STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

TEAMSTERS LOCAL 214,
Labor Organization-Respondent,

Case No. CU14 C-010
-and- Docket No. 14-004414-MERC

TINA HOUSE,
An Individual-Charging Party.
_____/

APPEARANCES:

Wayne A. Rudell, PLC, by Wayne A. Rudell, for Respondent

National Right to Work Legal Defense Foundation, Inc., by John N. Raudabaugh, for Charging Party

DECISION AND ORDER

On November 21, 2014, Administrative Law Judge (ALJ) Julia C. Stern issued her Decision and Recommended Order on Summary Disposition in the above matter finding that Charging Party Tina House did not state a claim upon which relief can be granted under § 10 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210. The ALJ concluded that Charging Party was not restrained in the exercise of her choice to refrain from financially supporting Respondent, Teamsters Local 214, the union that serves as the exclusive representative for Charging Party's bargaining unit. The Decision and Recommended Order of the ALJ was served on the interested parties in accordance with § 16 of PERA.

After requesting and receiving an extension of time, Charging Party filed exceptions to the ALJ's Decision and Recommended Order, and a brief in support of the exceptions on January 14, 2015. After being granted an extension of time, Respondent filed its brief in support of the ALJ's Decision and Recommended Order on February 25, 2015.

In her exceptions, Charging Party argues that the ALJ erred by concluding that she failed to state a claim because Charging Party did not allege action by Respondent that unlawfully restricted Charging Party's right to refrain from supporting the Union or otherwise interfered with terms and conditions of Charging Party's employment. Charging Party contends that the ALJ erred by failing to award a cease-and-desist order requiring Respondent to update its records to indicate Charging Party's resignation from the Union as of the date of her resignation from the Union and the revocation of her checkoff authorization. Charging Party also argues that the ALJ failed to address Charging Party's claim that Respondent's certified mail requirement violates PERA.

We have reviewed Charging Party's exceptions and find them to be without merit.

Factual Summary:

We adopt the facts as found by the ALJ and repeat them here only as necessary. We agree with the ALJ that there are no material facts at issue.

Charging Party Tina House has been employed as a secretary by Lapeer County (the Employer) since August of 2000. Her position is included in a bargaining unit represented by Respondent. On August 16, 2000, Charging Party signed a Checkoff Authorization and Assignment authorizing the Employer to deduct union dues from her wages and pay them to Respondent. On August 17, 2000, Charging Party signed an application for membership in Respondent Union and designated the Union as her representative for collective bargaining.

The Checkoff Authorization and Assignment signed by Charging Party authorizing her employer to deduct her monthly union dues from her wages and pay them to the Union provided, in relevant part:

> This authorization is voluntary and is not conditioned on my present or future membership in the Union.
>
> This authorization and assignment shall be irrevocable for the term of the applicable contract between the Union and the Company, or for one year, whichever is the lesser, and shall automatically renew itself for successive yearly or applicable contract periods thereafter, whichever is the lesser, unless I give written notice to the Company and the Union at least 60 days and not more than 75 days before any periodic renewal date of this authorization and assignment of my desire to revoke same.

On December 11, 2012, the Michigan Legislature passed 2012 PA 349 (Act 349), which, among other things, expressly provided that public employees have a right to refrain from assisting labor organizations or otherwise engaging in union activity, and made agency shop illegal for most public employees. Act 349 became effective on March 28, 2013.

At the time relevant to the charge herein, Charging Party's employer and Respondent were parties to a collective bargaining agreement containing a union security clause. The union security clause provided for agency shop and required employees to pay union dues or a service fee to the Union as a condition of employment. The collective bargaining agreement also required the Employer to deduct union dues and service fees from the wages of employees who have authorized the Employer to do so and to then provide those funds to Respondent. The Employer and Respondent entered into that contract prior to the enactment of Act 349. The agreement expired on December 31, 2013. On December 3, 2013, Respondent and the Employer entered into a tentative agreement for a successor contract that, in accordance with Act 349, did not contain a union security agreement.

