

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

In the Matter of:

SENIOR ACCOUNTANTS, ANALYSTS  
AND APPRAISERS ASSOCIATION,  
Labor Organization-Respondent

MERC Case No. 19-J-2032-CU

-and-

ELAINE FRAZIER,  
An Individual Charging Party.

APPEARANCES:

Elaine Frazier, appearing on her own behalf

**DECISION AND ORDER**

On June 23, 2020, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order<sup>1</sup> 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.

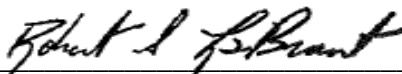
**ORDER**

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

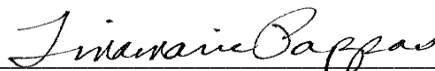


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Samuel R. Bagenstos, Commission Chair



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Robert S. LaBrant, Commission Member

Issued: October 30, 2020



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Tinamarie Pappas, Commission Member

<sup>1</sup> MOAHR Hearing Docket No. 19-021066

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

In the Matter of:

SENIOR ACCOUNTANTS, ANALYSTS  
AND APPRAISERS ASSOCIATION,  
Respondent-Labor Organization,

Case No. 19-J-2032-CU  
Docket No. 19-021066-MERC

-and-

ELAINE FRAZIER,  
An Individual Charging Party.

APPEARANCES:

Elaine Frazier, appearing on her own behalf

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

This case arises from an unfair labor practice charge filed on October 28, 2019, by Elaine Frazier against the Senior Accountants, Analysts and Appraisers Association (SAAA). 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 Respondent violated PERA because the SAAA president (1) failed or refused to hold an election of officers; (2) “unethically” holds two or more positions on the executive board; (3) failed to hold official union meetings; (4) refused to respond to inquiries by members; (5) failed or refused to communicate with members regarding contract negotiations; and (6) held up negotiations by demanding more than a two-percent wage increase without any mandate from members.

In an Order issued on November 1, 2019, 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 November 22, 2019. To date, Charging Party has not filed a response to the Order to Show Cause, nor has she requested an extension of time in which to do so.

## 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 Frazier as true, dismissal of the charge against the SAAA 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.

RECOMMENDED ORDER

The unfair labor practice charge filed by Elaine Frazier against the Senior Accountants, Analysts and Appraisers Association in Case No. 19-J-2032-CU; Docket No. 19-021066-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 23, 2020