

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



RICHARD L. COELHO,	)	
	)	
Charging Party,	)	Case No. LA-CO-48-S
	)	
v.	)	PERB Decision No. 1032-S
	)	
CALIFORNIA UNION OF SAFETY	)	January 6, 1994
EMPLOYEES,	)	
	)	
Respondent.	)	

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Appearances: Richard L. Coelho, on his own behalf; James P. Whalen, Legal Representative, for California Union of Safety Employees.

Before Blair, Chair; Caffrey and Garcia, Members.

DECISION

CAFFREY, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the California Union of Safety Employees (CAUSE) to a PERB administrative law judge's (ALJ) proposed decision. The ALJ found that CAUSE violated section 3519.5(b) of the Ralph C. Dills Act (Dills Act or Act)<sup>1</sup> when it violated its duty of fair

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<sup>1</sup>The Dills Act is codified at Government Code section 3512 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. Section 3519.5 states, in pertinent part:

It shall be unlawful for an employee organization to:

(b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

representation and discriminated against Richard L. Coelho (Coelho).

The Board has reviewed the entire record in this case, including the proposed decision, transcript, exhibits, CAUSE'S statement of exceptions and Coelho's response thereto. The Board has also considered informational briefs filed by interested parties.<sup>2</sup> The Board affirms in part, and reverses in part, the conclusions of the ALJ in accord with the following discussion.

#### PROCEDURAL HISTORY

On February 21, 1992, Coelho filed an unfair practice charge with PERB against CAUSE. Based on the allegations in the charge, the PERB general counsel issued a complaint on June 9, 1992. The charge alleged that on or about December 31, 1991, CAUSE, through its agent Sam McCall (McCall), chief legal counsel, took adverse action against Coelho by filing a citizen's complaint against him with his employer, the State of California, Department of Fish and Game (DFG). Coelho alleged that CAUSE'S action was a reprisal for his protected activities, including his representation of other members with complaints against CAUSE. Coelho further alleged that CAUSE'S refusal to represent him during the DFG investigation which resulted from the citizen's complaint was for purely discriminatory reasons.

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<sup>2</sup>The California School Employees Association, California Association of Psychiatric Technicians, California State Employees Association, California Department of Forestry Employees Association and the California Teachers Association sought and were granted permission to file informational briefs in this case.

## FACTUAL SUMMARY

The parties stipulated that Coelho is a State employee, and CAUSE is a recognized employee organization within the meaning of the Dills Act.

Coelho has been employed by the DFG as a fish and game warden for approximately thirteen and one-half years in the wildlife protection division in the San Bernardino County area. Coelho is a member of State Bargaining Unit 7 (Protective Services and Public Safety) which is exclusively represented by CAUSE. Coelho had been a member of CAUSE since the beginning of its exclusive representation of Unit 7, but resigned from membership in March 1992.

In 1987, Coelho and John Slaughter (Slaughter), another fish and game warden, filed an unfair practice charge with PERB against CAUSE. In December 1987, the parties entered into a stipulated settlement and the charge was subsequently withdrawn.<sup>3</sup> CAUSE President Cecil Riley (Riley), McCall, Coelho and Slaughter were the signatories to the settlement agreement.

### Citizen's Complaint Against Coelho

In late 1991, Coelho filed a small claims action against CAUSE, seeking monetary damages of \$5,000 for CAUSE'S alleged failure to honor a provision of the 1987 settlement agreement

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<sup>3</sup>Official notice is taken of PERB records maintained in this case. Those records indicate that the charge, designated as PERB Case No. LA-CO-30-S, was filed June 30, 1987 and withdrawn on January 12, 1988.

pertaining to several unresolved grievances which had been filed in 1984 and 1985.

Coelho and McCall appeared in this action on December 17, 1991, at the Twin Peaks Justice Court in Big Bear, California. After Coelho objected to McCall's appearance as an attorney for CAUSE in the small claims court action, the presiding judge continued the matter to January 21, 1992, over McCall's objections.

Outside the courthouse, Coelho and McCall exchanged remarks concerning the developments in the courtroom, escalating into a shouting match. The facts are disputed regarding who first yelled at whom and what actions were taken by the parties.