On December 4, 2013, Charging Party sent a letter to Respondent resigning her union membership. Charging Party's letter explained that she was only willing to pay "those union dues and fees that I can be lawfully compelled to pay as a condition of my employment under Michigan law." She expressly objected to paying any sums used for "political, ideological, organizing, or other non-chargeable purposes." Her letter further stated that she revoked her dues deduction authorization to the extent that it authorized the deduction of anything other than

the service fees for which she was obligated to pay as a condition of her employment under Michigan law. On the same date, Charging Party provided a copy of that letter to the Employer.

Upon receipt of Charging Party's letter, the Employer stopped deducting union dues from her paycheck. She paid no additional union dues or fees to Respondent after December 4, 2013.

Respondent replied to Charging Party by letter dated December 13, 2013, which stated:

> We are in receipt of your letter requesting that your dues deduction be stopped in accordance with Public Act 349 of 2012.
>
> Please be advised that by signing the Check Off Authorization, when you first became a member, you entered into a separate independent contract with this Local Union which supersedes Public Act 349. Provisions of that Agreement do not permit you to revoke your financial obligation at this time, the proper time period is from 6/1 to 6/16, and your letter must be certified to the Local Union President. [Emphasis in original].

Respondent did not send any further correspondence to Charging Party regarding its claim that she still had a financial obligation to the Union.

On March 18, 2014, Charging Party filed the unfair labor practice charge in this matter contending that Respondent's actions restrained and coerced her in the exercise of her rights under § 9 of PERA in violation of § 10(2).

Discussion and Conclusions of Law:

We recently considered similar issues in two other cases involving Respondent, *Teamsters Local 214 (Cottrell)*, 29 MPER ___ (Case No. CU13 K-067, issued January 14, 2016); and *Teamsters Local 214 (Beutler)*, 29 MPER ___ (Case No. CU13 I-037, issued December 11, 2015). In both those cases, the language of the Checkoff Authorization and Assignment were almost identical to that of the Checkoff Authorization and Assignment in this case. In each case, as in this one, because the charging party's revocation of the Checkoff Authorization and Assignment was not made during the designated window period, Respondent insisted that the revocation was not effective and that the charging party continued to have a financial obligation to the Union.

In both *Beutler* and *Cottrell*, we quoted our decision in *Saginaw Ed Ass'n*, 29 MPER 21 (2015) in which we first examined the right to refrain under Act 349. In *Saginaw*, we explained:

> The enactment of Act 349 gave Charging Parties an express right to refrain from union activity. Thus, under § 9(1)(b) of PERA, if a public employee is not a member of a union, the right to refrain means that he or she cannot be required to become a member of a union. If he or she has no financial obligation to support a labor organization, he or she cannot be required to begin supporting a labor organization. It is also evident that refraining from union activity includes ceasing union activities that the employee has already begun. Therefore, if a public employee is a member of a labor organization, he or she has the right to resign from that organization.

In *Beutler*, unlike this case, there was no union security clause in place at the time the charging party, Beutler, resigned from union membership. Therefore, Beutler was free to resign from her union membership at will, and her failure to pay union dues could not have any impact on her employment. Since she was not covered by a union security clause, we found that until the point she resigned from the Union, she had voluntarily remained a Union member. Therefore, we concluded that she knowingly and voluntarily accepted a financial obligation under the terms of the Checkoff Authorization and Assignment. We found that by so doing, she had waived her right to refrain from financially supporting the Union until the next window period for revocation of the Checkoff Authorization and Assignment.

