

STATE OF WASHINGTON

BEFORE THE MARINE EMPLOYEES' COMMISSION

INLANDBOATMEN'S UNION	)	MEC Case No. 8-95, 9-95,
OF THE PACIFIC, et al.	)	10-95, 12-95, 13-95, 14-95,
	)	15-95, 16-95 and 19-95
Complainants,	)	
	)	DECISION NO. 153 - MEC
v.	)	
	)	
WASHINGTON STATE FERRIES,	)	ORDER OF DISMISSAL
	)	
Respondent.	)	
	)	
_____	)	

THIS MATTER came before the Marine Employees' Commission (MEC) when the following unions charged the Washington State Ferries (WSF) with engaging in unfair labor practices within the meaning of RCW 47.64.130(1) by interfering with, restraining or coercing employees in the exercise of rights and by refusing to bargain collectively with the unions:

<u>COMPLAINANT</u>	<u>DATE FILED</u>	<u>MEC CASE NO.</u>
Inlandboatmen's Union of the Pacific	August 9, 1995	8-95
Masters, Mates & Pilots	August 23, 1995	9-95
Office & Professional Employees International Union, Local 8	August 23, 1995	10-95
International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers & Helpers, Local 104	August 25, 1995	12-95
International Brotherhood of Carpenters and Joiners of America, Shipwrights Local 1184	September 1, 1995	13-95
Sheetmetal Workers International Association, Local 66	September 8, 1995	14-95

<u>COMPLAINANT</u>	<u>DATE FILED</u>	<u>MEC CASE NO.</u>
International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 174	September 8, 1995	15-95
Service Employees International Union, Local 6	September 20, 1995	16-95
United Association of Plumbers & Pipefitters, Local 32	October 25, 1995	19-95

Specifically, the complainants alleged that on or about July 26, 1995, the Washington State Ferries issued a code of conduct to all employees with a cover letter from Paul Green, Assistant Secretary Marine Division. Complainant unions assert that the code of conduct and letter from Mr. Green were sent to all employees without first negotiating with the unions. The complainants further asserted that WSF had communicated directly with its employees concerning the new rules of conduct. The unions charged that by its actions, WSF had unilaterally changed a working condition, refused to bargain with the unions about that condition, and interfered with the unions' ability to represent their members and with those members' right to engage in collective bargaining.

The unfair labor practice complaints were docketed as listed above. On September 6, 1995, the Marine Employees' Commission consolidated MEC Cases 8-95, 9-95, 10-95, 11-95, 12-95 and 13-95. Thereafter MEC Cases 14-95, 15-95, 16-95 and 19-95 were consolidated with the previously filed cases.

Commissioner David E. Williams was assigned to act as hearing examiner. A prehearing/settlement conference was scheduled for September 28, 1995. At the prehearing conference, hearing dates of November 2, 3, and 6, 7, 8, 1995 were scheduled. WSF's Answer to the charges was received by the Commission on October 17, 1995.

A hearing of this matter was convened by the hearing examiner on November 2, 3 and 6. At the November 6, 1995 hearing, the parties asked to strike the November 7 and 8 hearing dates so that they could continue negotiating a settlement of the charges herein, and

requested the assistance of a mediator. Commissioner John P. Sullivan agreed to act in that capacity, with the understanding that he would recuse himself from any part in issuance of a final decision by the MEC, if mediation efforts were unsuccessful. Also on that date, the parties executed an interim agreement in which WSF agreed to return to the pre-existing code of conduct and the pre-existing MEBA hiring procedures, and to cease applying any disciplinary provisions in the drug and alcohol policy which are not required by federal law or regulations until such time as the parties, by a joint labor-management committee, reached agreement on revised versions of those policies and procedures or until the MEC ruled on the issues in the cases at the conclusion of a hearing.

Three additional hearing dates were scheduled by MEC in the event the parties failed to reach agreement: December 18, 19 and 20, 1995. With the assistance of Mediator John P. Sullivan, the parties continued their mediation efforts on the dates scheduled above, and agreed to add an additional date of January 3, 1996. On January 8, 1996, when it appeared that the parties had been unsuccessful in their mediation efforts, the MEC scheduled additional hearing dates on January 30 and 31, 1996. Prior to those hearing dates, the joint labor-management committee met immediately following a monthly MEC meeting in Olympia and agreed to recommend a revised Code of Conduct to the ferry employee labor union coalition. By the end of April, each of the complainant unions had signed its concurrence with the proposed Code of Conduct. (MEC Case No. 11-95 filed herein by District No. 1, Marine Engineers Beneficial Association, which contained an additional hiring hall issue, has not yet been withdrawn and is scheduled for hearing before Hearing Examiner David E. Williams.)

On May 2, 1996, attorney Ken Pedersen, acting on behalf of Boilermakers Local 104, Shipwrights Local 1184 and Plumbers & Pipefitters Local 32, withdrew those unfair labor practice charges filed against the Washington State Ferries. On May 28, 1996, attorney Cheryl French, acting on behalf of Inlandboatmen's Union of the Pacific; Masters, Mates and Pilots; Office and Professional Employees; Sheetmetal Workers Local 66; Teamsters Local 174 and Service Employees Local 6, withdrew those unfair labor practice charges filed against the Washington State Ferries.

The Marine Employees' Commission has reviewed the revised Code of Conduct, attached hereto, which has been approved by all the unions previously listed.

ORDER

It is hereby ordered that the unfair labor practice complaints filed against WSF as identified herein are dismissed.

DONE this 29 day of May 1996.