Slaughter, who had accompanied Coelho to the court hearing, testified that McCall became irate, approached Coelho in an aggressive manner, accused him of harassment and stated that he was going to file a complaint against Coelho with the DFG. According to McCall, Coelho yelled some remarks, appeared extremely agitated and started to follow him, waving papers in his face. McCall testified that Coelho appeared upset and full of anger, causing him to be concerned about his own safety. When McCall threatened to file a complaint against Coelho with the local sheriff's office, which is located next to the court, for attempting to intimidate a witness, Coelho told him to do it.

McCall went back into the court building and requested that the bailiff escort him to his car because of Coelho's "threatening" conduct and the possibility that Coelho, who is

authorized to carry a weapon off-duty, might be armed. By the time McCall and the bailiff exited the building, and McCall started toward the sheriff's office, Coelho and Slaughter were leaving the area in their individual vehicles. According to all witnesses, the entire incident lasted just a few minutes.

On December 31, 1991, McCall filed a written citizen's complaint with the DFG concerning Coelho's alleged misconduct on December 17. The letter was on CAUSE letterhead and was signed by McCall as CAUSE'S chief legal counsel. McCall filed the complaint after conferring with Riley, among others.

McCall testified that, to his knowledge, the citizen's complaint against Coelho, an individual member, was a first for CAUSE and was "unique" in that sense. McCall stated in the complaint:

I am writing to file an official personnel complaint on the conduct of one of your wardens, Mr. Richard Coehlo [sic]. I realize that this is an unusual step for a labor union to take but I feel that I have no other choice as I am concerned for the safety of other staff members from CAUSE who are involved in matters also involving Mr. Coehlo [sic].

The letter set forth a lengthy narrative of the December 17 incident and McCall's perceptions about Coelho's lack of emotional control and his alleged hostile attitude toward CAUSE. McCall further emphasized his concern for the safety of CAUSE staff members who participated in matters in which Coelho was involved either as a party or as a representative.

Coelho was notified by DFG on February 7, 1992, that the complaint had been filed and that as a result DFG would undertake

an internal investigation. Shortly after receiving notice of the complaint, Coelho called Charles Solt (Solt), a CAUSE labor representative, and requested representation during the investigation. Coelho was aware of a CAUSE publication which outlined a variety of membership benefits and services which included a statement that members would receive representation for disciplinary and internal affairs investigations. Coelho raised with Solt the possibility of a conflict of interest with CAUSE'S representation and suggested that CAUSE might have to seek outside representation for him. After checking with his supervisor, Solt told Coelho that he was ordered not to represent him, but did not identify who so directed him. During the hearing, McCall testified that he told Solt that CAUSE could not represent Coelho because of the existence of a conflict of interest.

The investigation of McCall's citizen complaint was conducted by DFG through formal interviews of Coelho, Slaughter, McCall and the Twin Peaks Justice Court bailiff, followed by a lengthy written report. Coelho did not have a representative during the investigation.

On April 10, 1992., DFG notified Coelho and McCall that the investigation was completed and that it had determined that the charges were not sustained.

#### CAUSE'S Representation Services

According to McCall, CAUSE has guidelines that are used to decide when the union will provide what he referred to as

"extraneous services" to members. Representation during such proceedings as internal investigations falls within this category and is decided on a case-by-case basis.

Following Coelho's request, McCall and Riley discussed the possibility of seeking outside representation for Coelho, but rejected the idea because they felt it would not provide the necessary insulation for CAUSE from the case. The inability to control legal costs was also a factor in deciding whether to hire or allow Coelho to retain outside counsel at CAUSE'S expense.

#### Coelho's Representation Activity

On September 19, 1991, Joseph Baima (Baima), a DFG warden, filed an unfair practice charge with PERB. The PERB general counsel issued a complaint in that case on November 26, 1991.<sup>4</sup> Coelho was served with a copy of the complaint as Baima's representative. He represented Baima at the PERB informal conference on January 6, 1992, and at the formal hearing conducted on March 3 and 4, 1992. McCall was listed as the representative for CAUSE in this matter, and was also a witness at the formal hearing.

McCall referred to Coelho's appearance in this matter against CAUSE in his December 31, 1991, complaint letter to DFG, stating that it was necessary to have a second CAUSE representative present "to provide a measure of security" because

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<sup>4</sup>The Board issued a decision in that case, California Union of Safety Employees (Baima) (1993) PERB Decision No. 967-S, on January 19, 1993.

of "Coelho's attitude towards the union and his exhibited conduct and demeanor."

