

Exhibit 1

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RECEIVED
EMPLOYEE RELATIONS BOARD

CITY OF LOS ANGELES EMPLOYEE RELATIONS BOARD

9 ENGINEERS AND ARCHITECTS
10 ASSOCIATION,

Respondent

11 vs.

12 SEIU LOCAL 721,

Petitioner

14 CITY OF LOS ANGELES

15 Employer

OBJECTIONS TO CONDUCT TO
ELECTIONS

MOU 8, CASE NOS. C828, D32
MOU 17, CASE NOS. D31 and
C827

17
18
19 I. INTRODUCTION

20 Engineers and Architects Association ("Respondent") hereby objects to the
21 conduct of the elections regarding MOUs 8 and 17 only. EAA contends that the below
22 listed objections necessitate the rerunning of the elections in MOUs 8 and 17 since the
23 alleged conduct affected the outcome of the elections.

24 OBJECTIONS

25 UNFAIR EMPLOYEE RELATIONS PRACTICES

26 1. The City of Los Angeles ("Employer") rendered a fair election impossible
27 by egregiously bargaining in bad faith for approximately two years regarding the
28

1 issue of disparity between identical classifications working, on the one hand, for so-
2 called Council-Controlled Departments and, on the other hand, employees working
3 at the Department of Water and Power. The Employer rendered the Respondent an
4 ineffective bargaining agent by its per se failure to bargain. The inability of
5 Respondent to negotiate with respect to this issue was seized upon by Petitioner to
6 attack Respondent as an ineffectual representative. Such attacks continued up until
7 the day of the election. (See UERP #1652]

8 2. At the Community Development Department, representatives of SEIU
9 (“Petitioner”) were permitted to occupy a table in the cafeteria for the purpose of
10 passing out literature in furtherance of their raid. The next day, a representative of
11 the Respondent attempted to do the exact same thing as the Petitioner’s
12 representatives had done the day before, but he was ordered off of the premises by
13 the Employer.(See UERP #1700)

14 3. At the Department of General Services, Petitioner was utilizing a City-
15 owned trailer for the purpose of conducting a meeting amongst employees
16 represented by the Respondent. A representative of Respondent attempted to
17 stand outside the trailer and talk to Respondent’s members and pass out literature,
18 but he was ordered off the property by the Department.(See UERP #1700)

19 4. At the Department of Public Works, Bureau of Sanitation, Department
20 employee Mahesh set up an organizing meeting on behalf of the Petitioner and
21 falsely stated that the meeting was not to collect decertification cards although
22 decertification cards were indeed passed out at the meeting. Mahesh also stated
23 that despite his involvement in the meeting, he was “neutral”. (See UERP #1700)

24 5. At the Los Angeles World Airports, three SEIU organizers were given
25 security badges in violation of the Los Angeles World Airport policy prohibiting
26 security badges to Union representatives. In the past, representatives of the
27 Respondent have repeatedly asked to be supplied with the same type of access
28 cards, but all of those requests have been summarily denied. By granting special

1 access, in violation of policy, to SEIU organizers, the City has violated its obligation
2 to remain neutral in this representational dispute. (See UERP #1700)

3 6. Respondent member Inder Risam, employee of the Bureau of Street
4 Services, was warned against, and prohibited from using City equipment, including
5 City e-mail accounts to conduct union business. Simultaneously, other employees
6 were permitted to use the City e-mail account to send, receive and read numerous
7 e-mails from SEIU representatives and SEIU supporters in furtherance of their
8 organizing activities. Also, during the 2002 raid by Petitioner against Respondent,
9 during the prosecution of unfair employee relations practice charges involving
10 employer neutrality and the use of employer equipment, including City e-mail
11 accounts, the Employer took the position that a moderate use of City e-mail
12 accounts was allowed for conducting union business. By simultaneously allowing
13 representatives and employees of SEIU 721 ("Petitioner") to use City e-mail
14 accounts without threat of discipline, while at the same time prohibiting Inder
15 Risam from doing the same, violates the Employer's obligation to remain neutral.
16 (See UERP #1700).

