AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO Respondent	
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, COUNCIL 236 Respondent and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 2600 Respondent and LEO JACK FAGAN Charging Party	Case No. SF-CO-40843

GENERAL SERVICES ADMINISTRATION WASHINGTON, D.C. Respondent and LEO JACK FAGAN Charging Party	Case No. SF-CA-41109

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.26(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.26(c) through 2423.29, 2429.21 through 2429.25 and 2429.27.

Any such exceptions must be filed on or before **JUNE 19, 1995**, and addressed to:

Federal Labor Relations Authority
Office of Case Control
607 14th Street, NW, 4th Floor
Washington, DC 20424-0001

JESSE ETELSON
Administrative Law Judge

Dated: May 19, 1995

Washington, DC

MEMORANDUM DATE: May 19, 1995

TO: The Federal Labor Relations Authority

FROM: JESSE ETELSON
Administrative Law Judge

SUBJECT: AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Respondent

and

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, COUNCIL 236

Respondent

and Case No. SF-CO-40843

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 2600

Respondent

and

LEO JACK FAGAN

Charging Party

AND

GENERAL SERVICES ADMINISTRATION
WASHINGTON, D.C.

Respondent

and Case No. SF-CA-41109

LEO JACK FAGAN

Charging Party

Pursuant to section 2423.26(b) of the Rules and Regulations, 5 C.F.R. § 2423.26(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed are the transcript, exhibits and any briefs filed by the parties.

Enclosures

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF ADMINISTRATIVE LAW JUDGES
WASHINGTON, D.C. 20424-0001

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO Respondent	
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, COUNCIL 236 Respondent and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 2600 Respondent and LEO JACK FAGAN Charging Party	Case No. SF-CO-40843

GENERAL SERVICES ADMINISTRATION WASHINGTON, D.C. Respondent and LEO JACK FAGAN Charging Party	Case No. SF-CA-41109

Stefanie Arthur, Esquire
For the General Counsel

Alexia McCaskill, Esquire
Mark D. Roth and
Charles A. Hobbie, Esquires (on the Brief)
For the Respondent Labor Organizations

Deborah Finch, Esquire
For Respondent General Services Administration

Before: JESSE ETELSON
Administrative Law Judge

DECISION

Statement of the Case

These cases involve two distinct issues. The first involves a procedure for revoking payroll deduction of dues, pursuant to a collective bargaining agreement between Respondent American Federation of Government Employees, AFL-CIO (AFGE) and Respondent General Services Administration (GSA). The second involves the efforts of the Charging Party to revoke his dues deduction authorization.

The consolidated complaint alleges that the collective bargaining agreement requires that employees wishing to revoke their dues withholding authorizations obtain a revocation form from and, after executing it, submit it to a representative of AFGE, who must certify the anniversary date of the employee's AFGE membership and forward the certified form to GSA. By virtue of this requirement, it is alleged that GSA violated sections 7116(a)(1), (2), (3), and (8) of the Federal Service Labor-Management Relations Statute (the Statute) and that AFGE violated sections 7116 (b)(1), (2), and (8) of the Statute. The General Counsel contends that the applicable contract provisions are, *per se*, unlawful restrictions on employees' right to revoke. GSA admits the relevant factual allegations regarding the agreement but denies any violation. AFGE admits that the agreement requires employees to submit the revocation form to a union representative for certification. AFGE alleges, however, that the actual practice and policy governing dues revocation, as administered, "differs markedly from the CBA provision." AFGE denies that the provisions of the agreement constitute any infringement of employee rights.

The second alleged violation is that Respondents AFGE Council 236 and Local 2600 violated sections 7116(b)(1) and (8) of the Statute by failing and refusing to process the Charging Party's dues revocation request. Council 236 and Local 2600 deny that such a request was received and further deny that they have committed any unfair labor practices.

A hearing was held in Seattle, Washington. The parties filed post-hearing briefs. AFGE counsel filed on behalf of the parent union and both affiliates. For convenience, I shall refer to positions and arguments in that brief as those of "AFGE."[1] I shall also refer to Council 236 and Local 2600, where a collective reference is appropriate, as "the Union."

