics were

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[7] That article provided:

> Upon the termination of this Collective Bargaining Agreement on September 30, 2011, the parties may agree to bargain over retirement related issues during the next round of contract negotiations. However, all issues concerning retirement, including but not limited to, any and all provisions outlined in Article 38 of this Agreement, covering the period of October 1, 2008 through September 30, 2011, shall not be subject to Act 312 arbitration until October 1, 2020.

[8] The actual proposals exchanged between the parties were done through the mediator and were not admitted into this record pursuant to Rule 122 of the Commission's General Rules, R 423.122, 2002 AACS.

everything." Wilson went on to state:

> Once we had economics, I think getting a deal would have been very easy. But we had to have the economics, the same economics we had with our union[s] across the County.

It appears from testimony provided by Connell, Wilson, and Deputy County Executive Richard Kaufman, each of whom testified as participating in negotiations, that most of the bargaining sessions lasted for 3 to 4 hours in length. Furthermore, it appears that for a large portion, if not almost all of the time, spent at the bargaining table from July 2015 through September 2015, the parties did not sit across from each other, rather they were in separate rooms and had proposals ferried between them. Wilson testified that, despite Local 3317 being one of the County's smaller units, the County's bargaining team spent more time meeting with the Union than most of the County's other bargaining units.

Also, on September 17, 2015, the parties participated in two conference calls with United States District Court Judge Mathew F. Leitman with regards to litigation pending in the federal court relating to the consent agreement.

Ultimately Local 3317 and the County were unable to reach an agreement and, on September 21, 2015, the County imposed working conditions on the Union. It was the only bargaining unit within the County's organized labor force that was unable to reach an agreement with the County.

II. POAM Local Negotiations

As stated above, the County negotiated and bargained with all of its organized bargaining units in hopes of reaching an agreement prior to the September 20, 2015, deadline when the County's duty to bargain under Section 15 of PERA would be suspended by the Consent Agreement.

One of those units, the Police Officers Association of Michigan, Wayne County Sheriff's Local (POAM Local) unit, which represented "full-time Police Officers and Corporals permanently employed by the County of Wayne performing non-supervisory law enforcement work" reached a tentative agreement with the County on September 17, 2015, for a new four-year contract. This new agreement was entered into despite the unit's current contract not expiring until sometime in 2016.

POAM Local President, Corporal Brian Earle, testified at length regarding the negotiations with the County. Earle claimed that there had been significant back and forth proposals between April 2015 and September 2015 between the POAM Local and County bargaining teams. Earle further claimed that the County has had difficulty filling POAM Local positions and that, at the time of the hearing, there were presently approximately 200 open positions.

That tentative agreement included a 5% wage increase effective October 1, 2015, and again on September 1, 2016. In addition, the agreement also provided that for its term, the POAM Local's wage increases "shall be 5% of wages above AFSCME Local 3317 negotiated

raises."[9] The contract also included the following retirement provisions identical to those proposed to Local 3317 in April of 2015; (1) Pension multiplier of 1.25% with a ten-year lookback; (2) A 7% and 8% employee contribution for defined benefit plans 1, 3, 5 and 6, respectively with the same demarcation salary set at $52,155.00; and, (3) A 4% employee contribution to those in the defined contribution plan. The agreement set deductibles for health care plans at $1,300.00 and $2,600, for single-person and family coverage respectively along with a 25% employee premium share. Beginning in 2016, the agreement called for annual bonuses of $650.00, $1,000.00 and $1,300.00 for bargaining unit members participating in single-person, two-person, and family health insurance coverage.

The agreement also included an addition to Article 15, Promotions, which dealt with Local 3317 members who might demote to the POAM Local unit in the future. That provision read:

> If there is authority permitting demotion from Local 3317, those demoted shall be paid at Police Officer Step Level III. Bargaining unit seniority will start the date they demote back into the [POAM Local].

Earle, when asked about the above provision, stated that he thought a Local 3317 sergeant at maximum pay would stand to lose about $10,000.00 in annual wages in such a demotion. Earle further testified that the impetus of that provision was at the request of the POAM Local who first proposed the date of seniority for demotions, and that it was only after that, did Employer propose setting the salary at the Step III level.