MARINE EMPLOYEES' COMMISSION

/s/ HENRY L. CHILES, JR., Chairman

/s/ JOHN P. SULLIVAN, Commissioner

/s/ DAVID E. WILLIAMS, Commissioner

# ***WASHINGTON STATE FERRIES***

## ***CODE OF CONDUCT***

Washington State Ferries has established the following rules of conduct that are necessary to maintain an efficient and productive work environment. These rules apply to all WSF employees regardless of position. Upon acceptance of employment, each individual agrees to abide by these and all other lawful rules and regulations. The first 6 rules are the most serious infraction; any violation of these 6 rules may lead to immediate termination of employment. Violation of the next 14 rules may lead to immediate termination or, if less serious, to progressive discipline.

WSF respects the civil rights, constitutional rights, and collective bargaining agreement rights of employees and will not violate those rights in the exercise of its disciplinary processes/procedures.

The progressive disciplinary process includes:

- Verbal counseling/used to alert employee of violation(s) of rules or below standard work performance;
- Written notice/used to formally notify employees of rule violation(s), serves as a warning for future violations, and provide an action plan for corrective action;
- Suspension (may be the first step in progressive discipline for a more serious offense), and/or
- Reduction in salary or demotion to a position in a lower classification
- Termination of employment occurs when a verbal or written warning, suspension, or reduction in salary or demotion is not effective in achieving the desired change of behavior.

Note: If you are found to have violated rules 1 through 6, you may be immediately terminated from employment.

### 1. Insubordination

Deliberate refusal to obey a lawful order, or failure to cooperate in a WSF investigation.  
Deliberate refusal to obey a lawful order.

### 2. Alcohol or Illegal Drug Use

Reporting to work under the influence of alcohol/illegal drugs, or being found under the influence of alcohol/illegal drugs after reporting to work, testing positive for illegal drugs, or drinking or using illegal drugs on duty.

Discipline for second or repeated instances of such behavior will be immediate termination. Discipline for the first instance of such behavior will normally be suspension for the period of rehabilitation provided the employee (1) successfully completes the recommended rehabilitation program and (2) signs a return to work agreement. However, WSF reserves

the right to terminate an employee who tests positive for drug or alcohol, (1) if the employee's disciplinary record includes a suspension for forty (40) hours or more for misconduct within eighteen (18) months of the date of the positive test; (2) the severity of the incident provides just cause for termination; or (3) the employee fails to complete the recommended rehabilitation program or sign the return to work agreement. As with all disciplinary actions, the employee may grieve such action, and its correctness will be judged by the normal just cause standard for discipline.

3. Theft

Stealing or improper use of WSF property. Removal of property without proper authorization, possession of stolen property, stealing or attempting to steal the personal property of a co-worker or customer.

4. Neglect of duties

Sleeping on duty or willful failure to perform assigned duties.

5. Falsification of Documents or Disclosure of Confidential Records

Alteration of records, including employment applications, pay records and/or improper disclosure of personnel, safety and medical records.

6. Criminal (or Disorderly) Conduct

Conviction of a felony crime, or engaging in immoral and/or illegal activities on ferry system property.

Note: Failure to abide by the following rules may lead to disciplinary action up to and including immediate termination or, if less serious, to progressive discipline.

7. Unauthorized Possession of Weapons

Unauthorized possession of firearms or other illegal weapons, such as knives, night sticks, etc. while on ferry property.

8. Cash/Check Handling Procedures

Misuse or improper use of ferry system cash for personal benefit. Co-mingling personal assets with ferry system assets or exchanging personal checks for ferry system cash.

9. Violation of Safety Rules

Includes engaging in conduct while on duty that endangers yourself, co-workers or customers.

10. Dependability

Failure to report to work on time or repeated absences from duty.

11. Discrimination or Harassment

Failure to abide by state law or WSF policies regarding illegal discriminatory practices, or violation of WSF's sexual harassment policy.

12. Unethical Conduct

Failure to abide by state laws, regulations, and official opinions governing ethical conduct, including receiving/giving improper gifts, favors or payments.

13. Threats or Acts of Violence

Use of obscene language when addressing customers or employees, violence, or threats of violence against a customer/co-worker.

14. Discourtesy to Others

Acts of discourtesy aimed at co-workers, customers or supervisors.

15. Violation of Policies and Rules

Violation of policies and rules, including smoking in unauthorized areas, solicitation, distribution of unauthorized literature, and posting on bulletin boards unauthorized materials.

16. Work Regulations

Failure to follow applicable ferry system or Coast Guard regulations.

17. Abandoning Work Site

Leaving work site before work shift ends without proper authorization, or unauthorized absence from assigned work station.

18. Off-Duty Conduct

Engaging in conduct off duty while in uniform, that brings discredit on WSF, such as drinking, fighting, stealing or similar conduct.

19. Poor Work Performance

Repeated failure to perform duties at the level or standard required of your assigned position.

20. Testing positive for alcohol or drugs while at work, but not being under their influence.

Discipline for second or repeated instances of such behavior will be immediate termination. Discipline for the first instance of such behavior will normally be the suspension for the period of rehabilitation provided the employee (1) successfully completes the recommended rehabilitation program and (2) signs a return to work agreement. However, WSF reserves the right to terminate an employee who tests positive for drug or alcohol, (1) if the employee's disciplinary record includes a suspension for forty (40) hours or more for misconduct within eighteen (18) months of the date of the positive test; (2) the severity of the incident provides just cause for termination; or (3) the employee fails to complete the recommended rehabilitation program or sign the return to work agreement. As with all disciplinary actions, the employee may grieve such action, and its correctness will be judged by the normal just cause standard for discipline.