

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

MARY TROMETTER	:	
	:	
v.	:	
	:	Case No. PERA-M-366-E
PENNSYLVANIA STATE EDUCATION	:	
ASSOCIATION and NATIONAL	:	
EDUCATION ASSOCIATION	:	

JOINT STIPULATION OF FACTS

Whereas hearing in this matter has been scheduled for February 1, 2017, the Complainant, Mary Trometter, and the Respondents, Pennsylvania State Education Association and National Education Association, hereby jointly stipulate that the following facts are true and correct, and that the record documents attached hereto are accurate and correct copies of those documents. These stipulations are entered into for purposes of determining the instant charge only, and are not intended to be binding for any other purpose.

STIPULATIONS

1. Respondent Pennsylvania State Education Association ("PSEA") is a labor organization that is affiliated with the National Education Association ("NEA") and represents public-education employees in Pennsylvania. PSEA is incorporated and registered with the Pennsylvania Department of State as a non-profit domestic corporation.
2. Respondent NEA is a labor organization that represents public-education employees in Pennsylvania and across the United States. NEA is a federally chartered corporation, incorporated in the District of Columbia by Congress. *See* 36 U.S.C. §§ 151101-08.
3. Both PSEA and NEA are "employe organization[s]" for purposes of the Public Employe Relations Act ("PERA"), 43 P.S. § 1101.301(3).

4. At all times relevant to this matter, Complainant Mary Trometter ("Trometter") was a member of both PSEA and NEA. (Reproduced Record ("R.R.") at 2a, attached hereto as Exhibit 1.)
5. At all times relevant to this matter, Trometter's PSEA and NEA membership dues were deducted from her salary and remitted to a local affiliate of PSEA and NEA, Penn College Education Association ("PCEA"), pursuant to Article II, Section 2.01 of the collective bargaining agreement ("CBA") between her employer and PCEA. (CBA and extensions, attached hereto as composite Exhibit 2.)
6. At all times relevant to this matter, PCEA remitted all or a portion of Trometter's dues to PSEA, which in turn transmitted a portion of Trometter's dues to NEA.
7. PSEA publishes a semi-monthly magazine called *The Voice*. (Exh. 1, R.R. at 61a.) This magazine is PSEA's "house organ," a publication that serves as one of the primary means by which PSEA communicates with its members on a variety of topics. (*Id.*)
8. A print subscription to *The Voice* is included as part of each PSEA member's annual dues. (Exh. 1, R.R. at 21a.) At all times relevant to this matter, print subscriptions were also available to non-members for a fee. (*Id.*)
9. On October 17, 2014, PSEA mailed to subscribers the November 2014 edition of PSEA's magazine, *The Voice*. (Exh. 1, R.R. at 61a.)
10. In addition to mailing the November 2014 edition of *The Voice*, PSEA posted an electronic copy of the November 2014 edition for members and families to access on PSEA's website. (Exh. 1, R.R. at 85a.) That copy could be accessed by anyone but only through the "Membership Center" section of the PSEA website, and by clicking on a link

that adjoined a disclaimer stating, "Note: This content is intended for PSEA members and their immediate families." (*Id.*)

11. The November 2014 edition of *The Voice* contained articles urging members to vote in the then-upcoming elections and, specifically, to vote for Tom Wolf for governor. (Exh. 1, R.R. at 20a-51a, 62a.) For one of the articles in the November 2014 edition, Tom Wolf was interviewed to ascertain his position on certain policy issues, and his answers to some of the interview questions were included in an article that urged members to vote for Wolf. (Exh. 1, R.R. at 32a, 62a.) In all other respects, the content of the November 2014 issue of *The Voice* was not made in cooperation or in consultation with Wolf or any political committee authorized by Wolf, or at the request or suggestion of Wolf or his campaign. (*Id.*)
12. PSEA pays for the publication and distribution of *The Voice* with general treasury funds, which at all times relevant to this matter included Trometter's membership dues. (Exh. 1, R.R. at 61a; PSEA 2014-2015 Form LM-2 Labor Organization Annual Report p. 72, 75, 107-08, 116, attached hereto as Exhibit 3.)
13. Trometter's household received a copy of the November 2014 issue of *The Voice*. (Exh. 1, R.R. at 20a.)
14. On October 28, 2014, NEA sent a letter exclusively to the household family members of PSEA members urging them to vote for Tom Wolf. (Exh. 1, R.R. 3a, 63a-64a.) A disclaimer at the bottom of the October 28, 2014 letter states that it was "Paid for by the NEA Advocacy Fund." (Exh. 1, R.R. 3a.)
15. The NEA Advocacy Fund is an independent expenditure-only political action committee registered with the Federal Election Commission ("FEC"). (R.R. 72a-77a.) The NEA