During the second conference call with United States District Court Judge Leitman identified above, Kaufman, when addressing a question from the Judge regarding the impending implementation of employment terms on Local 3317 if an agreement with the Union could not be reached, stated that the POAM Local "would not put our tentative agreement to a ratification vote until we either come to agreement with [Local 3317], or we impose terms on Monday."

Discussion and Conclusions of Law:

The limited question at issue in the present dispute, as framed by Charging Party in its unfair labor practice charge, is whether the County violated Section 15 of PERA by failing to bargain in good faith from August 21, 2015, until September 20, 2015, the date on which the County's duty to bargain was suspended pursuant to the Consent Agreement. To this point, Charging Party alleges that the County refused to provide financial information relating to the County's "deficit's and ability pay" as well as engaging in "surface bargaining" and/or "regressive bargaining" during that short time frame.

The Commission, in determining whether a party has bargained in good faith, examines the totality of the circumstances to decide whether the party has approached the bargaining process with an open mind and a sincere desire to reach an agreement. *Grand Rapids Pub*

[9] The agreement set forth the following example:

> If on November 1, 2016, after POAM has received two (2) 5% annual wage increases, Local 3317 and the County negotiate for Local 3317 to receive a one (1) 10% annual wage increase, POAM would receive an additional 5% annual wage increase.

Museum, 17 MPER P 58 (2004); *City of Springfield*, 1999 MERC Lab Op 399, 403. Conduct recognized as violating the above duty is plentiful and includes, but it is not limited to, the refusal to execute a written contract embodying an agreement between the parties and making unilateral changes prior to impasse. Delaying tactics that may be found to violate the duty include refusing to schedule, canceling, or coming late to bargaining sessions, wasting time during meetings, and promising, but failing, to provide proposals. *City of Southfield*, 1986 MERC Lab Op 126, 134-135; *Unionville-Sebewaing Area Schs*, 1988 MERC Lab Op 86. Furthermore, while conduct amounting to "hard bargaining" is not unlawful on its face, the Commission has in the past found it appropriate to examine proposals to consider whether certain bargaining demands constitute evidence of bad-faith bargaining. See *Oakland Cmty College*, 15 MPER 33006 (2001).[10]

The above standard was applied by the undersigned in the first of the four unfair labor practice proceedings between these parties and adopted by the Commission when no exceptions were filed. *Wayne County*, 31 MPER 17 (2017) (no exceptions). In that proceeding I determined, among other things, that the County's bargaining from the position established by its DEP and its continued inclusion of pension changes, despite language prohibiting the parties from submitting such pension issues to Act 312 Arbitration until October 1, 2020, in its package proposals were not indicative of bad-faith bargaining. In making this finding, I noted that the County had made some movement with respect to its proposals despite essentially bargaining against itself; Charging Party never made any proposal other than a one-year status quo extension. Moreover, the record clearly established in that case that the County's proposed pension modifications included at times a wage increase in contrast to the wage reduction set forth in the DEP.

In the first of these related and pending cases, Case No. C14 G-079A, issued this same day, I determined that the County's change in bargaining position from its June 2014 proposal to its April 2015 proposal, although regressive in so far as it was less economically generous, did not otherwise violate the County's duty to bargain in good faith. I based this finding on the fact that the County had established that its economic outlook in 2014 under the Ficano administration, was much more positive then the outlook realized in early 2015 under the incoming Evans administration as evidenced by the financial picture portrayed in the Meyers Report; i.e., increasing structural and accumulated deficits, rising healthcare, both with actives and retirees, pension liabilities, and shrinking amounts available from the DTRF.[11] In considering the preceding, I found no basis to the allegations made by Charging Party that the Evans administration was either intentionally hiding funds to make the County's economic outlook more dire or that the County's decision to oppose Act 312 arbitration following its execution of the Consent Agreement was indicative of bad faith bargaining.

In both of above cases, when considering Charging Party's allegations in the totality of

[10] In *Oakland Cmty College*, the Commission held that the employer had engaged in surface bargaining based, in part, on the employer's insistence on multiple proposals that would have effectively required the union to forfeit its role as the exclusive bargaining agent. These included a proposal to give the college chancellor complete discretion in making merit wage adjustments and a proposal to create employee participation committees that would replace the union in dealing with the employer over terms and conditions of employment during the term of the contract.