However, in *Cottrell*, as in this case, a union security clause was contained in the collective bargaining agreement between Respondent Teamsters Local 214 and the charging party Cottrell's employer. There, we explained that the charging party had the right to resign from union membership at will pursuant to § 9 of PERA as amended by Act 349. See *Saginaw Ed Ass'n,* 29 MPER 21 (2015). In *Cottrell*, we found that while the charging party could not be required to continue as a union member, he remained obligated to provide financial support to the Union by paying an agency fee for the term of the union security agreement. We explained:

> Because there was a lawful union security provision affecting charging party's employment, charging party did not have the right to refrain from financially supporting the union. See *Auto Workers Local 1752 (Schweizer Aircraft),* 320 NLRB 528, 531; 320 NLRB No. 39, (1995). When his membership in the union ended, charging party no longer had an obligation to pay union dues. However, he had an obligation to pay an agency fee.

In *Cottrell*, the collective bargaining agreement setting the terms and conditions of the charging party's employment continued for several months after his resignation from the Union. Since he recognized his obligation to pay an agency fee as a condition of employment, and since Respondent failed to inform Cottrell of the amount of the agency fee, he continued to pay union dues for several months. Thus, we found that Respondent violated § 10(2) of PERA by failing to recognize Cottrell as an agency fee payer, by failing to promptly inform Cottrell of his pro rata share of chargeable union expenses, and by unlawfully accepting and retaining funds in excess of Cottrell's pro rata share of chargeable union expenses.

In this matter, upon Charging Party's resignation from the Union, House became an objecting nonmember with an obligation to pay an agency fee for as long as her employment was covered by a lawful union security agreement. At that point, Respondent was obligated to inform Charging Party of the amount of the agency fee, if any, that she was required to pay for the duration of the union security agreement. As we explained in *Cottrell*:

> Respondent has a duty to ensure that objecting nonmembers are not required to make payments for union expenses that are not due to the chargeable expenses of collective bargaining, contract administration, and grievance adjustment. It is the Union's responsibility to determine and justify the amount of chargeable union expenses that may lawfully be shared by objecting nonmembers. See *Abood,* 431 US at 239–241.

Respondent failed to notify Charging Party of the amount of the agency fee. However, the collective bargaining agreement containing the union security clause expired December 31,

2013. As we explained in *Cottrell*, where an employee has an obligation to financially support a union solely due to a lawful union security agreement, that obligation ends when the collective bargaining agreement containing the union security clause expires. Therefore, Charging Party's obligation to pay an agency fee ended December 31, 2013, less than a month after she resigned her union membership. After her December 4, 2013 resignation from the Union, Charging Party paid no further union dues and no agency fees to Respondent. While Respondent should have immediately informed Charging Party of the amount of her pro rata share of the Union's chargeable expenses for collective bargaining, contract administration, and grievance adjustment, in this case, Respondent's failure to do so has had no adverse effect on Charging Party.

On exceptions, Charging Party argues that the ALJ misunderstood her argument that Respondent's December 13, 2013 letter denying Charging Party's revocation of the Checkoff Authorization and Assignment violated § 10(2) of PERA as "an implied threat to take House to collections." In her brief in support of her exceptions, Charging Party asserts:

> In this case, the Union has not made a threat (implied or outright) to take Charging Party to collections. Rather, the Union is claiming House owes union dues based on its denial of her revocation and that she continues to accrue an arrearage because she has refused to pay dues since her December revocation. . . . Indeed, the arrearage is evidence bolstering the fact that the Union violated House's right to refrain when they denied her revocation.

Despite Charging Party's contention that the Union claims that House owes an arrearage, Charging Party has offered no facts in support of her contention. Charging Party has not alleged that Respondent has communicated to her that she owes an arrearage for failing to pay dues since her revocation of her dues deduction authorization in December 2013. Charging Party argues that her charge concerns her financial obligations to the Union between December 4, 2013 and June 12, 2014. However, Charging Party has failed to allege that Respondent has taken any action, beyond sending the December 13, 2013 letter, to collect or attempt to collect either agency fees or union dues for the remainder of December 2013, or for any period thereafter.

