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A PROFESSIONAL CORPORATION

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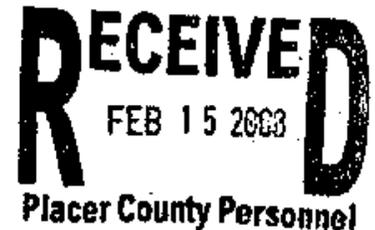
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February 15, 2008



Nancy Nittler, Personnel Director
145 Fulweiler Ave., Suite 200
Auburn, California 95603-4578

RE: Placer County Deputy Sheriffs' Association Objection to Placer Public Employee
Organization (PPEO) Probation Petition

Dear Ms. Nittler:

This letter serves as a formal objection to the petition for unit modification filed by the Placer Public Employee Organization (PPEO). The Placer County Deputy Sheriffs' Association (PCDSA) is opposing the improper unit modification petition filed by PPEO. Please forward a copy of this opposition to all members of the Board of Supervisors prior to the hearing scheduled for February 26, 2008.

The unit modification petition filed by PPEO is procedurally defective since they are not currently the recognized collective bargaining representative for the Probation Unit employees. PCDSA is currently the recognized collective bargaining representative for the Probation Unit employees. Accordingly, only PCDSA has the authority to file a unit modification petition.¹ The petition is also defective since PPEO fails to satisfy or even address the factors identified under Section 8 of Employer-Employee Relations Policy (EERP).

Furthermore, the unit modification petition is substantively inappropriate since the PPEO unit is not an appropriate unit for the probation classifications sought to be represented by them. Further, PCDSA has evidence that the PPEO inappropriately obtained signatures on their petition through unlawful coercion.

¹The PCDSA is filing a unit modification petition along with this opposition to PPEO's inappropriate and invalid petition.

1. Procedurally Improper Petition

PPEO's petition was clearly written as a Unit Modification Petition. (February 1, 2008 letter signed by Chuck Thiel). In Thiel's letter he states "attached your will find a Bargaining Unit Modification Petition requesting to add the Probation Officer classifications to the Professional Bargaining Unit." A petition for unit modification can only be requested by the recognized collective bargaining representative for the unit to be modified. Here PCDSA is the exclusive collective bargaining representative for the Probation Officer classifications. As such, PPEO's petition on its face must be denied as improper.

PPEO's petition is also defective since it fails to address the prerequisites under Section 8 of the EERP. Section 9 of the EERP specifically requires "a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Sec. 8 - Policy and Standards for Determination of Appropriate Units hereof." PPEO's total failure to address these issues requires a rejection of the petition.

2. Pursuant to Section 8 of the EERP, the PPEO Professional Bargaining Unit is not an appropriate unit for the Probation Officer Classifications.

PPEO's petition must be denied since they cannot establish that they are an appropriate bargaining unit for Probation Officers Classifications. As stated in the EERP, the factors to consider are delineated in Section 8. These factors weigh in favor of denying PPEO's requested unit modification.

a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

Currently, the PPEO Professional Bargaining Unit is composed of 73 different classifications including nurses, architects, and engineers. None of these classifications are peace officers. Pursuant to the EERP, Professional Employee "means an employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical and biological scientists."

The probation classifications are not similar in qualifications as required for the other professional unit classifications. The Deputy Probation Officer I and II classifications are comprised of sub-groups, DPO Field and the DPO Institution. The DPO Field officer positions require a B.A. or its equivalent, but not in any specific degree and no state or federal licensing is required (ie nurse, doctor, attorney, etc.). The DPO Institution officer positions require a A.A. or 60 units of college courses and no state or federal licensing. The requirements and qualifications for probation officer classifications is similar to the other law enforcement employees represented by the PCDSA and not the Professional unit classifications.

The working conditions for probationary officer classifications is similar and akin to other law enforcement employees represented by the PCDSA and has no relation or similarity to

the professional unit classifications. Law enforcement and Probation have much more in common than health or civil service. Similar to the other PCDSA members, the probation officer classifications are subject to the peace officer bill of rights. None of the professional unit employees are subject to the POBR. As law enforcement, the probationary classifications are entitled to peace officer status under penal code section 830 et seq.