[11] I note that under the MacDonald settlement discussed above and in Case No. C14 G-079A, the County was able to drastically reduce its retiree healthcare liability by almost a billion dollars. However, the record does not indicate that those savings resulted in an immediate influx of cash. Rather, the result of the settlement was a reduction of both current and future debt carried by the County.

the circumstances, I found no evidence that the County violated its duty to bargain in good faith. It is with a continued view of the totality of the situation that I make the conclusions as to the present charge set forth below.

While the parties only met once during the 30-day period between August 21, 2015, and September 20, 2015, they did meet upwards of 15 times from June 2015 on. Furthermore, testimony provided by the County's witnesses established that the County's bargaining team spent more time in total during 2015 bargaining with Charging Party than with most of its other units, despite the relative small size of Charging Party's units. Similar to the two prior cases, except for the seemingly unreasonable proposal that would have amounted to an approximate 20% raise over four years, there is no indication that Local 3317 ever made any economic proposal to the County that was not a continuation of the status quo. Charging Party's proposal for the almost 20% raise over four years, in the opinion of the undersigned, when viewed under the guise of a steady and consistent message from the County that its economic outlook was in danger could not then, and should not now, be considered a legitimate proposal made in good faith. The preceding notwithstanding, the County, as claimed by Wilson, did cost that proposal out. Despite not accepting that one proposal, the County did in fact, in its August 10 and 12, 2015, proposals include its own, albeit much smaller, wage increase.

Furthermore, while Local 3317, throughout this proceeding and the others before the undersigned, has made repeated claims that it could not get "non-economic" proposals from the County, that fact, when viewed as part of the bigger picture that included no real movement towards an agreement on the economic portion, does not establish that the County's failure to provide such was indicative of bad faith bargaining. Given the position that the County thought it was in at the time economically, its desire and insistence on reaching an agreement on economics, is not in my opinion unreasonable. Moreover, despite the Union's focus on "non-economics" it does not appear that the Union, with the exception of the LBO made in August and provided to the Act 312 Arbitrator Chairperson, ever made its own "non-economic" proposal. Additionally, at no point did the Union allege or attempt to establish that movement on non-economic issues by the County would have caused it to possibly move with respect to the economic proposals being put forth by the County.

Local 3317 attempted to portray the County's position and bargaining with the POAM Local as another indicia of bad faith bargaining with respect to its own bargaining. However, the record does support such conjecture. While it is true that the POAM Local did receive pay increases, the record establishes that the County was having trouble filling vacancies within the unit. Furthermore, the POAM contract was not set to expire until sometime in 2016. Additionally, POAM agreed to new contractual terms which contained the changes to retirement that the County was focused on. That contract did contain language that was directed at Local 3317 and which would appear to be punitive. However, as testified to by Corporal Earle, it was POAM and not the County that first suggested and proposed such language. Moreover, while Local 3317 attempted to present an argument that the County had, in some fashion, made a deal with the POAM Local that it would not reach an agreement with Local 3317 and that it would instead impose a contract on Charging Party come late September 2015, such an argument or position is not supported by the evidence or testimony. Kaufman did state during a telephone conference that the POAM Local would not move to ratify the contract "until [the County] come to agreement this [Local 3317], or we impose terms." However, that statement, even when considered in relation to the totality of circumstances, does indicate that a deal existed between

the County and/or the POAM Local.

In conclusion, it is the opinion of the undersigned, after considering all arguments as put forth by the parties, that the evidence on the record, taken as a whole, does not establish that the County violated its duty to bargain in good faith during the thirty-day period prior to the suspension of its duty to bargain pursuant to the Consent Agreement. As such, I recommend that the Commission issue the following order:

RECOMMENDED ORDER

The unfair labor practice charge filed by AFSCME Council 25, Local 3317 against Wayne County in Case No. C16 B-015 is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

_____

Travis Calderwood
Administrative Law Judge
Michigan Administrative Hearing System

Dated: September 10, 2018