Findings of Fact

Background Facts Relevant to Both Issues

AFGE is the certified exclusive representative of GSA employees in a nationwide bargaining unit. AFGE and GSA are parties to a "National" collective bargaining agreement (NCBA). Council 236 is an agent of AFGE for the purpose of representing GSA employees, and Local 2600 is responsible for day-to-day contract administration, on behalf of AFGE, for GSA bargaining unit employees in Alaska, Washington, and Idaho. Council 236 and Local 2600 jointly maintain an office on GSA premises in Auburn, Washington, where they receive mail through the GSA mailroom.

Facts Pertinent to Issue of Lawfulness of NCBA Provisions

Article 35 of the NCBA covers dues withholding. Section 1 provides that any bargaining unit employee who is

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[1] After the briefs were submitted, counsel for the Respondent labor organizations filed an inadvertently omitted attachment, consisting of an arbitrator's opinion and award, as authority for the proposition that enforcement of the requirement to submit revocation forms to a union representative does not violate the Statute. Counsel for the General Counsel has moved to strike the attachment and the references to it in the AFGE brief, on the ground that it constitutes post-hearing evidence lacking justification for introduction at this stage. I deny the motion, since the opinion was not submitted for evidentiary purposes. However, in agreement with the General Counsel, I find that this submission does constitute an admission that, as the opinion reflects, Council 236 sought enforcement of the submission requirement.

an AFGE member in good standing may have dues withheld through payroll deductions. Section 2 is entitled "Union Responsibility," and provides, among other things, that:

> A. The Union will undertake to inform members of the voluntary nature of dues withholding and of the conditions governing a member's cancellation of dues withholding.
>
> C. The Union will provide Standard Form 1187, distribute it, and instruct employees in its use. . . .
>
> D. The Union shall provide Standard Form 1188, distribute it, and instruct members in the [sic] use.

Section 3 of Article 35 is entitled "Management Responsibility." Among the listed responsibilities of management are to "[p]rocess Standard Forms 1188 in accordance with the terms and conditions specified on Standard Form 1187 and this Agreement."

Section 4 is entitled "Effective Dates for Dues Withholding Actions." The "Effective Date" for the "Action" of "Revocation by employee" is described as follows:

> Beginning of first pay period following the anniversary date of employee's membership in AFGE, provided that a properly executed SF 1188 was received by the Personnel office . . . . **The employee is responsible for submitting the SF-1188 to his/her local representative who will certify the anniversary date and submit the SF-1188 to the Personnel Office** (emphasis added).[2]

Standard Forms 1187 and 1188 are issued by the U.S. Office of Personnel Management. Form 1187 is a "Request for Payroll Deductions for Labor Organization Dues." Although not part of the record in these cases, I take official notice that Form 1187 contains the following language as part of the employee's request:

> I further understand that Standard Form 1188, Cancellation of Payroll Deductions for Labor Organization Dues, is available from my employing agency, and that I may cancel this authorization by filing Standard Form 1188 or

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[2] It is undisputed that the parties understand the term, "local representative," to mean a union representative.

other written cancellation request with the payroll office of my employing agency.

A copy of Form 1188 is in evidence. It contains the following instructions at the bottom: "(Submit copies 1 and 2 to the agency payroll office. Copy 1 is retained for payroll records and Copy 2 is forwarded by the payroll office to the labor organization in accordance with the arrangement between the agency and the labor organization. . . .)"

The Charging Party, Leo Jack Fagan, a bargaining unit employee who had been authorizing payroll dues deductions, obtained a Form 1188 from a forms file at the GSA office where he worked. However, notwithstanding the quoted language of Form 1187, there is no evidence as to whether Form 1188 is readily available from all GSA offices at which bargaining unit employees work.