17 7. At the Community Development Department, Petitioner had scheduled
18 the use of a conference room to conduct a meeting of employees in furtherance of
19 their raid. Two EAA representatives received permission to be on the Employer's
20 premises from the Department of Personnel Officer. Both Respondent's
21 representatives assured the Personnel Officer that they would do nothing to disrupt
22 or interfere with the Petitioner's meeting. After the meeting began, the Petitioner's
23 representatives were ordered off of the Employer's property, after a representative
24 of Petitioner objected to their presence. In so doing, the Employer violated its own
25 policies respecting Union access, the MOUs between the parties, and its obligation
26 to remain neutral. (See UERP #1700).

27 8. The Employer violated its obligation to remain neutral by allowing an
28 SEIU representative to have access to employees during work time and at their

1 work locations at Los Angeles World Airport. Senior Management Analyst II Sonja
2 Mattingly escorted Petitioner representative Grant Lindsay throughout various
3 work locations in the building and encouraged employees to support Petitioner's
4 raid. In so doing, Employer violated its obligation to remain neutral. (See UERP
5 #1707).

6 9. At the Department of Public Works, Bureau of Engineering, Petitioner
7 was conducting a meeting with employees. A representative of the Respondent
8 was present in the lobby area of the building and speaking to and passing out
9 written material to Respondent's members. Only after a representative of Petitioner
10 objected to the presence of the Respondent's representative in the public area of the
11 building, the representative was ordered off of the property. (See UERP #1715).

12 10. At the City of Los Angeles, Department of Public Works' high level
13 management employee and Chief Inspector Charlie Mims aggressively solicited
14 employees beneath him in the chain of command to sign authorization cards on the
15 behalf of Petitioner. The solicitation of the authorization cards by Mims occurred
16 during work times and in work locations. In so doing, the Employer violated its
17 obligation to remain neutral. (See UERP #1720).

18 11. Petitioner rendered a fair election impossible by dishonestly claiming to
19 have disgorged itself from unlawfully obtained home address and home telephone
20 numbers that it had received from the Employer's Controller. Notwithstanding the
21 fact that Petitioner represented that it had returned and/or destroyed all copies of
22 the employees' home addresses and phone numbers, it retained same and used it
23 for the purpose of obtaining authorization cards and otherwise to conduct its raid
24 against Respondent. (See UERP #1726).

25 12. At the Department of Recreation and Parks, during annual employee
26 meetings where attendance was mandatory, and at four separate times, the
27 Employer violated its obligation to remain neutral by providing representatives of
28 Petitioner with time to speak to the assembled employees at the mandatory

1 attendance meeting. Petitioner's representatives used this time to campaign on
2 behalf of Petitioner. Respondent was given neither notice of the employee
3 mandatory meetings nor an opportunity to attend on the same basis as Petitioner
4 was allowed. The Employer therefore violated its obligation to remain neutral by
5 granting preferential treatment to Petitioner. (See UERP No. 1728).

6 **BALLOT SECURITY AND ELECTION PROCEDURES**

7 13. The election rules agreed to by the parties herein specifically limit all
8 parties to two observers during the counting of the ballots. After that, agreement
9 was reached, the rules were announced in writing and no party objected thereto.
10 Respondent was never given notice that party representatives and other people not
11 designated as observers for any party would be allowed to be in the election room
12 during the count. Respondent learned this for the first time on the morning of the
13 ballot count. A large number of people were allowed to enter the room where there
14 were no restrictions on their movements. Hence, many people who were not
15 designated as party observers were allowed without restriction to mill about the
16 count area and have access to ballots. With respect to the election in MOU 17, the
17 ballot count was completed and the tally done, but some sixteen and a half hours
18 later, a box with six ballots was "discovered" under a table in the count room.
19 Representatives of the Respondent requested that the six "found" ballots be kept
20 segregated from all other ballots until the matter was resolved. After the six ballots
21 were "discovered," Petitioner representative Lindsay was seen having a
22 conversation with the election officer Tony Butka. One of Respondent's observers
23 went over to the location of the conversation between Mr. Butka and Mr. Lindsay
24 and discovered that the ballot box for MOU 17 had been unsealed outside the
25 presence of any Respondent observer. Petition representative Kris Flaig was
26 observed lingering near the table holding the ballots. This occurred after the count
27 on Unit 17 was completed and prior to the "discovery" of the six ballots.

