

**A MATTER IN ARBITRATION**

In a Matter Between:

**PACIFIC GAS AND  
ELECTRIC COMPANY**

(Employer)

and

**INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 1245**

(Union)

Grievance: Settlement Agreement

Hearing: October 2, 1991

Award: January 23, 1992

McKay Case No. 90-188

**DECISION AND AWARD**

**GERALD R. MCKAY, ARBITRATOR**

Appearances By:

Employer:

**Maureen L. Fries, Esq.**  
Law Department  
Pacific Gas and Electric Company  
P.O. Box 7442  
San Francisco, California 94120

Union:

**Tom Dalzell, Esq.**  
Staff Attorney  
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## STATEMENT OF PROCEDURE

This matter arises pursuant to a Submission Agreement entered by the parties dated October 2, 1991.<sup>1</sup> In accordance with the terms of the Submission Agreement, the parties agreed to have this arbitrator hear the dispute and resolve the matter. A hearing was held in San Francisco, California on October 2, 1991. During the course of the proceedings, the parties had an opportunity to present evidence and to cross-examine the witnesses. At the conclusion of the hearing, the parties agreed to submit written briefs in argument of their respective positions. The arbitrator received copies of those briefs on or about December 20, 1991. Having had an opportunity to review the record, the arbitrator is prepared to issue his decision.

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<sup>1</sup> Joint Exhibit #1

**ISSUES**

1. The Union contends that the Company violated the terms of a previous Settlement Agreement and Release concerning a grievance filed on behalf of F. The Union is seeking the following remedies: (1) Back pay in accordance with Section 102.2 of the Labor Agreement (retroactive wage adjustment-continuing grievance). (2) Striking of the confidentiality clause (paragraph 12) of the Settlement Agreement and Release.

2. The Union agrees that submission of this controversy to the grievance/arbitration process is without prejudice to the Company's position that the Union normally cannot pursue through the grievance process on disputes resulting from acts occurring after a grievant's employment has ended.

3. The ultimate issues to be decided by the board are: (1) Did the Company violate the terms of the Settlement Agreement and Release; and if so, what remedies, if any, are available and appropriate?

**RELEVANT COMPROMISE AGREEMENT AND GENERAL  
RELEASE LANGUAGE <sup>2</sup>**

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5. PG&E shall amend Mr. F's personnel records to reflect that he resigned from Company employment on March 22, 1988, and that he is not eligible for rehire.

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<sup>2</sup> Union Exhibit #1

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12. The parties agree not to disclose, publicize, or circulate information concerning the existence, terms and conditions of this Agreement and Release.

## BACKGROUND

In March, 1988, the Employer discharged the grievant for what the Employer contended to be proper cause. The Union filed a grievance protesting the grievant's termination, and the matter was processed through the grievance and arbitration procedure. Prior to arbitrating the dispute, the parties entered into a Settlement Agreement which is dated February 17, 1989 and February 23, 1989.<sup>3</sup> As part of the terms of the Settlement Agreement, the Employer agreed to change the personnel records with respect to the grievant to show that he resigned from the Company, and he was not discharged for cause. It is the position of the grievant the Employer violated this Agreement by disclosing information to prospective employers that the grievant had been terminated for cause, thereby harming the grievant's opportunity to find employment. As a result of these disclosures, the grievant claimed he was not able to find work. It is the position of the Employer that it did not disclose any unauthorized information concerning the grievant, and even if it did, no remedy is appropriate.

The grievant testified that he requested the language in the Settlement Agreement which would cause the Company to change his records indicating that he had resigned rather than showing he had been terminated for cause. The grievant gave his reasons for wanting that language in the following manner, "I could benefit from my experience at PG&E elsewhere if I

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<sup>3</sup> Union Exhibit #1

could show resigned other than terminated."<sup>4</sup> Subsequent to entering into this Agreement, the grievant stated, he discovered information was being released by the Employer indicating that the grievant had been terminated. One of the individuals who received information from the Employer concerning the grievant's Settlement Agreement was Emily Tincher, a vocational rehabilitation counselor to whom the grievant had been referred by the Company. H , an employee of the Employer, referred the grievant to Ms. Tincher on October 23, 1989. Ms. Tincher testified that she was given the following information concerning the settlement,

When the case was referred to me, which normally is done verbally and then the file comes later, Z remarked that there had been a discrimination case and that there had been a 200 thousand dollar settlement.<sup>5</sup>

Ms. Tincher testified she believed that she was given this information for the following reason,

I believe that the reason I was given privy to this information was that, as a general course of action during an initial interview, we evaluate the client's social and financial situation as it affects motivation and rehabilitation.<sup>6</sup>

According to Ms. Tincher, she explained this to the grievant.