As the ALJ notes in her decision, Charging Party's assertion of a violation of § 10(2) of PERA is based solely on Respondent's action in sending the December 13, 2013 letter to Charging Party. Respondent contends that the December 13, 2013 letter merely stated its position with respect to Charging Party's financial obligation under the Checkoff Authorization and Assignment and is not an unlawful attempt or threat to collect funds to which Respondent is not entitled. Under the circumstances of this case, we agree. This decision is one of the first decisions we have issued addressing the right to refrain under § 9(1)(b) of PERA, and interpreting the effect of the changes to public employee rights and public sector union obligations resulting from the enactment of Act 349. At the time Respondent sent its December 13, 2013 letter to Charging Party, we had issued no decisions interpreting the effect of the changes resulting from the enactment of Act 349. At that point, we had not held that, in the absence of a lawful union security clause, employee obligations to financially support a labor organization end upon resignation from the union. See, *Saginaw Ed Ass'n,* 29 MPER 21 (2015). Nor had we found that window periods limiting resignations from unions are unlawful. *Id.* Therefore, we will not presume that Respondent knew or should have known that its December 13, 2013 letter could be considered unlawful. Accordingly, at this point, we will not interpret a union's mere statement that funds are owed to it as an unlawful demand, when that statement was

made before we issued our decision in *Saginaw* and the statement is based on an agreement lawfully entered into before the enactment of Act 349.

In her exceptions, Charging Party contends that the ALJ erred by failing to address Charging Party's claim that Respondent's certified mail requirement violated PERA. In *Cottrell*, we explained that "we agree with the National Labor Relations Board in *California Saw & Knife Works*, 320 NLRB 224, 237; 320 NLRB No. 11, (1995), that a union's requirements that objections be sent by certified mail constitutes an arbitrary restriction on the employee's exercise of the right to be an objecting fee payer." However, we find no error in the ALJ's failure to address this issue since Respondent has taken no action to enforce the financial obligation it alleges Charging Party would continue to accrue unless she revoked the Checkoff Authorization and Assignment by certified letter during the designated window period. Moreover, as with *Cottrell*, there is no indication in the charge or in any of Charging Party's other pleadings that she could offer evidence that Respondent failed to recognize Charging Party as an objecting nonmember and failed to immediately notify her of the amount of the agency fee that she owed for the month of December 2013 simply because she did not provide notice of her revocation of the Checkoff Authorization and Assignment by certified mail. That is, Charging Party has failed to allege any harm resulting from Respondent's demand for notice by certified mail. Moreover, Charging Party has alleged no facts that could establish that her right to refrain from supporting the Union was in any way restrained or that she was otherwise restrained or coerced in the exercise of her rights protected by § 9 of PERA.

We have also considered all other arguments submitted by the parties and conclude that they would not change the result in this case. Accordingly, we affirm the ALJ's decision and adopt her recommended order.

ORDER

The charge is dismissed for failure to state a claim upon which relief can be granted.

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MICHIGAN EMPLOYMENT RELATIONS COMMISSION

/s/
Edward D. Callaghan, Commission Chair

/s/
Robert S. LaBrant, Commission Member

/s/
Natalie P. Yaw, Commission Member

Dated: February 10, 2016

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

TEAMSTERS LOCAL 214,
Labor Organization-Respondent,

Case No. CU14 C-010
Docket No. 14-004414-MERC

-and-

TINA HOUSE,
An Individual-Charging Party.
_____/

APPEARANCES:

Wayne Rudell, for Respondent

John N. Raudabaugh, National Right to Work Legal Defense Foundation, for Charging Party

DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE
ON MOTION FOR SUMMARY DISPOSITION

On March 18, 2014, Tina House, employed by Lapeer County (the Employer) as a secretary, filed an unfair labor practice charge with the Michigan Employment Relations Commission (the Commission) alleging that her collective bargaining representative, Teamsters Local 214, violated §§9 and 10 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, by refusing to permit her to revoke her dues authorization/dues deduction card on the grounds that her request to do so was not timely. Pursuant to §16 of PERA, the charge was assigned for hearing to Julia C. Stern, Administrative Law Judge for the Michigan Administrative Hearing System (MAHS).