28 14. When the Respondent's observers arrived at the ballot counting location,

1 they were informed that there had been a conversation between representatives of
2 Petitioner and Employee Relations Board staff, where representatives of the
3 Petitioner and Employee Relations Board staff agreed that a new eligibility list
4 would be utilized. One of Respondent's observers immediately inquired as to what
5 agreement had been reached, but no one answered his questions. However, it was
6 apparent that a new voter eligibility list had been created and utilized for the
7 purpose of conducting the ballot count. This, notwithstanding the fact that all
8 parties had previously agreed on the voter eligibility list and Respondent was
9 never given any type of notice that any other list was under consideration or would
10 be utilized for the purpose of conducting the referendum. They admitted that a
11 meeting between Lindsey and Butka took place. We are not sure if ERB staff was
12 involved, but we believe the discussion occurred in the ERB office.

13 15. Approximately 300 ballots were retrieved from the Post Office that did
14 not bear any postmark. All of the other ballots did have postmarks. Respondent
15 has made inquiries to the Employee Relations Board as to how three hundred
16 ballots ended up in the ballot box with no postmark. While certain speculation
17 exists attempting to explain how 300 ballots arrived at a US Post Office without a
18 postmark. One option is that three hundred voters hand delivered their ballots to
19 the US Post Office and for some reason, they were not postmark. Another possible
20 explanation is that three hundred ballots were delivered by the US Postal Service to
21 the Post Office, but for some reason unknown to anyone, they were not
22 postmarked. Of course, another explanation is that control of the balloting process
23 was lost such that someone was able to insert three hundred filled out ballots but
24 failed to obtain postmarks on the envelopes.

25 Regardless of any speculation, it is simply impossible at this point to
26 determine how those three hundred ballots ended up in the ballot box. The official
27 notices for the election in this matter provides the only method by which voters
28 may submit their ballots. The official Notice of Election provides, in relevant part:

1 "Ballots will be mailed to eligible voters at their home address
2 on April 13, 2009. Ballots must be returned to the Post Office
3 box . . . before 5 PM on Tuesday, May 5th, 2009, in order to be
4 valid.

5 * * *

6 Eligible voters may vote only by United States Mail. [Emphasis
7 in original.] Ballots returned by other than United States Mail
8 will not be counted. Therefore, ballots may not be returned by
9 messenger mail, nor may voters vote in person."

10 Since it is impossible to determine if the three hundred ballots which do not
11 bear postmarks were submitted through the United States Mail and there was no
12 evidence with respect to the three hundred ballots that this was done, they should
13 be deemed to be void and not counted.

14 16. Petitioner, and as far as it knows, no other party was provided with
15 copies of the postage billing which would indicate the number of ballot envelopes
16 which were received and the date of such receipt.

17 17. Despite the fact that the parties agreed that only two observers per party
18 would be permitted in the count room, supporters and representatives of the
19 Petitioner who were not designated as observers were allowed to be present during
20 the count and participate in discussions regarding the issues which arose from the
21 count. Specifically, Petitioner's attorney Robert Hunt, was allowed to be present
22 during the count and participate in discussions regarding several issues which
23 arose during the count. Respondent's attorney was not present at the count
24 because Respondent's attorney respected the agreed-to rules that only two
25 observers would be permitted from each party. Moreover, Respondent was never
26 given notice that the two observer rule would not be followed and that parties
27 could essentially send down an unlimited number of people to observe the count
28 and participate in discussions regarding any issues arising therefrom. Among the

1 people allowed to attend was Mayee Crispin, who was responsible for leading
2 Petitioner's raid against Respondent. A of a photograph taken during the ballot
3 count and which is attached hereto as Exhibit "A," shows Petitioner's
4 representative Mayee Crispin with her head down on a table next to two boxes
5 containing ballots. All other individuals who appear in the photograph have their
6 back towards Ms. Crispin as they are busy counting ballots at one of the count
7 tables. This photograph shows the general lack of control and the integrity of the
8 ballot boxes since interested parties, not designated as observers, were allowed
9 essentially unfettered access to the ballot boxes. By allowing Petitioner's attorney
10 and others in the count room and by allowing him and others to engage in
11 conversations with regard to issues which arose from the count, Respondent was
12 severely disadvantaged, and laboratory conditions were compromised to the extent
13 that control of the ballots was lost.

