

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

In the Matter of:

AMALGAMATED TRANSIT UNION, LOCAL 1564,
Labor Organization-Respondent

MERC Case No. 20-C-0538-CU

-and-

STEED COATES,
An Individual Charging Party.

APPEARANCES:

Steed Coates, appearing on his own behalf

DECISION AND ORDER

On June 11, 2020, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order¹ 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.

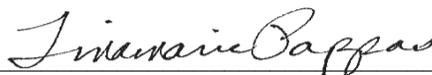
MICHIGAN EMPLOYMENT RELATIONS COMMISSION



Samuel R. Bagenstos, Commission Chair



Robert S. LaBrant, Commission Member



Tinamarie Pappas, Commission Member

Issued: September 23, 2020

¹ MOAHR Hearing Docket No. 20-005466

**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

AMALGAMATED TRANSIT UNION, LOCAL 1564,
Respondent-Labor Organization,

Case No. 20-C-0538-CU
Docket No. 20-005466-MERC

-and-

STEED COATES,
An Individual Charging Party.

APPEARANCES:

Steed Coates, appearing on his own behalf

**DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE
ON SUMMARY DISPOSITION**

This case arises from an unfair labor practice charge filed on March 5, 2020, by Steed Coates against Amalgamated Transit Union (ATU), Local 1564. 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 charge was assigned to David M. Peltz, Administrative Law Judge (ALJ) for the Michigan Office of Administrative Hearings and Rules (MOAHR), acting on behalf of the Michigan Employment Relations Commission (Commission).

The charge alleges that the ATU, Local 1564 president, financial secretary, and executive board violated the Union constitution and by-laws. In an Order issued on March 12, 2020, I directed Charging Party to show cause why the charge should not be dismissed on summary disposition for failure to state a claim upon which relief can be granted under the Act. Pursuant to that Order, Charging Party's response was due by the close of business on April 2, 2020. Thereafter, I granted Charging Party an extension of time in which to file his response until May 8, 2020.

On May 12, 2020, Coates requested an additional extension to file his response for the reason that he was caring for a family member who was ill. Although the request was not timely, I granted Charging Party an additional extension due to the extenuating circumstances. Pursuant to that order, Charging Party's response was due by May 20, 2020. To date, Charging Party has

not filed a response to the Order to Show Cause, nor has he request an extension of time in which to do so.¹

Discussion and Conclusions of Law:

Pursuant to Rule 165(1), R 423.165(1), of the General Rules and Regulations of the Employment Relations Commission, which govern practice and procedure in administrative hearings conducted under PERA by MOAHR, the ALJ may “on [his] own motion or on a motion by any party, order dismissal of a charge or issue a ruling in favor of the charging party.” Among the various grounds for summary dismissal of a charge is the failure by the charging party to “respond to a dispositive motion or a show cause order.” Rule 165(2)(h). See also *Detroit Federation of Teachers*, 21 MPER 3 (2008), in which the Commission recognized that the failure of a charging party to respond to an order to show cause may, in and of itself, warrant dismissal of the charge. In any event, accepting all of the allegations set forth by Campbell as true, dismissal of the charge against ATU, Local 1564 is warranted.

A union’s duty of fair representation is comprised of three distinct responsibilities: (1) to serve the interests of all members without hostility or discrimination toward any; (2) to exercise its discretion in complete good faith and honesty, and (3) to avoid arbitrary conduct. *Vaca v Sipes*, 386 US 171 (1967); *Goolsby v Detroit*, 419 Mich 651 (1984). It is well-established, however, that the duty of fair representation does not embrace matters involving the internal structure and affairs of labor organizations which do not impact upon the relationship of bargaining unit members to their employer. *West Branch-Rose City Ed Ass’n*, 17 MPER 25 (2004); *SEIU, Local 586*, 1986 MERC Lab Op 149. Internal union matters are outside the scope of PERA, but are left to the members themselves to regulate. *AFSCME Council 25, Local 1918*, 1999 MERC Lab Op 11; *MESPA (Alma Pub Schs Unit)*, 1981 MERC Lab Op 149, 154. This principle is derived from Section 10(2)(a) of the Act, which states that a union may prescribe its own rules pertaining to the acquisition or retention of membership. See e.g. *Organization of Classified Custodians*, 1993 MERC Lab Op 170; *SEIU, Local 586, supra*. The Commission has held that the duty of fair representation applies only to those policies and procedures having a direct effect on terms and conditions of employment. See e.g. *Organization of Classified Custodians, supra*; *SEIU, Local 586, supra*.

In the instant case, all of the allegations set forth in the charge pertain to purely internal matters and, therefore, are outside the jurisdiction of the Commission. Accordingly, I conclude that the charge must be dismissed without a hearing and recommend that the Commission issue the following order.

¹ On May 21, 2020, Charging Party appeared at an evidentiary hearing before the undersigned as the representative for Josh Campbell, a co-worker who filed his own charge against Respondent in Case No. 20-D-0788-CU; Docket No. 20-007846-MERC. In the course of reciting the procedural history in that matter, I referenced the separate charge filed by Coates and reminded Coates that his response to the Order to Show Cause in the instant case was still pending.

RECOMMENDED ORDER

The unfair labor practice charge filed by Steed Coates against Amalgamated Transit Union, Local 1564 in Case No. 20-C-0538-CU; Docket No. 20-005466-MERC is hereby dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink that reads "David M. Peltz". The signature is written in a cursive style and is positioned above a horizontal line.

David M. Peltz
Administrative Law Judge
Michigan Office of Administrative Hearings and Rules

Dated: June 11, 2020