ALJ'S PROPOSED DECISION

The ALJ concluded that CAUSE unlawfully retaliated against Coelho when it filed the citizen's complaint against him with his employer. Applying the test for discrimination and retaliation set out in Novato Unified School District (1982) PERB Decision No. 210 (Novato), the ALJ found that the filing of the complaint against Coelho did not constitute adverse action under Novato. The ALJ therefore applied the discrimination and interference test set forth in Carlsbad Unified School District (1979) PERB Decision No. 89 (Carlsbad). Under Carlsbad, the ALJ found that CAUSE unlawfully retaliated against Coelho after balancing the harm to Coelho's exercise of protected rights against CAUSE'S unsubstantiated concerns about the safety and welfare of CAUSE staff.

The ALJ also found that CAUSE violated its duty of fair representation when it refused to represent Coelho in the internal investigation. While acknowledging that representation in an internal investigation is a "voluntary act" on the part of the union, the ALJ held, under Lane v. I.U.O.E. Stationary Engineers (1989) 212 Cal.App.3d 164 [260 Cal.Rptr. 634] (Lane), that even if the obligation to represent Coelho during the investigation was a voluntary undertaking, CAUSE had a duty "akin" to the duty of fair representation to act fairly, honestly and in good faith in determining whether or not to provide him

with such representation. The ALJ concluded that the manner in which CAUSE handled Coelho's request for representation did not meet this standard of care.

#### CAUSE'S EXCEPTIONS

CAUSE excepts to the ALJ's conclusion that the citizen's complaint filed by CAUSE against Coelho was unfounded. CAUSE states that the resulting DFG investigation found that the evidence was inconclusive and that this finding supports its position that there was good cause for CAUSE to file the complaint against Coelho with DFG. CAUSE therefore asserts that the ALJ erred in finding that CAUSE filed the complaint against Coelho as a reprisal for his exercise of protected activities.

CAUSE also contends that the ALJ erred in concluding that CAUSE violated its duty of fair representation when it refused to represent Coelho in the internal investigation which resulted from the citizen's complaint filed by McCall. CAUSE asserts that it had no absolute duty to represent Coelho in this investigation. Rather, CAUSE argues that this type of service is not mandatory and that it undertakes these extra-contractual services only after evaluating each claim on a case-by-case basis.

Further, CAUSE excepts to the ALJ's failure to recognize that a conflict of interest existed between Coelho and CAUSE with regard to representation during the internal investigation. Since CAUSE was both a witness and the complaining party in the investigatory action, CAUSE argues that it was both legally and

practically precluded from representing Coelho because of a conflict of interest.

#### INFORMATIONAL BRIEFS

The briefs filed by the interested parties<sup>5</sup> are similar in that they focus primarily on the ALJ's application of Lane in this case, and the resulting finding that CAUSE violated its duty of fair representation. The California School Employees Association (CSEA) notes that PERB has repeatedly held that the duty of fair representation applies only to union conduct where the union possesses the exclusive means by which a worker can obtain the remedy sought. CSEA contends that the ALJ in this case erroneously reversed this precedent based on the Lane decision, finding that a union could violate the duty of fair representation even where representation was extra-contractual.

The California Teachers Association (CTA) supports CSEA's contention that the ALJ's finding departs from PERB's well-established precedent. CTA asserts that PERB is without jurisdictional authority to apply a duty of fair representation to the extra-contractual services offered by an exclusive representative. CTA further notes, however, that PERB has clear jurisdiction to enforce the Dills Act prohibition against employee organization discrimination or retaliation against bargaining unit employees for the exercise of protected rights regardless of the extent of the duty of fair representation.

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<sup>5</sup>Ante. fn. 2.

## DISCUSSION

### Filing the Citizen's Complaint

Dills Act section 3519.5(b) prohibits discrimination or retaliation by an employee organization against an employee for engaging in conduct protected by the Dills Act. In Novato, the Board described the test it applies in determining whether an employer unlawfully discriminated or retaliated against an employee because of the exercise of rights protected by the Educational Employment Relations Act. In State of California (Department of Developmental Services) (1982) PERB Decision No. 228-S, the Board applied the test for resolving allegations of discrimination and retaliation set out in Novato to charges filed under the Dills Act. The Board has also held that the standard applied to cases involving employer misconduct is appropriate in cases involving employee organization misconduct. (State of California (Department of Developmental Services) (1983) PERB Decision No. 344-S.)