14 18. During the pre-election meetings, it was announced that if two ballots
15 were received from one person, both ballots would be immediately discounted.
16 No party objected to the announced rule. During the count of the ballot, election
17 officer Tony Butka unilaterally changed this rule by announcing that if two ballots
18 were received from the same person, only the one with the earlier postmark would
19 be counted. (Unexplained by Mr. Butka's newly announced rule is what would
20 occur if multiple ballots were received from the same person but at least one of the
21 ballots did not contain a postmark, as was the case with the three hundred ballots
22 discussed above.)

23 19. Ballots envelopes which did not bear employee i.d. numbers were
24 nonetheless opened and counted in contravention to the agreed-to rules of the
25 election. The official Notice of Election in this matter provided the following:

26 "The Identification Envelope must be completed with printed
27 name, signature, employee number, date of signing and
28 resident address. . . . **Failure to complete the Identification**

1 **Envelope in its entirety may prevent your ballot from being**
2 **counted.**" [Emphasis in original]

3 It was determined that such ballots would be counted even though they did
4 not bear employee I.D. Numbers. This resulted in a lack of proper identification for
5 all ballot envelopes that did not bear employee identification numbers. It is
6 impossible now to determine which ballots failed to comply with the rules or who
7 indeed cast such ballots.

8 20. The Notice of Election in this matter clearly set out the requirements for
9 voters to obtain duplicate ballots. The only permissible basis for requesting a
10 duplicate ballot under the announced rules was if an employee was unable to
11 receive a ballot at their regular address, or if an employee received a ballot but then
12 lost or destroyed. According to the noticed rules, such request "must include the
13 voter's name, employee number, reason the duplicate ballot is required, the address
14 to which the ballot is to be mailed, and the voter's signature." Notwithstanding
15 these clear rules, some employees were able to obtain duplicate ballots without
16 providing an employee identification number. Additionally, other employees were
17 allowed to obtain duplicate ballots for stated reasons other than an inability to
18 receive a ballot at their regular address or a claim that they had either destroyed or
19 lost the original ballot. For example, some employees were able to receive
20 duplicate ballots after stating to the Employee Relations Board that they had simply
21 changed their minds. This was a violation of the agreed-to and noticed Election
22 Rules and compromised the integrity of the election.

23 21. Throughout the pre-election process, the Respondent repeatedly objected
24 to the use of either a printing company or a mailing company that was not
25 independent of all the parties to this matter. Both the printing company and the
26 mailing company which were ultimately selected have continuing contractual
27 relationships with the City of Los Angeles through the Los Angeles City Retirement
28 System. An SEIU Officer, Shelly Smith, is a Board Member of the Los Angeles City

1 Retirement System's Board as is Mayoral-appointee member Candaele. Both of
2 these individuals have the ability and the authority to contract for both printing
3 and mailing services on behalf of the City of Los Angeles. For these and other
4 reasons, the Respondent was concerned about the manner in which ballots would
5 be printed, inserted in envelopes and mailed. Respondent therefore requested that
6 it be allowed to observe the printing of the ballots by the printing company and the
7 insertion of the ballots into the envelopes by the mailing company, but that request
8 was not granted. Part of the reason we wanted to observe was to know the total
9 number of ballots printed. This number has never been established.

10 22. California and Mediation Conciliation Service was selected to run the
11 election because of the L.A. City management involvement proven in 2002-2003
12 and repeated in the current raid. Robert Bergeson exerted control over this election
13 and held a key to the post office box where ballots were stored, and made most of
14 the decisions regarding excelsior lists and other conduct of this election.

15 23. The ERB authorized a second mailing of ballots to individuals after the
16 initial mailing was returned. They sent the new ballots to forwarding addresses.
17 This was not agreed upon, and in fact, the only method for a person to obtain a
18 ballot outside the initial mailing was to appear in person at the ERB.

19 Petitioner contends that each of the above listed objections, either considered
20 separately or together, establish that a free and fair election, including accurate
21 ballot counts, was impossible and therefore Respondents respectfully request that
22 the election results in MOU Nos. 8 and 17 be set aside and new referendums
23 conducted.