On June 6, 2014, Respondent filed a motion for summary dismissal. On June 16, 2014, House filed a cross-motion for summary disposition to which she attached proposed stipulations of fact and proposed exhibits. On October 21, 2014, Respondent filed a brief in opposition to House's motion. Although Respondent asked House to supply additional documents which it claims she did not produce, it does not dispute the facts she sets forth in her proposed stipulation. Neither party requested oral argument in this matter.

Based on facts set out in the charge and pleadings and not in dispute, and on the arguments made by the parties in their motions, I make the following conclusions of law and recommend that the Commission issue the following order.

The Unfair Labor Practice Charge:

House is a member of a bargaining unit of the Employer's employees represented by the Respondent. In August 2000, House signed an application for union membership and an authorization to have initiation fees and membership dues deducted by the Employer from her paycheck and transmitted to Respondent. On December 4, 2013, House sent a letter to Respondent, with a copy to the Employer. In this letter, House, resigned her union membership. She also objected, as was her right under *Abood v Detroit Bd of Ed*, 431 US 219 (1977), to paying any dues or fees used for political, ideological, organizing or other "non-chargeable" purposes. Finally, House revoked her checkoff authorization to the extent it either authorized the deduction of full union dues from her paycheck or authorized the deduction of union dues or fees after the date that she was not compelled to pay dues or fees as a condition of employment. On December 13, 2013, Respondent sent House a letter stating that the checkoff authorization that she signed when she first became a member did not permit her to revoke her financial obligation at that time. The letter said that the proper period for revoking her authorization was between June 1 and June 16, and that the revocation must be sent by certified mail.

This letter was Respondent's only response to House's December 4, 2013 letter. When the Employer received House's letter, it ceased deducting union dues from her paycheck. House has not paid any sums to Respondent as union dues or fees since December 4, 2013.

House alleges that Respondent violated §10(2)(a) of PERA by asserting, in its December 13, 2013 letter, that she continued to have a financial obligation to it after she resigned her membership. House argues that because under §9 of PERA, as amended by 2012 PA 349 (PA 349), she had the right to cease financially assisting the union after she resigned her membership, Respondent violated PERA by imposing any restriction on her right to revoke her checkoff agreement. As a remedy, House asserts that Respondent should be ordered to cease and desist from enforcing restrictions on the right of any member of her bargaining unit to resign and revoke their checkoff agreements, update its records to remove any dues obligations from her account information, and cease any attempt to collect dues and/or fees from her. House also alleges that even if Respondent could lawfully require former members to revoke their checkoff authorizations only during a window period, the requirement that the revocation be submitted by certified mail violated §10(2)(a).

Facts:

House's Membership Application and Checkoff Authorization

On August 17, 2000, House signed a document entitled "Application for Membership." The application stated, "I hereby designate Teamsters Local 214, through its authorized agents, as my representative for collective bargaining." The previous day, August 16, 2000, House had signed another document entitled "Check-off Authorization and Assignment." This document read as follows:

> I, the undersigned member of Teamsters, State, County and Municipal Workers of Local 214, of the I.B.T., hereby authorize my employer to deduct from my wages and pay to Local 214 and/or its authorized representative, initiation fees and membership dues in such amounts as may be established from time to time, and in

> accordance with the agreement between such Local Union and my employer. This authorization is voluntary and is not conditioned on my present or future membership in the Union.
>
> This authorization and assignment shall be irrevocable for the term of the applicable contract between the Union and the Company [sic], or for one year, whichever is the lesser, and shall automatically renew itself for successive yearly or applicable contract periods thereafter, whichever is the lesser, unless I give written notice to the Company and the Union at least 60 days and not more than 75 days before any periodic renewal date of this authorization and assignment of my desire to revoke the same.
>
> I do hereby certify that previous deductions from my wages for Union initiation fees and dues were made with my knowledge and consent; and I do hereby ratify, authorize, and assign to the Union, all of such deductions as of the time they were made. Union dues are not deductible as charitable contributions for Federal Income Tax purposes.