In order to establish a violation of section 3519.5(b) under Novato the charging party bears the burden of showing that:

- 1) he engaged in protected activity;
- 2) the respondent knew of the activity;
- 3) the respondent took action adverse to his interest;
- and 4) there was an unlawful motivation for the respondent's action.

Once this is established, the burden shifts to the respondent to demonstrate that it would have taken the same action regardless of the protected conduct.

In this case, Coelho engaged in protected activity by filing an unfair practice charge against CAUSE in 1987 which resulted in a stipulated settlement. He also filed numerous grievances and represented another employee in an unfair practice charge against CAUSE in November 1991. CAUSE clearly had knowledge of Coelho's activities as CAUSE was the respondent in the unfair practice cases. In addition, CAUSE President Cecil Riley and McCall were signatories to the stipulated settlement of Coelho's 1987 unfair practice charge.

Coelho must also demonstrate that the respondent took adverse action against him. The test which must be satisfied is whether a reasonable person under the same circumstances would consider the action to have an adverse impact on the employee's employment. (Palo Verde Unified School District (1988) PERB Decision No. 689; Newark Unified School District (1991) PERB Decision No. 864.) In this case, CAUSE filed a citizen's complaint against Coelho, which CAUSE knew would prompt an investigation by his employer. Such an action could cause a reasonable person to be concerned about the potential adverse effect of the complaint and ensuing investigation on his employment relationship. The fact that the complaint and investigation did not result in action being taken against Coelho by his employer does not eliminate the adverse nature of CAUSE'S conduct. Accordingly, in this case, CAUSE'S filing of the complaint constituted an action adverse to Coelho's interests.

In the absence of direct evidence, an inference of unlawful motivation may be drawn from the record as a whole, as supported by circumstantial evidence. While timing alone is not sufficient to establish unlawful motivation, it can be considered a factor. (Moreland Elementary School District (1982) PERB Decision No. 227.) In this case, CAUSE'S action in filing the complaint against Coelho closely followed Coelho's action to seek resolution of the settlement agreement in small claims court and his representation of another employee in his action against CAUSE.

Further, the Board has held that adverse conduct based on unsubstantial allegations may raise an inference of unlawful motivation. (State of California (Department of Parks and Recreation) (1983) PERB Decision No. 328-S.) CAUSE'S attempt to justify filing the citizen's complaint by claiming concerns about the safety and welfare of other CAUSE staff members involved in matters concerning Coelho is pretextual. Other than the verbal confrontation between Coelho and McCall on December 17, 1991, CAUSE presents no evidence of violent conduct or threats of violence by Coelho toward any CAUSE employee or member of the public to lend legitimacy to its claim of a safety concern.

For these reasons and the fact that there existed a four-year dispute between Coelho and CAUSE over final disposition of his 1987 unfair practice charge, the Board concludes that CAUSE'S motivation in filing the citizen's complaint was to retaliate against Coelho, and that the complaint would not have been filed

but for Coelho's exercise of protected rights. Accordingly, the Board finds that CAUSE violated Dills Act section 3519.5(b) when it filed the citizen's complaint against Coelho.

Refusal to Represent in the Internal Investigation

Although the Dills Act does not contain a specific section setting forth an employee organization's duty of fair representation, the Board has inferred such a duty from the fact that the Act provides for exclusive representation. (California State Employees' Association (Lemmons, et al.) (1985) PERB Decision No. 545-S.)

The duty of fair representation requires an exclusive representative to fairly and impartially represent all employees in the bargaining unit. The duty is breached when the exclusive representative's conduct toward a unit member is arbitrary, discriminatory or in bad faith. (Rocklin Teachers Professional Association (Romero) (1980) PERB Decision No. 124.) However, no duty of fair representation is owed to a unit member unless the exclusive representative possesses the exclusive means by which an employee can obtain a particular remedy. (California Faculty Association (Pomerantsev) (1988) PERB Decision No. 698-H; San Francisco Classroom Teachers Association, CTA/NEA (Chestangue) (1985) PERB Decision No. 544.)

In this case, relying on Lane, the ALJ found that a union must maintain the same standard of duty of fair representation for the voluntary services it provides to its members as it does its statutory duties. In concluding that the application of this

duty also applies to a union's decision whether to provide the voluntary service, the ALJ found that CAUSE'S decision not to represent Coelho in the internal investigation was made in an arbitrary and bad faith manner and therefore violated its duty of fair representation.