24
25 Respectfully Submitted,

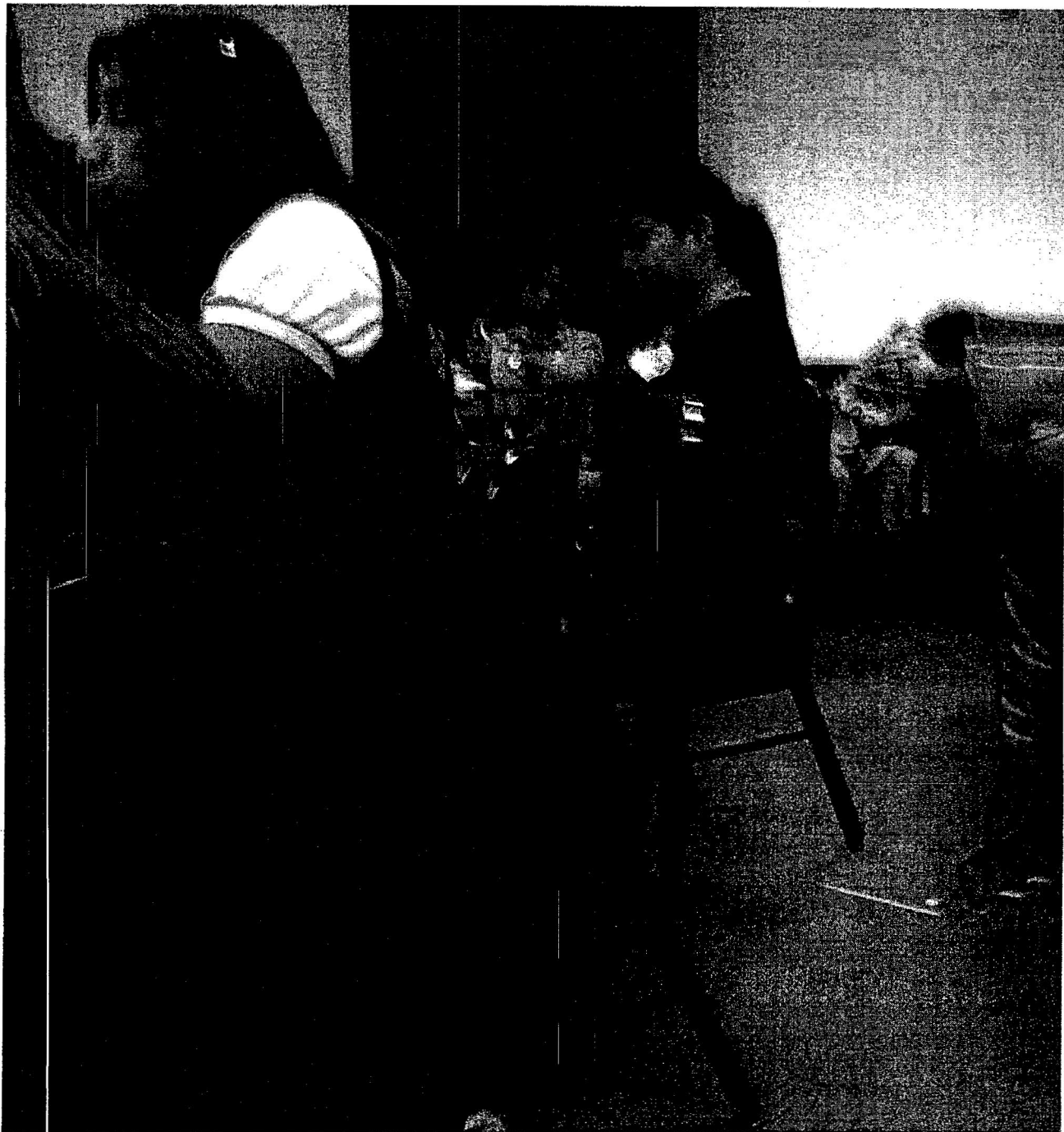
26 **LEVY, STERN & FORD**

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28 Dated: May 13, 2009

By: Adam N. Stern, Esq.

EXHIBIT A



SERVICE LIST

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