Bruce Williams, the president of Local 2600 and recently an officer of Council 236, testified that Local 2600 does not strictly follow the contract language, in that, at times in the past, it would certify an anniversary date pursuant to a call from "personnel" when an employee sent a Form 1188 directly to the personnel or payroll office. Williams testified that he informed Fagan (when Fagan inquired after discovering that his dues deductions had not stopped after he mailed a Form 1188 to "AFGE Union") that he could resubmit a copy of his form to the Union office or directly to personnel.

The conversation with Fagan, the content of which is disputed, is a special case. It occurred after a problem had already developed by virtue of Fagan's representation that he had submitted a form that, according to Williams, the Union had not received. What Williams told Fagan is not probative as to the parties' general practice. AFGE does not rely on Williams' other testimony about not strictly following the contract, which, in any event, is too vague on which to base a finding that the provisions in question were generally ignored.[3] AFGE's position is, rather, that the contract provisions are valid on their face. That is also GSA's position. In these circumstances, I find that for purposes of the issue of the contract's facial validity, the

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[3] In fact, the arbitrator's opinion submitted by AFGE provides an example of Council 236, represented by Williams, enforcing the relevant provisions of Article 35, Section 4.

requirement for submission of the SF 1188 to a union representative is properly before me.[4]

Facts Relating to Fagan's Attempt to Revoke Authorization

Fagan was a GSA employee working in the Spokane field office and a member of Local 2600. He had authorized dues withholding and wanted to revoke the authorization. He called the office shared by Local 2600 and Council 236 in Auburn in November 1993 to inquire about resigning his membership. Kathy Ollum, a secretary in the office, told him to submit a Form 1188 to the Union office within the 10-day window period described in the contract, that is, within the 10 days before the anniversary date of his membership, December 11.

Fagan executed a Form 1188 and sent it by certified mail, return receipt requested, to "AFGE Union" at the address of the GSA Region 10 facility in which the Union office was located.[5] The return receipt was signed by Marie Wilson, a GSA mailroom employee, on the line indicated for the signature of the addressee. Ms. Wilson had no specific authority from Local 2600 or Council 236 as an agent for receipt of mail. The stamped date of delivery was December 2.

Regular mail addressed to the Local or the Council is placed in a "Union box" in the GSA mailroom. Certified mail is handled differently. It is either delivered to the Union office or picked up by someone from the Union at the mailroom.

When Fagan's dues continued to be deducted, he made several calls to GSA and the Union office. No one knew anything about his Form 1188. He told Union secretary Ollum, during one of his calls, that he had a return receipt signed by Marie Wilson. Fagan testified that during a later call, Union representative Lynn Springer told him that Ollum was going to "fax" his 1188 to GSA payroll. However, the same day (January 24, 1994), a GSA personnel employee told Fagan that Ollum had told her she couldn't find the 1188. On March 30, after one or more telephone conversations with Fagan, Bruce Williams wrote him a letter stating that

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[4] I do not imply that, under even its broadest construction, Williams' testimony, if credited, could justify avoiding a ruling on the facial validity of the provisions in question.

[5] Council 236's official return address is "AFGE Council 236, c/o AFGE Local 2600, GSA Center, Auburn, WA 98002."

Williams had made a "thorough review of your allegation" of submitting the Form 1188 to the Union office, but could find no record of receiving it. Williams' letter also stated that his secretary had indicated that she never received it either. The letter then states that it is "[Williams'] decision that we will process a SF-1188 when we receive a properly submitted [form] during the contract timeframes." Fagan's attempted revocation was aborted at that point. However, his dues deductions were stopped in October 1994.

I find, with respect to the only dispute over the facts discussed above, that the Union did not knowingly receive Fagan's Form 1188. Assuming that Fagan testified accurately about what Springer told him, the statement he attributed to her falls short, in the context of contemporaneous events, of an admission that Fagan's Form 1188 had turned up in the union office. Further than this, I have no basis for inferring whether the form got lost without ever arriving at the Union or arrived there and was lost before anyone noticed it.

