

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

HURON-CLINTON METROPOLITAN AUTHORITY,
Public Employer-Respondent,

- and -

KATHY ANN REIDT,
Individual Charging Party in Case No. C06 C-066,

- and -

KATHRYN LUCAS,
Individual Charging Party in Case No. C06 C-067.

APPEARANCES:

Kathy Ann Reidt and Kathryn Lucas *In Propria Persona*

Michael R. Kluck & Associates, by Wendy S. Hardt, Esq., for Respondent

DECISION AND ORDER

On August 7, 2007, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order 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 any 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

Christine A. Derdarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

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APPEARANCES:

Kathy Ann Reidt and Kathryn Lucas *in pro per*

Michael R. Kluck & Associates, by Wendy S. Hardt, for Respondent

**DECISION AND RECOMMENDED ORDER
ON SUMMARY DISPOSITION**

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, this case was assigned to David M. Peltz, Administrative Law Judge for the Michigan Employment Relations Commission. This matter comes before the Commission on unfair labor practice charges filed by Kathy Ann Reidt and Kathryn Lucas on March 21, 2006. The charges allege that Respondent Huron-Clinton Metropolitan Authority has been discriminating or retaliating against Reidt and Lucas since they complained to federal and state officials in March and April of 2005 about “corruption” and “possible misuse of taxpayer monies” by the Employer.

On June 8, 2007, Respondent filed a Motion for Summary Disposition seeking dismissal of the charge filed by Reidt in Case No. C06 C-066. In an order issued on June 22, 2007, Charging Parties were granted fourteen days in which to show cause why the charges should not be dismissed as untimely and for failure to state a claim upon which relief can be granted under PERA. Charging Parties did not respond to that order, nor did Reidt file any response to the Employer’s Motion for Summary Disposition.

Discussion and Conclusions of Law:

Pursuant to Section 16(a) of PERA, no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Commission. The Commission has consistently held that the statute of limitations is jurisdictional and cannot be waived. *Walkerville Rural Community Schools*, 1994 MERC Lab Op 582, 583. The limitations period commences when the charging party knows or should have known of the acts constituting the unfair labor practice and has good reason to believe the acts were improper or done in an improper manner. *Huntington Woods v Wines*, 122 Mich App 650, 652 (1983). In the instant case, the allegations asserted by Charging Parties Reidt and Lucas appear to pertain to events which allegedly occurred more than six months prior to the filing of the charges in this matter. Such allegations are time barred under Section 16(a) of the Act and must be dismissed on that basis.

Dismissal of the charges is also warranted for failure to state a claim under PERA. With respect to public employers, PERA does not prohibit all types of discrimination or unfair treatment. Rather, the Commission's jurisdiction with respect to public employees is limited to determining whether the employer interfered with, restrained, and/or coerced a public employee with respect to his or her right to engage in union or other protected activities. Section 9 of PERA protects the rights of public employees to "engage in lawful concerted activities for the purpose of collective negotiation or other mutual aid and protection." To be protected under this part of Section 9, employee activity must be both "concerted" and "for mutual aid or protection." Complaints by employees concerning corruption and/or the misuse of funds by public officials do not normally, and cannot be presumed to, constitute concerted activity for purposes of PERA. Thus, discrimination or retaliation occurring as result of the voicing of such complaints is generally outside the scope of the Act.

Despite having been given an opportunity to do so, Charging Party has alleged no facts from which it could be concluded that Respondent violated PERA. Pursuant to Rule 165, R 423.165 of the General Rules and Regulations of the Employment Relations Commission, I recommend that the charges be dismissed as untimely and for failure to state a claim upon which relief can be granted under PERA.

RECOMMENDED ORDER

The unfair labor practice charges in Case Nos. C06 C-066 and C06 C-067 are hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

David M. Peltz
Administrative Law Judge

Dated: _____