Advocacy Fund is funded by transfers from NEA's general treasury and the NEA Fund for Children & Public Education, a political action committee affiliated with the NEA. (Exh. 1, R.R. at 4a-10a, 63a-64a, 77a; NEA Advocacy Fund's 2014 post-general election FEC Form 3X, attached hereto as Exhibit 4.)

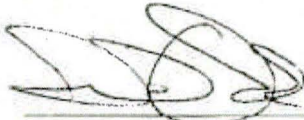
16. According to certain NEA records discovered in January 2017, and notwithstanding the disclaimer on October 28, 2014 letter, NEA paid for the production and distribution of the letter from its general treasury funds (which included Trometter's membership dues) and not from the NEA Advocacy Fund. (Exh. 1, R.R. 3a, 63a-64a; NEA Payment Voucher with Invoice dated October 30, 2014, attached hereto as Exhibit 5; NEA 2014-15 Form LM-2 Labor Organization Annual Report at 183, attached hereto as Exhibit 6.)
17. The October 28, 2014 letter was conceived, drafted, published, and sent without coordinating or consulting with Wolf or his campaign. (Exh. 1, R.R. at 64a.)
18. Trometter's husband, Jeffrey Trometter, received a copy of October 28, 2014 letter, which was addressed only to him. (Exh. 1, R.R. at 3a.) Jeffrey Trometter is not a member of the NEA or PSEA.
19. On November 18, 2014, Trometter filed a charge with the Pennsylvania Labor Relations Board ("Board"), alleging that the PSEA and/or the NEA violated Section 1701 of PERA, 43 P.S. § 1101.1701, which provides in relevant part that "[n]o employe organization shall make any contribution out of the funds of the employe organization either directly or indirectly to any political party or organization or in support of any political candidate for public office." (Exh. 1, R.R. at 1a-2a.)
20. On July 21, 2015, the Board issued an Order that transferred Trometter's charge to the Attorney General of the Commonwealth of Pennsylvania for further proceedings, but did

not resolve any of the factual or legal issues raised by the parties in their filings with the Board. (PLRB Order, attached hereto as Exhibit 7.)

21. On August 19, 2015, Trometter filed a petition with the Commonwealth Court of Pennsylvania for review of the Board's referral to the Attorney General. (Pet'r's Commw. Ct. Pet. for Review, attached hereto as Exhibit 8.)
22. On May 23, 2016, the Office of Attorney General issued a letter indicating that the case "would not be an appropriate case for criminal prosecution, based on the facts of the case and the review of the relevant statutes," and informing the Board that the office had closed its file on the matter. (Letter from Erik L. Olsen and George R. Zaiser, Office of Attorney Gen., to Larry D. Cheskawich, PLRB Sec'y, attached hereto as Exhibit 9.)
23. On September 8, 2016, the Commonwealth Court reversed the Board's Transfer Order. (*Trometter v. PLRB*, No. 1484 C.D. 2015, 2016 WL 4700458, at *3, 6 (Pa. Commw. Ct. Sept. 8, 2016), attached hereto as Exhibit 10.)

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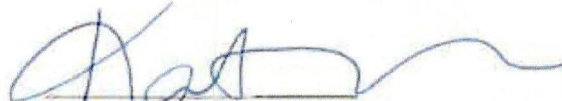
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