Discussion and Conclusions

Facial Validity

The Authority has spoken to the issue of the facial validity of a contractual arrangement for revocation that is similar, but not identical, to the arrangement presented here. In *Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire*, 19 FLRA 586 (1985) (*Portsmouth*), the Authority held that an "activity" and a union violated the Statute when they entered into and enforced agreements requiring an employee to obtain, execute, and submit dues withholding revocation forms at the union office. The Authority concluded that such "[Union] control of the forms in the circumstances of this case" (*Id.* at 590 n.8) was inherently coercive of the employee's right to refrain from joining or assisting a labor organization. *Id.* at 589.

Given the arguable factual differences between the instant cases and *Portsmouth*, the question is whether the revocation procedures here also intrude on the right of employees to revoke authorizations. *Portsmouth* must be the starting point for this inquiry, however, as it is, whatever its factual differences, the closest available precedent, and one that the Authority has recently followed in principle. *See Federal Employees Metal Trades Council, AFL-CIO, Mare Island Naval Shipyard*, 47 FLRA 1289 (1993).

The *Portsmouth* decision is unusual in construction, in that the Authority does not set forth in the text of its

opinion the supporting rationale for its conclusion that the requirements found there were "inherently coercive." Instead, in a footnote appended to its conclusion, the Authority refers to the rationale of a Supreme Court decision and a National Labor Relations Board decision:

> 6/ See generally Felter v. Southern Pacific Co. et al., 359 U.S. 326 (1959), decided under the Railway Labor Act, and Newport News Shipbuilding and Dry Dock Company, 253 NLRB 721, enforced sub nom. Peninsula Shipbuilders Association v. NLRB, 663 F.2d 488 (4th Cir. 1980), decided under the National Labor Relations Act, cited by the Judge. In Felter the court concluded that the Railway Labor Act contained no statutory authorization for a requirement that dues revocations could be effectuated only on forms furnished and forwarded to the employer by the union, and that Congress had consciously and deliberately chosen to deny employers and unions the authority to restrict an employee's right to revoke in such a manner. In Newport News, the court concluded that refusal to honor written dues revocation requests because the requests were not on specific forms furnished by the union as required by the collective bargaining agreement constituted an unlawful restriction since it was an additional condition not specified in the employees' dues withholding authorizations.

In the absence of any other explanation, I must interpret the Authority's conclusion in *Portsmouth* as resting on its reading, reflected in footnote 6, of the *Felter* and *Newport News* decisions. It is not for me to reinterpret those decisions.[6] Neither am I free to entertain AFGE's suggestion that the Authority's reliance on them is no longer viable.

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However, I am constrained to point out what I perceive to be an inadvertent error in the Authority's attribution of the applicable reasoning in *Newport News.* It was the National Labor Relations Board administrative law judge, affirmed by the Board, who concluded that the refusal to honor revocation requests not on specific forms was an unlawful restriction. 253 NLRB at 730. The court, in enforcing the Board's order, did not pass on the facial validity of the contract provision or the cited rationale. 663 F.2d at 492-93. Judge Sternburg noted this in *Portsmouth* (19 FLRA at 602-03) but the Authority adopted neither this observation nor, apparently, his further analysis and discussion of the *Felter* and *Newport News* cases. In their place, the Authority substituted its footnote 6.

AFGE and GSA argue, however, that their contract procedures are less restrictive than those in *Portsmouth* because (1) employees are not required to obtain revocation forms from the Union and (2) they need not execute and return the forms at the Union office, but may mail them.

I find a valid, but not decisive, factual distinction as to (1). The contract does not, on its face, require that revocation forms be obtained from the Union. Article 35, Section 2D of the NCBA provides that: "The Union shall provide Standard Form 1188, distribute it, and instruct members in the use." This is, under the contract, a "Union Responsibility." It is not, by its terms or, on the evidence presented, by intent, a restriction on employees, whose authorizations (Form 1187) state that Form 1188 is available from their employing agency. Nor is there evidence that Section 2D has been applied as a restriction.[7]