2012 PA 349

On December 11, 2012, the Legislature passed 2012 PA 349 (PA 349). The law, which became effective on March 28, 2013, substantively altered both §9 and §10 of PERA.

Section 9 sets out the rights of public employees that are protected by PERA. Prior to PA 349, §9 read as follows:

> It shall be lawful for public employees to organize together or to form, join or assist in labor organizations, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, or to negotiate or bargain collectively with their public employers through representatives of their own free choice.

Section 9 was modeled on §7 of the National Labor Relations Act (NLRA), 29 USC 150 et seq. However, §7 of the NLRA, as amended by the 1947 Taft-Hartley amendments, includes an explicit "right to refrain" from engaging in §7 activities. The Michigan Legislature did not include a "right to refrain" from §9 activities when it adopted PERA in 1965, and it did not add this language to §9 when it amended PERA in 1973 to add provisions making certain conduct by labor organizations unfair labor practices under the Act. Among the statutory changes effected by PA 349, however, was the addition, in §9(1)(b), of the "right to refrain" language that had been part of §7 of the NLRA since 1947. Section 9, therefore, now explicitly gives employees the right to refrain from any or all of the activities identified in subdivision (1)(a) of that section.[1]

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[1] Section 9 now also contains subsections (2) and (3), which read as follows:

> (2) No person shall by force, intimidation, or unlawful threats compel or attempt to compel any public employee to do any of the following:

Section 10 of PERA, which was modeled on §8 of the NLRA, sets out the conduct by employers and labor organizations which constitute unfair labor practices under the Act. Section 10(2)(a), like §8(b)(1)(A) of the NLRA, makes it unlawful for a labor organization or its agents to "restrain or coerce public employees in the exercise of rights guaranteed in §9 [or §7 of the NLRA]." Both §8(b)(1)(A) of the NLRA and §10(2)(a) of PERA state these subsections do not "impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership."

In addition to adding "right to refrain" language to §9, PA 349 removed provisions in §10 making union security agreements lawful and added the following new language as §10(3):

> (3) Except as provided in subsection (4), an individual shall not be required as a condition of obtaining or continuing public employment to do any of the following:
>
> (a) Refrain or resign from membership in, voluntary affiliation with, or voluntary financial support of a labor organization or bargaining representative.
>
> (b) Become or remain a member of a labor organization or bargaining representative.
>
> (c) Pay any dues, fees, assessments, or other charges or expenses of any kind or amount, or provide anything of value to a labor organization or bargaining representative.
>
> (d) Pay to any charitable organization or third party any amount that is in lieu of, equivalent to, or any portion of dues, fees, assessments, or other

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> (a) Become or remain a member of a labor organization or bargaining representative or otherwise affiliate with or financially support a labor organization or bargaining representative.
>
> (b) Refrain from engaging in employment or refrain from joining a labor organization or bargaining representative or otherwise affiliating with or financially supporting a labor organization or bargaining representative.
>
> (c) Pay to any charitable organization or third party an amount that is in lieu of, equivalent to, or any portion of dues, fees, assessments, or other charges or expenses required of members of or public employees represented by a labor organization or bargaining representative.
>
> (3) A person who violates subsection (2) is liable for a civil fine of not more than $500.00. A civil fine recovered under this section shall be submitted to the state treasurer for deposit in the general fund of this state.

Per §16(a), violations of §10 are unfair labor practices remediable by the Commission. As noted above, the penalty for a violation of §9(2) is a civil fine.

> charges or expenses required of members of or public employees represented by a labor organization or bargaining representative.

In addition, §10(5) now states:

> An agreement, contract, understanding, or practice between or involving a public employer, labor organization, or bargaining representative that violates subsection (3) is unlawful and unenforceable. This subsection applies only to an agreement, contract, understanding, or practice that takes effect or is extended or renewed after the effective date of the amendatory act that added this subsection.

