

**IN THE CITY OF ALBUQUERQUE
LABOR-MANAGEMENT RELATIONS BOARD**

IN THE MATTER OF

AFSCME, Council 18,

Petitioner,

v.

Case No.: _____

CITY OF ALBUQUERQUE,

Respondent.

PROHIBITED PRACTICES COMPLAINT

COMES NOW Petitioner, AFSCME, Council 18 (the Union), by and through its attorneys, Youtz & Valdez, P.C. (Shane C. Youtz and Brandt Milstein), and files this prohibited practices complaint:

FACTUAL ALLEGATIONS

1. The City of Albuquerque has provided assistance and support to the New Mexico Transportation Union (NMTU) in its effort to discourage Albuquerque City bus drivers from designating AFSCME as its collective bargaining agent. Specifically, bus drivers have been threatened with termination and have been subjected to discipline by the City of Albuquerque for supporting AFSCME, in violation Albuquerque Labor-Management Relations Ordinance (LMRO) §3-2-9. The City is engaging in a pattern of discrimination against employees supporting AFSCME, Council 18 and only this Court provides an adequate remedy.

2. The NMTU is the exclusive bargaining representative for employees currently working for the City of Albuquerque as motor coach operators and Sun Van chauffeurs. The current contract is set to expire on June 30, 2008.

3. The LMRO allows other Unions to file a petition for an election to determine which Union will represent the bus drivers. The petition for election must be filed “between the 120th day and the 90th day immediately preceding the expiration date of the contract.” LMRO §3-2-6(j). The petition must be supported by a showing of interest of 30% of the bargaining unit. LMRO §3-2-6(c). AFSCME is currently gathering signatures to establish its showing of interest.

4. The NMTU has opposed AFSCME’s attempt to obtain signatures in order to prevent the employees from obtaining an election to choose their Union designee.

5. The City, through the power of discipline has supported the NMTU’s effort to prevent employees from showing their interest in having another Union represent them.

6. Many city bus drivers have reported that they have been threatened with termination for signing a card supporting AFSCME.

7. The threat, however, is supported by management and, in fact, employees have begun to be threatened by management with termination for their support of AFSCME. Robert Montoya and Kathryn Cerami were recently notified of a disciplinary investigation for “soliciting support and recruiting drivers for AFSCME Union” while on paid status. These notices of investigation may involve termination of the employees.

8. AFSCME has heard, repeatedly from bus drivers that they would not sign because they were afraid of termination. AFSCME has memorialized several such statements, including:

- “(driver) very afraid, and very concerned about being seen with us. She stated she heard

Fred (Garcia, NMTU Chairman) state ‘3 people will be fired on Monday for signing cards.’”

- “(driver) is sure she’ll get fired for signing. Says there is an insider that’s going to leak the cards.”
- “(driver) did not sign card; fear retaliation from previous experience.”

9. The threats of termination are not the only device employed by the City to discourage its employees from supporting AFSCME. On March 1, 2008 AFSCME members visited the Albuquerque City bus facility on Yale to solicit signatures from City of Albuquerque bus drivers. During that visit several NMTU union officials were explicitly allowed to remain on City property, while AFSCME officials were denied access to the same property.

10. The City through its security guards made no attempt to disperse the NMTU crowd and did not make any effort to discourage the increasingly strident NMTU crowd who were verbally attacking the three AFSCME officials. Eventually, Fred Garcia (NMTU Chairman) physically attacked Andrew Padilla. The City of Albuquerque security guards took no action to restrain Mr. Garcia’s physical attack of Mr. Padilla until Mr. Rodriguez requested assistance.

PROHIBITED PRACTICE ALLEGATIONS

By the foregoing the Respondent City of Albuquerque has committed the following prohibited practices and violations of the Labor-Management Ordinance:

11. The City violated Ordinance § 3-2-9: “City employees have the right to form, join and otherwise participate in the activities of an employee organization of their own choosing.” (LMRO § 3-2-4.) The City’s actions have interfered with the employees right to make that

choice and also constitutes a separate violation of “interfering with, restraining or coercing city employees in the exercise of their rights.” (LMRO § 3-2-9.)

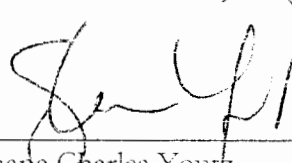
12. Further, the City is prohibited from interfering with the formation of a Union. It is also prohibited from interfering with the employees’ selection of an agent, and also from discriminating against employees for the purpose of encouraging or discouraging membership in any employee organization. (LMRO § 3-2-9.)

WHEREFORE Petitioner respectfully requests that this Board enjoin the City from providing any assistance to the New Mexico Transportation Union for purposes of AFSCME Council 18’s attempt to solicit a showing of interest and during the election campaign and that the city further be ordered to notify its bus drivers that it will not discipline its employees for choosing to support AFSCME or for signing documents supporting AFSCME. Petitioner also requests that the City be enjoined from threatening and or implementing discipline or notices of investigation against employees who show public support of AFSCME, and for a proper notice and for any other relief the Board finds just and equitable.

Dated: March 3, 2008

Respectfully Submitted,

YOUTZ & VALDEZ, P.C.



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Attorneys for Petitioner

I hereby certify that a true and correct copy of the foregoing pleading was hand-delivered this 3rd

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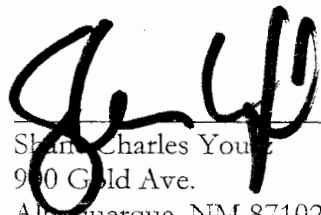
NOTICE OF PROHIBITED PRACTICES COMPLAINT

COMES NOW Petitioner, AFSCME, Council 18, by and through its attorneys, Youtz & Valdez, P.C. (Shane C. Youtz and Brandt Milstein), and pursuant to City of Albuquerque Ordinance § 3-2-9(D), files this notice that Petitioner has filed the attached prohibited practices complaint on this day with the City of Albuquerque Labor-Relations Board.

Dated: March 3, 2008

Respectfully Submitted,

YOUTZ & VALDEZ, P.C.



Shane Charles Youtz
900 Gold Ave.
Albuquerque, NM 87102
Telephone: (505) 244-1200
Attorneys for Petitioner

I hereby certify that a true and correct copy of the foregoing pleading was hand-delivered this 3rd day of March, 2008, to the following people at their office:

Paula Forney
Assistant City Attorney