My analysis of factual distinction (2), above, leads me to conclude that, at least as far as the Authority's basis for *Portsmouth* is concerned, it is a "distinction without a difference".[8] While the Authority found that the contract in *Portsmouth* required employees to execute and submit the revo-cation forms at the union office, neither the *Felter* nor the *Newport News* rationale on which the Authority relied depends on such a finding. In *Felter*, the decisive objection to the restriction, as the Authority saw it (see its footnote 6, quoted above), was that there was no statutory authorization for the dual requirements that revocations be on "forms furnished and forwarded to the employer by the union." In fact, Felter, the employee-plaintiff, had been informed by letter from the union's secretary-treasurer that he had to return the enclosed revocation card, which would be "forwarded by me to the Company." 359 U.S. at 851. This instruction hardly precludes the employee from returning the form by mail, nor was he required to go to the union office to obtain it. In short, the restriction was found to be unlawful absent any requirement that the employee go to the union office at all.

The question remaining, then, is whether the requirement to submit the form to the Union for certification, standing alone (without the requirement to obtain the form from the Union) is unlawful under the

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[7] A contention with regard to **application** would fall outside the issue of the contract's facial validity. If sustainable by the evidence, however, it might be properly considered under the General Counsel's argument that the contract **requirements**, *per se*, interfere with employee rights.

[8] Henry Fielding, *The History of Tom Jones*.

Portsmouth rationale. I conclude that it is. The Authority did not invest the union's **providing** of the forms with any particular importance, but focused on the totality of the union's control. Thus, the Authority stated, in footnote 8 of *Portsmouth*:

> In concluding that the Respondents violated the Statute as set forth above, the Authority does not find and should not be construed as holding that dues revocation forms provided by an exclusive representative are per se unlawful, but rather that the Union's control of the forms in the circum-stances of this case was unlawfully coercive.

Under the *Felter*-derived *Portsmouth* rationale, the vice was the lack of statutory authorization for the requirements in question. That vice is present here also. There is nothing in the Statute, either in section 7115, which deals with dues withholding, or elsewhere, that authorizes a requirement to submit revocations through the union.

Moreover, the second prong of the *Portsmouth* rationale is the *Newport News* doctrine that a restriction on revocation is unlawful if it is a condition "not specified in the employees' dues withholding authorization."[9] The instant case presents a more striking departure from the terms of the withholding authorization than was found in *Portsmouth* or *Newport News.* Here, the authorization (Form 1187) specifically stated the understanding of the employee making the dues deduction request that she could cancel the authorization "by filing Standard Form 1188 or other written cancellation request with the payroll office of my employing agency."

In sum, I conclude that under the Authority's stated rationale for finding the restrictions present in *Portsmouth* to be unlawful, the requirement found in Article 35, Section 4, of the NCBA is also an unlawful restriction on employees' right to refrain from joining or assisting a labor organization. On the authority of *Portsmouth*, I find that, by entering into and maintaining this provision, GSA violated section 7116(a)(1), (2), (3) and (8) of the Statute, and AFGE violated section 7116(b)(1), (2) and (8).

Union's Treatment of Fagan's Revocation Request

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9 *See also Federal Deposit Insurance Corporation*, 40 FLRA 775, 785 (1991) (The employee alone controls the manner of dues payment.)

As noted by Counsel for the General Counsel, Fagan did everything he was supposed to do, even under the unlawfully restrictive contract provision, to submit a timely Form 1188. AFGE has relied, with respect to the *per se* allegation, on the fact that employees were not required to go to the Union office to deliver their executed Form 1188s. Although the Local had a representative at Fagan's place of employment, the Union encouraged members to send the forms to the Union's Auburn office, as Union secretary Ollum told Fagan to do.[10] This is tantamount to an adoption of mailing as a preferred method, if not the only method, of submitting a Form 1188. Notwithstanding the lack of specific authority to anyone in the GSA mailroom to receive mail **on behalf of** the Union, Fagan had a right to assume that the Union received and would process his Form 1188 once he had proof of its delivery to the address the Union held out for itself. *See E.F. Hutton Group, Inc. v. U.S. Postal Service*, 723 F. Supp. 951, 961 (S.D.N.Y. 1989); *see also* 17 *Am. Jur.* 2d *Contracts* § 106 (1991).