The Board reverses this finding. The Dills Act duty of fair representation does not apply to representation in the DFG's internal investigation of a citizen's complaint because that forum is unconnected with any aspect of negotiation or administration of a collective bargaining agreement and CAUSE does not exclusively control the means to the particular remedy. (California State Employees Association (Parisi) (1989) PERB Decision No. 733-S.) As CAUSE had no obligation to represent Coelho in the DFG internal investigation, it did not violate the Dills Act duty of fair representation when it refused to provide him representation in that forum. Furthermore, contrary to the decision of the ALJ, the Board finds Lane is inapposite here. The rationale in the Lane decision applies a standard of care "akin" to a duty of fair representation only after a union has affirmatively undertaken representation in circumstances where representation is not mandatory. In this case, CAUSE never undertook the voluntary service of providing representation to Coelho during the internal investigation. Therefore, Lane is not applicable to the circumstances of this case.<sup>6</sup>

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<sup>6</sup>The Board does not, in this case, reach the question of what duty or standard of care, if any, attaches to representation in extra-contractual services, once assumed, or the extent of

In California State Employees' Association (O'Connell) (1989) PERB Decision No. 753-H (O'Connell), the Board concluded that the prohibition against an employee organization's discrimination or retaliation against employees because of their protected activity is not limited to those functions of the exclusive representative which carry with them the duty of fair representation. The Board in O'Connell described its statutory authority in reprisal cases, stating:

An inquiry must go forth under Carlsbad Unified School District (1979) PERB Decision No. 89 and/or Novato Unified School District (1982) PERB Decision No. 210, as to whether the actions were motivated by a charging party's exercise of protected rights.  
(Emphasis in original.)

Thus, any alleged employee organization discrimination or retaliation against employees because of their protected activity is within the Board's statutory authority to review to determine if a violation has occurred. (California State Employees Association (Garcia) (1993) PERB Decision No. 1014-S.) Therefore, while CAUSE did not breach its duty of fair representation by refusing to represent Coelho in the internal investigation, the Novato test must be applied to determine if CAUSE'S refusal to represent is evidence of motivation to retaliate or discriminate.

Applying Novato, the protected activity in which Coelho was involved is the same activity present in the discrimination violation analyzed above. CAUSE was aware of that activity and  

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PERB's jurisdiction to resolve these disputes.

its refusal to provide Coelho with representation in the internal investigation which resulted directly from its unlawful citizen's complaint against him was an action adverse to his interest since employer sanctions impacting his employment relationship could be the result.

Sufficient evidence exists to establish CAUSE'S unlawful motivation. As an affirmative defense, CAUSE asserts that a conflict of interest prevented it from representing Coelho during DFG's internal investigation. CAUSE also claims that retention of outside counsel would not eliminate the inherent conflict which results from CAUSE'S filing of the citizen's complaint.

CAUSE'S assertions are not persuasive. The primary effect of CAUSE'S complaint against Coelho was to expose him to an internal investigation. CAUSE'S unlawful motivation in filing the complaint extends to and forms the basis of its refusal to represent Coelho in the internal investigation which resulted from the complaint. CAUSE can not use a conflict of interest which is the creation of its own unlawful act to avoid accountability for the retaliatory effects of its discrimination against Coelho. Therefore, the Board concludes that CAUSE violated Dills Act section 3519.5(b) when it refused to represent Coelho in the DFG internal investigation in retaliation for his exercise of protected rights.

#### REMEDY

The Board is authorized to remedy violations of the Dills Act. Section 3514.5(c) grants the Board the power to:

. . . issue a decision and order directing an offending party to cease and desist from the unfair practice and to take such affirmative action, including but not limited to the reinstatement of employees with or without back pay, as will effectuate the policies of this chapter.

In order to remedy the unfair practices of CAUSE, prevent it from benefiting from its conduct and to effectuate the purposes of the Dills Act, it is appropriate to order CAUSE to cease and desist from discriminating against Coelho.

Where a question of denial of representation is an issue, the ordinary remedy with an unfair practice is to issue an order that the respondent provide representation to the aggrieved employee. However, since the DFG internal investigation has already been concluded, there is no point in ordering CAUSE to provide representation to Coelho.

Since Coelho represented himself during the investigation and presented no evidence of loss of wages or other expenses incurred in connection with this representation, a make whole order is also inappropriate.