As peace officers, the probation officer classifications are not permitted to engage in strikes. In contrast the professional employee classifications are not subject to this restriction. Furthermore, as peace officers, the probation classifications do not receive State Disability and they currently receive long term disability through PORAC a peace officer organization.

The PPEO's claim that they represent similar officers (ie. correctional officers) is irrelevant since they are not seeking to put the probation officers in this same bargaining unit with the correctional officers. Moreover, the placement of the correctional officer classifications in the PPEO general unit constitutes an admission that law enforcement officers do not perform similar work, have similar working conditions, nor similar qualifications as other employees in the PPEO professional unit. In fact, the PPEO professional unit has no peace officer classifications.

b. History of representation in the County and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

The PCDSA has represented probation officer classifications for approximately 17 consecutive years for purposes of wages, hours and working conditions. The current reclassified deputy probation officer I and II and supervising DPO classifications have never been represented by any other representative.

The Public Employment Relations Board strongly favors maintaining stability in negotiations, and that the existence of a solid negotiating history favors continuing an existing unit configuration. (*Los Angeles Unified School Dist.*, (1998) PERB Decision No. 1267). PERB has universally held that the negotiation history between a union and the employer must be considered an important factor when deciding a severance petition (*Long beach Community College Dist.*, *supra*, at p. 11; *Livermore Valley Joint Unified School Dist.* (1981) PERB Decision No. 165, p. 5), and that a stable negotiating relationship should not be lightly disturbed, even where PERB approval has not been obtained. (*Livermore Valley Joint Unified School Dist.*, *supra*, at p. 3.)

Unlike initial unit determinations, the negotiating history of the Association with the employer, and on behalf of the employees, must be considered in a petition for severance. (*Livermore Valley Joint Unified School Dist.*, *supra*, at p. 3; *Long Beach Community College Dist.*, *supra*, p. 11.) In reviewing this element of the unit determination analysis, the Board should consider the following factors: (1) Whether there is a longstanding and stable bargaining relationship; (2) Whether the needs of the probation officer classifications have been reasonably satisfied; (3) Whether the union has addressed the probation officer classifications' interests in

negotiating specifically; and (4) Whether the probation officer classifications had input into negotiating processes and held positions as officers and/or stewards in the Union. (*Long Beach Community College Dist.*, supra, at p. 13.) The PCDSA has a long history of representing the probation officer classifications in bargaining. Probation officer representative(s) are included in the bargaining team and have significant input in the process. Moreover, the PCDSA is concurrently filing a unit modification to divide the Law Enforcement Unit so as to establish a Probation Officer Unit represented by the PCDSA in the same fashion, but subject to a separate memorandum of understanding for the probation employees.

The longstanding relationship between the County, PCDSA and the probation officer classifications must be given deference. Although the lack of PERB approval of the County's units prevents the units from being "presumptively" appropriate, the Boards' decisions continuously and uniformly provide that a longstanding bargaining relationship should not be lightly disturbed. (*Livermore Valley Joint Unified School Dist.*, supra, at p. 3) In *State of California* (Dept. Of Personnel Admin) (1989) PERB Decision No. 773S, the Board quoted from an earlier Decision that made this point clearly, and provided the Board's rationale for avoiding disruption of stable working relationships: "The Board also has a strong interest in labor relations stability. Therefore, we are loathe to upset working relationships and will not disrupt existing units by granting severance petitions lightly." (*Redondo Beach City School Dist.* (1980) PERB Decision No. 114).

c. Consistency with the organizational patterns of the County.

Currently, the Law Enforcement Unit is comprised entirely of public safety employees. The PPEO professional unit is comprised of professional employees including engineers, attorneys and nurses. Permitting the probation officer classifications to sever from the law enforcement unit to join a non law enforcement unit is contrary to the organizational pattern of the bargaining units currently recognized by the County.

d. Effect of differing legally mandated impasse resolution procedures.