When Fagan informed the Union that he had mailed the form and received a return receipt, representations that the Union had no reason to doubt and did not question, it was incumbent upon the Union to honor that submission by accepting a copy (or a newly executed form) and forwarding it to GSA with a request to process it as a timely revocation. Instead, Bruce Williams ultimately decided that **his** inability to locate Fagan's Form 1188 precluded Fagan's revocation until his next anniversary date. Such a delay would be inconsistent with the Statute. *See American Federation of Government Employees, AFL-CIO, Local 1931 and Department of the Navy, Naval Weapons Station, Concord, California*, 32 FLRA 1023, 1029 (1988), reversed as to other matters *sub nom. Department of the Navy, Naval Weapons Station, Concord, California v. FLRA*, Nos. 88-7408/7470 (9th Cir. Feb. 7, 1989).

Williams wrote the March 1994 letter to Fagan, containing his decision to reject his attempted revocation, as the Regional Vice President of Council 236. He was also the president of Local 2600, of which Fagan was a member. Based on these facts, and the representation of counsel that the Council and the Local share in the proceeds of deducted dues, I conclude that both of these organizations are responsible for Williams' action. I therefore conclude that Council 236 and Local 2600 violated section 7116(b)(1) of

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See also GC Exh. 5, in which Williams wrote to a Spokane employee, from the Union's Auburn office, "[i]t is recommended that in the future when you seek to withdraw from the Union, that you submit the original to this office . . . ."

the Statute. The Authority also found violations of section 7116(b)(2) and (8) in *Portsmouth.* Because the Authority also found violations of section 7116(b)(2) and (8) in *Portsmouth*, it appears that it would similarly find violations of those subsections with respect to the treatment of Fagan's attempted revocation. Consequently, I find those additional violations.

The Remedy

I shall recommend, as requested by Counsel for the General Counsel, that Council 236 and Local 2600, liable jointly and severally, be ordered to make the Charging Party whole. In view of the fact that the Council and the Local would not have been in a position to delay the Charging Party's revocation but for the unlawful contract provision, I find AFGE and GSA to be also, jointly and severally, liable for making him whole. For contribution purposes, the appropriate shares should be one-third each for GSA, AFGE, and Council 236 and Local 2600 collectively.

I do not find warranted, however, a make-whole remedy for other employees who submitted Form 1188s that were not processed by the Union. Such an order would place in compliance proceedings issues that should be litigated, if at all, in plenary unfair labor practice proceedings. The General Counsel cites *U.S. Department of the Treasury, U.S. Mint*, 35 FLRA 1095 (1990), in support of such a remedy. I am unable to determine from reading the Authority's explanation of its remedy in that case, viewed in light of the facts of the case, just what the Authority meant in describing class "(2)" of "other bargaining unit employees" whose dues assignments were affected by the unfair labor practices *(Id.* at 1101). However, one clear distinction between *U.S. Mint* and these cases is that the make-whole remedy in *U.S. Mint* ran to the charging party, not, as requested here, to unidentified employee/members. Anyone affected by the unfair labor practices found here may file charges, which the General Counsel may entertain if they are not barred by section 7118(a)(4) of the Statute. If their charges are time-barred, the policies behind the bar militate against forcing the Respondents to defend against their claims of improper failure to process revocation forms.[11]

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[11] The General Counsel has not asked that employees who did not submit revocation forms because they were restrained by the requirement to submit them to the Union be made whole. Although establishment of a causal relation would present more difficulties of proof, such employees would be no less deserving of relief than those whose forms were shunned.

Counsel for the General Counsel's suggestions regarding signing and posting of notices are well taken, and I shall recommend the sample notices attached to her brief, modified to conform to the violations found and the affirmative remedies I shall recommend.[12] Accordingly, I recommend that the Authority issue the following order.