In order to prevent CAUSE from benefiting from its act of unlawful discrimination, it is appropriate to require CAUSE to notify the DFG and Coelho that it is withdrawing the complaint that was filed against Coelho on or about December 31, 1991, remove any records that CAUSE may have of the complaint and notify Coelho in writing that this action has been taken. A similar remedy was ordered by the National Labor Relations Board after it determined that seven local unions discriminated against

a member when their officers filed intra-union charges because he testified on behalf of his employer and against a fellow member at an arbitration hearing. (See United Mine Workers of America, Local 1058, et al. (1990) 299 NLRB 389 [135 LRRM 1044].)

It is further appropriate that CAUSE be directed to post a notice incorporating the terms of this order at all work locations where notices to members of State Bargaining Unit 7 are customarily posted. The posting of such a notice, signed by an authorized agent of CAUSE, will provide employees with notice that CAUSE acted in an unlawful manner, is being required to cease and desist from this activity, and will comply with the terms of the order. It also effectuates the purposes of the Dills Act that employees be informed of the resolution of this controversy and CAUSE'S readiness to comply with the ordered remedy. (Placerville Union School District (1978) PERB Decision No. 69.)

#### ORDER

Based upon the foregoing findings of fact, conclusions of law and the entire record of this case, it is found that the California Union of Safety Employees (CAUSE) violated section 3519.5(b) of the Ralph C. Dills Act (Dills Act). CAUSE violated the Dills Act by discriminating against Richard L. Coelho (Coelho) when it filed a citizen's complaint against him with his employer, the State of California, Department of Fish and Game (DFG), and when it refused to provide him representation in the resulting investigation of that complaint.

Pursuant to section 3514.5(c) of the Dills Act, it is hereby ORDERED that CAUSE, its chief executive officer and its representative shall:

A. CEASE AND DESIST FROM:

1. Filing citizen's complaints against Coelho and refusing to represent him in retaliation for his exercise of rights protected by the Dills Act.

2. In any like or related manner, restraining or coercing Coelho in the exercise of rights guaranteed him by the Dills Act.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE DILLS ACT:

1. Notify the DFG and Coelho in writing that CAUSE is formally withdrawing the citizen's complaint filed against Coelho on or about December 31, 1991.

2. Remove all records from CAUSE'S files of the complaint against Coelho and notify Coelho in writing that this action has been taken.

3. Within thirty-five (35) days following the date this Decision is no longer subject to reconsideration, post at all work locations where CAUSE customarily posts notices to members of State Bargaining Unit 7, copies of the notice attached hereto as an appendix. The notice must be signed by an authorized agent of CAUSE, indicating that CAUSE will comply with the terms of this Order. Such posting shall be maintained for a period of thirty (30) consecutive workdays. Reasonable steps

shall be taken to ensure that the notice is not reduced in size, altered, defaced or covered with any other material.

4. Make written notification of the actions taken to comply with this Order to the Sacramento Regional Director of the Public Employment Relations Board in accord with the director's instructions.

Chair Blair and Member Garcia joined in this Decision.



APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD  
An Agency of the State of California

After a hearing in Unfair Practice Case No. LA-CO-48-S, Richard L. Coelho v. California Union of Safety Employees, in which all parties had the right to participate, it has been found that the California Union of Safety Employees (CAUSE) has violated section 3519.5(b) of the Ralph C. Dills Act (Dills Act). CAUSE violated the Dills Act by discriminating against Richard L. Coelho (Coelho) when it filed a citizen's complaint against him with his employer, the State of California, Department of Fish and Game (DFG), and by refusing to provide him representation in the resulting investigation of that complaint.

As a result of this conduct, we have been ordered to post this Notice and we will:

A. CEASE AND DESIST FROM:

1. Filing citizen's complaints against Coelho and refusing to represent him in retaliation for his exercise of rights protected by the Dills Act.

2. In any like or related manner, restraining or coercing Coelho in the exercise of rights guaranteed him by the Dills Act.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE DILLS ACT:

1. Notify the DFG and Coelho in writing that CAUSE is formally withdrawing the citizen's complaint filed against Coelho on or about December 31, 1991.

2. Remove all records from CAUSE'S files of the complaint against Coelho and notify Coelho in writing that this action has been taken.

DATED: \_\_\_\_\_ CALIFORNIA UNION OF  
SAFETY EMPLOYEES

By: \_\_\_\_\_  
Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST THIRTY (30) CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED WITH ANY OTHER MATERIAL.