As Peace Officers, the Probation Officer classifications are entitled to binding arbitration of contract disputes under Code of Civil Procedure Section 1299 et seq. In contrast, the Professional Unit has no similar impasse resolution procedures. Should the probation officer classifications be permitted to join the PPEO professional unit, the newly amended Professional Unit will be entitled to binding arbitration pursuant to the rights conferred on the probation officer classifications.

Pursuant to Code of Civil Procedure Section 1299.4, "the employee organization may, by written notification to the employer, request that their differences be submitted to an arbitration panel." CCP § 1299.3 defines employees organizations as "any organization recognized by the employer for the purpose of representing firefighters or law enforcement officers in matters relating to wages, hours, and other terms and conditions of employment within the scope of arbitration." Pursuant to CCP § 1299.3(e) states that "'Law enforcement officer' means any person who is a peace officer, as defined in ... subdivision (a) of Section 830.5 of ... the Penal

Code." Accordingly, this newly modified unit will be entitled to additional impasse procedures not currently available to them.

e. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.

PERB has also made clear that any adverse effects fragmentation will have upon the operational efficiency of the employers is appropriately considered as a factor against granting the petition. (*Los Angeles Unified School Dist.* (1998) PERB Decision No. 1267; *Long Beach Community College Dist.* (1999) PERB Decision No. 1315; *Livermore Valley Joint Unified High School Dist.* (1981) PERB Decision no. 165). In recognizing the potential effects of fragmentation of classifications on the employer, PERB has held that

The [PERB] need not accommodate the interests of every group of employees. Where and under what conditions the Board will or will not grant additional units, small or otherwise, is best left to case-by-case determination. (*San Diego Unified School District* (1981) PERB Decision No. 170, p. 2, citing *Pleasanton Joint School Dist./Amador Valley Joint Union High School Dist.* (1981) PERB Decision No. 169).

It is particularly problematic where, as here, there is a significant community of interest between the law enforcement employees in the "new" and "old" units, such that each will likely be demanding similar considerations in the bargaining and grievance processes. Forcing employers to manage a fragmented law enforcement labor force that performs the same or similar work under different sets of rules/agreements is something that the PERB has concluded is "unacceptable." (*San Diego Unified School Dist.* (1981) PERB Decision No. 170).

f. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

Currently the probation classifications are appropriately represented by the PCDSA as part of the law enforcement unit. Putting the probation classification into a mixed non law enforcement unit, inappropriately divides related law enforcement classifications and mixes them into non law enforcement groups.

3. PPEO Has Obtained Signatures Through Unlawful Coercive Tactics in Violation of the Meyers Milias Brown Act and the EERP.

The PCDSA opposes the petition filed by PPEO on the grounds they used unlawful coercive tactics in obtaining signatures of support for their petition. The PPEO has inappropriately obtained signatures by using probation officer supervisors to collect signatures on duty. This conduct is wholly inappropriate and unlawful in that subordinates were compelled to sign the petition to avoid repercussions from the requesting supervisors. PPEO's petition must

be disregarded to cure this unlawful conduct. Furthermore, several of the signatures on the petition are no longer valid as certain members have revoked their support for PPEO. (Copy of revocation cards, attached hereto, as Exhibit "A").

a. The Use of Supervisors to Obtain Signatures on Duty Directly Exposes the County to Liability for an Unfair Labor Practice.

The Public Employment Relations Board has held that an employer must maintain "strict neutrality" in the face of organizational activity. (*Santa Monica Community College District* (1979) PERB Decisions No. 103). A severance and/or unit modification petition constitutes organizational activity and triggers the County's duty to maintain strict neutrality. Here, the County has violated its duty to remain neutral due to the conduct of the Probation supervisors. The County through its supervisors has interfered, restrained, coerced and harassed the probation officers throughout the PPEO's unit modification effort. The County has improperly supported the rival union (PPEO) during the severance/unit modification process as a result of the supervisors' conduct. The supervisors' actions give the impression that the County supports the unit modification petition, violating the County's duty of strict neutrality.