ORDER

Pursuant to section 2423.29 of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute (the Statute):

A. General Services Administration, Washington, D.C., shall:

1. Cease and desist from:

(a) Maintaining and enforcing any provision of its National agreement with American Federation of Government Employees, AFL-CIO (AFGE), including Article 35, Section 4 (2), which requires employees to submit a form SF 1188 to their local AFGE representative who must then certify the employee's anniversary date and submit the SF 1188 to the personnel office, in order to revoke dues withholding authorizations.

(b) In any like or related manner interfering with, restraining or coercing its employees in the exercise of their rights assured by the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Together with American Federation of Government Employees, AFL-CIO, and its Council 236 and Local 2600, make Leo J. Fagan whole for dues wrongfully withheld because his request to revoke dues withholding was not processed.

(b) Post at its facilities where bargaining unit members represented by AFGE are located, copies of the

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[12] I do not include in the notice to be posted by Council 236 and Local 2600, nor in the recommended order as it pertains to them, any reference to maintaining and enforcing unlawful provisions of the contract. The complaint did not allege that these parties participated in that violation. Although it is clear that they did so, by informing employees of the unlawful requirement, the minimal effect of joining them in the remedy for this violation negates any compelling justification for overriding due process considerations.

attached Notice marked Appendix A, on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Administrator of the General Services Administration and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director of the San Francisco Region, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order as to what steps have been taken to comply.

B. American Federation of Government Employees, AFL-CIO, shall:

1. Cease and desist from:

(a) Maintaining and enforcing any provision of its national agreement with General Services Administration, including Article 35, Section 4(2), which requires employees to submit a form SF 1188 to their local AFGE representative who must then certify the employee's anniversary date and submit the SF 1188 to the personnel office, in order to revoke dues withholding authorizations.

(b) In any like or related manner interfering with, restraining or coercing employees in the exercise of their rights assured by the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Together with its Council 236 and Local 2600 and General Services Administration, make Leo J. Fagan whole for dues wrongfully withheld because his request to revoke dues withholding was not processed.

(b) Post at its business offices and in all places where notices to employees in its General Services Administration bargaining unit are customarily posted copies of the attached Notice marked Appendix B, on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the President of American Federation of Government Employees, AFL-CIO, and shall be posted and maintained for 60 consecutive days thereafter. Reasonable steps shall be taken to insure that such Notices are not altered, defaced, or covered by any other material.

(c) Submit appropriate signed copies of such notice to the Administrator, General Services Administration, for posting in conspicuous places where unit employees are located. Copies of the Notice should be maintained for a period of 60 consecutive days from the date of posting.

(d) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, San Francisco Region, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order as to what steps have been taken to comply.

C. American Federation of Government Employees, Council 236, and American Federation of Government Employees, Local 2600, shall:

1. Cease and desist from:

(a) Refusing to honor timely dues withholding revocations received at their designated address.

(b) In any like or related manner interfering with, restraining or coercing employees in the exercise of their rights assured by the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Together with American Federation of Government Employees, AFL-CIO, and General Services Administration, make Leo J. Fagan whole for dues wrongfully withheld because his request to revoke dues withholding was not processed.

(b) Post at their business offices and in all places where notices to employees in the bargaining unit in General Services Administration, Region 10, are customarily posted copies of the attached Notice marked Appendix C, on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the President of Council 236 and the President of Local 2600 and shall be posted and maintained for 60 consecutive days thereafter. Reasonable steps shall be taken to insure that such Notices are not altered, defaced, or covered by any other material.

(c) Submit appropriate signed copies of such notice to the Regional Administrator for Region 10, General Services Administration, for posting in conspicuous places where unit employees are located. Copies of the Notice

should be maintained for a period of 60 consecutive days from the date of posting.

(d) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, San Francisco Region, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order as to what steps have been taken to comply.