Union Security and Dues Checkoff Agreements

In December 2013, Respondent and the Employer were parties to a collective bargaining agreement that had been entered into prior to the effective date of PA 349. This agreement, which had an expiration date of December 31, 2013, contained a provision requiring unit members to be union members or pay a service fee to Respondent as a condition of continuing employment. It also contained a provision requiring the Employer to deduct union dues from the paychecks of employees who submitted signed authorizations.

On December 3, 2013, Respondent and the Employer reached a tentative agreement on the terms of a successor agreement covering the term January 1, 2014, through December 31, 2015. The tentative agreement was subsequently ratified by both Respondent's members and the Employer. Per PA 349, unit members were no longer required to be union members or pay a service fee as a condition of continuing employment. The Employer agreed, in the successor contract, to deduct dues from the paychecks of employees who submitted signed checkoff authorization cards dated after December 3, 2013.

House Resigns Her Membership and Revokes Her Checkoff Authorization

On December 4, 2013, House sent this letter to Respondent, with a copy to the Employer:

> I am employed by Lapeer County MSU Extension in the Right to Work state of Michigan. I write to notify you that I do not want to be a member of the union. If your records indicate that I am currently a union member, I hereby resign my membership in the union and all of its affiliates effective immediately.
>
> I also notify you that I want to pay only those union dues and fees that I can be lawfully compelled to pay as a condition of my employment under Michigan Law, and nothing more.
>
> Thus, if I can currently be lawfully compelled to pay union fees under Michigan law as a condition of my employment, I hereby object to the collection and expenditure by the union of any fee used for political, ideological, organizing, or other non-chargeable purposes, as is my right under *Abood v Detroit Board of Education,* 431 US 209 (1977) and *Chicago Teachers Union v Hudson,* 475 U.S. 292 (1986). This objection is permanent and continuing in nature. I also revoke any dues deduction authorization that I may have signed that authorizes the

> deduction of full union dues from my paycheck, and authorize only the deduction of reduced service fees.
>
> If and when I cannot lawfully be compelled to pay any union dues and fees as a condition of my employment under Michigan law, I no longer want to pay any dues or fees to the union. As of that date, I revoke any dues deduction authorization that I may have signed, and no longer authorize the deduction of any union dues or fees from my paycheck.
>
> If you refuse to accept this letter as an effective resignation, objection and/or revocation, please inform me promptly, in writing, of your reasons for so doing.

House received from Respondent the following letter, dated December 13, 2013.

> We are in receipt of your letter requesting that your dues deduction be stopped in accordance with Public Act 349 of 2012.
>
> Please be advised that by signing the Check Off Authorization, when you first became a member, you entered into a separate independent contract with this Local Union which supercedes [sic] Public Act 349. Provisions of that Agreement do not permit you to revoke your financial obligation at this time, the proper time period is from 9/3 to 9/18, and your letter must be *certified* to the Local Union President. [Emphasis in original].

When the Employer received House's letter, it immediately ceased deducting dues from her paycheck. House did not pay any union dues or fees to Respondent after December 4, 2013. The December 13, 2013 letter was Respondent's only response to House's December 4, 2013, letter.

Discussion and Conclusions of Law:

In its motion for summary disposition, Respondent points out that House does not appear to allege that Respondent made any demand that House pay union dues or fees other than by sending her the December 13, 2013 letter and that she does not allege that it took any type of action to collect these dues or fees. House's response to Respondent's motion for summary disposition confirms that her allegation is that Respondent violated §10(2)(a) of PERA by sending her the December 13, 2013, letter asserting that she continued to have a "financial obligation" toward it until she revoked her dues authorization within the window period. That is, her charge is based solely on this letter and not on any other action that Respondent may have taken before or after sending this letter.