Throughout the month of January, Supervisors, while on duty, actively solicited Deputy Probation Officers to sign a petition to modify the PPEO bargaining unit to include the probation officer classifications. The Supervisors presented the petition without allowing their subordinate officers an opportunity to read what they were signing or question the Supervisor regarding the petition. The Supervisors offered promises and inducements, telling the probation officers, if they signed the petition they would get a "big fat raise" and also asked the subordinate officers what they (supervisors) could do to get them to sign the petition. The Supervisors demanded the signatures during paid work hours at County facilities, giving the impression that signing was an order and not only mandated by the County, but supported by the County.

The County's indirect support of PPEO's improper actions is especially improper in the face of an EERP provision that specifically states employee organizations shall not engage in organizational activities on County paid time nor at County work facilities. The County improperly assisted the PPEO labor organization, by allowing Supervisors to flagrantly violate Article III, Section 14 of the County's Employer-Employee Relations Policy. Section 14 addresses employee organization activities and states in relevant part:

...Access to County work locations and the use of County paid time, facilities...and other resources...shall not include contacting employees on County time who are not members of the particular organization, and shall not include such internal employee organization business as soliciting membership or representation rights, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of County Operations.

The County allowed PPEO supporters to conduct internal employee organization business

during County paid time, in County facilities and work locations, placing the County's imprimatur on PPEO's actions. By allowing the Supervisors to violate the EERP and improperly utilize work facilities and paid work time to solicit membership support, the County contributed support to one employee organization over another and served to deny the employees their right to freely choose their representative. The County "could have restricted the participation of supervisory employees in pre-election activities of non-supervisory employees in order to maintain a position of neutrality," but instead the County tacitly endorsed PPEO in its effort to unseat the DSA as the Probation Officers' certified collective bargaining representative (*State of California (Department of Forestry) (1981) PERB Decision no. 174-S*). Through its inaction the County allowed PPEO to violate the EERP and engage in intimidation, harassment, and coercion to obtain the requisite amount of signatures for a unit modification petition. PPEO forced probation officers to sign the petitions under duress and intimidation. The probation officers signed the petition fearing discipline if they refused. The County has made no effort to quell the offending actions committed by the Supervisors, nor has the County taken action to assuage the appearance it supports the unit modification effort and in fact the County supports PPEO's unit modification petition in violation of the MMBA.

4. Conclusion

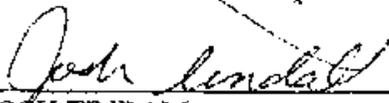
The PCDSA requests the County reject the PPEO petition and reject their request to modify their unit by allowing the probation classifications to join in the PPEO Professional Bargaining Unit. The PCDSA further requests a finding that the PPEO Professional Bargaining Unit is not an appropriate unit for the placement of the probation employees classification series.

VERIFICATION

I, Josh Tindall, declare:

1. I am the President of the Placer County Deputy Sheriffs' Association.
2. I am duly authorized to and hereby do file this Opposition on behalf of the PCDSA.
3. I declare under penalty of perjury, under the laws of the State of California, that the foregoing Petition is true and correct to the best of my knowledge, and if called upon to testify thereto, I could and would competently do so.

Executed on February 14, 2008 in Sacramento, California.



JOSH TINDALL
PCDSA President

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Sacramento

On 2-14-08 before me, Barbie Lynn DeJong, Notary Public

personally appeared Joshua James Sanchez Tinobalt

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hers/their authorized capacity(ies), and that by his/hers/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Barbie Lynn DeJong

Place Notary Seal Above

OPTIONAL

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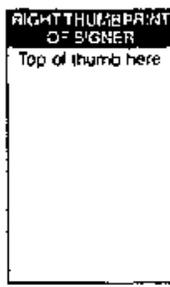
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- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