Issued, Washington, DC, May 19, 1995

JESSE ETELSON
Administrative Law Judge

APPENDIX A

NOTICE TO ALL EMPLOYEES

AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY

AND TO EFFECTUATE THE POLICIES OF THE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT maintain and enforce any provision of our National Agreement with American Federation of Government Employees, (AFGE), including Article 35, Section 4(2), which requires employees to submit a form SF 1188 to his/her local AFGE representative who must then certify the employee's anniversary date and submit the SF 1188 to the personnel office, in order to revoke dues withholding authorizations.

WE WILL NOT in any like or related manner interfere with, restrain or coerce our employees in the exercise of rights assured them by the Statute.

WE WILL together with AFGE and its Council 236 and Local 2600, make Leo J. Fagan whole for dues wrongfully withheld because his SF-1188 request to revoke dues withholding was not processed.

General Services Administration

Date: _____ By: _____
Administrator

(Signature) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, San Francisco Region, 901 Market Street, Suite 220, San Francisco, CA 94103-1791, and whose telephone number is: (415) 744-4000.

APPENDIX B

NOTICE TO ALL MEMBERS AND EMPLOYEES

AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY

AND TO EFFECTUATE THE POLICIES OF THE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR MEMBERS AND EMPLOYEES THAT:

WE WILL NOT maintain and enforce any provision of our National Agreement with General Services Administration, including Article 35, Section 4(2), which requires employees to submit a form SF 1188 to his/her local AFGE representative who must then certify the employee's anniversary date and submit the SF 1188 to the personnel office, in order to revoke dues withholding authorizations.

WE WILL NOT in any like or related manner interfere with, restrain or coerce our employees in the exercise of rights assured them by the Statute.

WE WILL together with Council 236, Local 2600, and General Services Administration, make Leo J. Fagan whole for dues wrongfully withheld because the employee's request to revoke dues withholding authorization was denied or delayed because his SF-1188 request was not processed.

American Federation of Government Employees, AFL-CIO

Date: _____ By: _____
President

(Signature) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, San Francisco Region, 901 Market

Street, Suite 220, San Francisco, CA 94103-1791, and whose telephone number is: (415) 744-4000.

APPENDIX C

NOTICE TO ALL MEMBERS AND EMPLOYEES

AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY

AND TO EFFECTUATE THE POLICIES OF THE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR MEMBERS AND EMPLOYEES THAT:

WE WILL NOT refuse to honor timely dues withholding revocations received at our designated address.

WE WILL NOT in any like or related manner interfere with, restrain or coerce employees in the exercise of rights assured them by the Statute.

WE WILL together with American Federation of Government Employees, AFL-CIO, and General Services Administration, make Leo J. Fagan whole for dues wrongfully withheld because his request to revoke dues withholding was not processed.

American Federation of Government Employees, Council 236

Date: _____ By: _____
President

(Signature) (Title)

American Federation of Government Employees, Local 2600

Date: _____ By: _____
President

(Signature) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate

directly with the Regional Director of the Federal Labor Relations Authority, San Francisco Region, 901 Market Street, Suite 220, San Francisco, CA 94103-1791, and whose telephone number is: (415) 744-4000.

CERTIFICATE OF SERVICE

I hereby certify that copies of this DECISION issued by JESSE ETELSON, Administrative Law Judge, in Case Nos. SF-CO-40843 and SF-CA-41109, were sent to the following parties in the manner indicated:

CERTIFIED MAIL:

Mr. Leo Jack Fagan
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Spokane, WA 99208

Stefanie Arthur, Esq.
Counsel for the General Counsel
Federal Labor Relations Authority
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San Francisco, CA 94103

Alexia McCaskill, Esq.
Mark D. Roth, Esq.
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80 F Street, NW
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Deborah Finch, Esq.
Regional Labor Relations Officer
General Services Administration
Region 9
525 Market Street
San Francisco, CA 94105-0001

Susan Whitney, Director
Employee and Labor Relations
General Services Administration
18th and F Streets, NW, Room 1135
Washington, DC 20424

REGULAR MAIL:

National President
American Federation of Government
Employees, AFL-CIO
80 F Street, NW
Washington, DC 20001

Dated: May 19, 1995
Washington, DC