Respondent argues that House's charge does not state a claim upon which relief can be granted under PERA because she does not allege that Respondent required anything of House as a condition of her continued employment, altered the relationship between House and the Employer, did anything that affected her terms and conditions of employment, or caused House to have any type of legally cognizable injury, loss, or damages. House maintains, however, that, under PERA, dues checkoff authorizations are now revocable at will. She asserts that any restriction on an employee's right to revoke his or her checkoff authorization constitutes

unlawful restraint or coercion of the employee's right under §9 to refrain from financially supporting a union after resigning. Because Respondent's December 13, 2013 letter attempted to restrict her right to revoke her checkoff authorization, it violated §10(2)(a).

The facts in this case are similar in many respects to those in *Teamsters Local 214, (Cottrell),* Case No. CU13 K-067/Docket No. 13-016862-MERC, Decision and Recommended order issued by me this same date. Like House, the charging party in that case, Cottrell, signed a dues checkoff authorization which authorized his employer to check off dues and fees until Cottrell revoked that authorization within the window period set forth in the authorization. Both the authorization Cottrell signed and the one House signed stated that the authorizations were not dependent on their current or future union membership. Like House, Cottrell was covered by a collective bargaining agreement containing a union security clause when he sent a letter to Respondent resigning his union membership and asserting his objections to paying union dues or fees used for political or non-collective bargaining purposes. Like House, Cottrell received a letter from Respondent that made no reference to his objections, but which asserted that the checkoff authorization he signed when he became a member constituted a separate independent contract with Respondent which did not permit him to "revoke his financial obligation" except during a window period. Like House, Cottrell did not receive any other response from Respondent to his letter asserting his objections to paying dues or fees for non-chargeable expenses. Like House, Cottrell had no dues or fees deducted from his paycheck by his Employer after he resigned his union membership.

Like House, Cottrell argued that under PERA, as amended by PA 349, checkoff authorizations are revocable at will. I rejected that argument in *Cottrell.* I also found, however, that the checkoff authorization that Cottrell signed was an authorization to have dues or fees deducted by his employer from his paycheck, whether or not he was a union member, and not an agreement which clearly and explicitly obligated Cottrell, where no lawful dues checkoff agreement was in effect, to continue to financially support the union after he resigned his membership and the collective bargaining agreement covering him and containing a union security clause expired.

Unlike Cottrell, however, House did not pay any dues or fees to Respondent after she resigned her membership and revoked her dues checkoff authorization, even though she continued to be covered by a union security agreement. As Respondent points out, House has not alleged that it attempted, or threatened to attempt, to use its relationship with her employer to collect the sums it claims she owes. House's argument appears to be that Respondent's December 13, 2013 letter contained an implied threat to take other actions, such as filing a lawsuit, to collect these sums.

In *Saginaw Ed Assn,* the charging parties asserted that their union violated §10(2)(a) by threatening to hire a debt collector and/or file a lawsuit to collect back dues the union claimed that they owed pursuant to membership agreements they had signed. I concluded that the charging parties did not waive their right to resign their union membership by signing these agreements. However, I noted that the Commission had long held that it had no jurisdiction to interfere with the internal union affairs of unions absent some direct impact on employment. I held that the Commission does not have jurisdiction under PERA to find an unfair labor practice based on a union's attempts to enforce the terms of a private agreement between itself and an ex-member when these attempts do not involve either the ex-member's employer or employment. I

held, therefore, that the union in that case did not violate §10(2)(a) by threatening to hire debt collectors or file lawsuits to collect the sums the union claimed the charging parties owed. I find that Respondent's December 13, 2013 letter to House did not violate §10(2)(a) of PERA even if it contained an implied threat to take legal action to collect monies from House. I agree with Respondent, therefore, that House has not stated a claim against Respondent upon which relief can be granted. I recommend that the Commission grant Respondent's motion for summary dismissal and that it issue the following order.

RECOMMENDED ORDER

The charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Julia C. Stern
Administrative Law Judge
Michigan Administrative Hearing System

Dated: November 21, 2014