Another of the rehabilitation counselors to whom the grievant had been referred by the Employer was David Tilgore. In conjunction with his work as a rehabilitation counselor assisting the grievant, Mr. Tilgore testified, he contacted the Employer on March 28, 1991. During this conversation with H , she gave him the following information, "She indicated that his status at that time was that he had been terminated; that he was now a qualified injured worker and was receiving worker's compensation benefits."<sup>7</sup> Ms. Tilgore testified that if an Employer

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4 Tr. Page 31

5 Tr. Page 24

6 Tr. Page 26

7 Tr. Pages 15 and 16

was told that an employee was terminated and not eligible for re-hire, the prospective employer would have a negative response.<sup>8</sup>

The grievant stated that he worked as a maintenance electrician for the Employer prior to his termination. The grievant stated that he spent 14 years with the Employer performing this type of work. He attempted to find employment after the termination by using the resources of his wife's personnel service. According to the grievant, he sent out nine applications and received no response from any prospective employer at which point he stopped looking for work.<sup>9</sup> According to the grievant, he stopped looking for work because he believed that PG&E was telling prospective employers that he had been terminated for cause. Specifically, the grievant stated, he believed that the Company was stating, "That I had been terminated, not eligible for re-hire."<sup>10</sup> These comments, according to the grievant, were made to his wife. In addition, the grievant stated, he contacted Bob Smith, a clerk in the maintenance and communications department, with whom he had worked. His contact was made sometime in the summer of 1990. The grievant stated, "He told me that my personnel files still contained negative information and that nothing had changed in it since the day I was terminated."<sup>11</sup> On cross-examination the grievant acknowledged that Bob Smith had allegedly given him a copy of the records containing negative information, but the grievant testified that he did not have it with him at the hearing.<sup>12</sup>

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8 Tr. Page 20

9 Tr. Page 35

10 Tr. Page 35

11 Tr. Page 36

12 Tr. Pages 46 and 50

The grievant acknowledged that he had filed a worker's compensation claim against the Employer based on psychological injuries. As part of that claim, the grievant testified, he requested rehabilitation services from the Employer. As part of the claim, the grievant acknowledged, he has been evaluated by a number of doctors, including Richard Deatherage. The grievant acknowledged that in his conversation with Dr. Deatherage, he disclosed the terms of the Settlement Agreement to him. This disclosure occurred sometime in May of 1989. The report completed by Dr. Deatherage was done according to the parties' stipulation for Mr. Holstedt, the attorney representing the grievant in his claim. According to the Employer, the doctor's report is part of the worker's compensation file which is a public record. In the doctor's report, the parties stipulated that it states,

Mr. F stated his work status is uncertain, but he has settled for approximately \$ out of court for wrongful termination. He said of these monies, his wife has received \$ , he bought himself a new Corvette, and he has \$ in the bank.<sup>13</sup>

The report goes on to state,

In Mr. F's eyes, he felt that he was being treated unfairly and that his competency was called into question, and he was again terminated. He said that he successfully fought this termination and settled out of court for approximately \$

The grievant's wife testified that she works as a manager at Nordstrom's, but in addition, she has her own employment service which she has been operating since 1987. According to the grievant's wife, she visited Dr. Bookoff's office in March, 1990 and was told by the office manager that the grievant, "was fired" by PG&E.<sup>14</sup> This conversation came up, according to the grievant's wife, because an invoice showing the grievant was covered under Blue Cross had come

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13 Tr. Pages 43 and 44

14 Tr. Pages 52 and 53

back unpaid. The office manager called PG&E to find out if the grievant was eligible and was allegedly told that the grievant was fired. According to the grievant's wife, she called PG&E in her capacity as a personnel placement official to get employment verification for the grievant and some references.<sup>15</sup> The grievant's wife described her contact with the Employer in the following manner,

. . . I contacted the information -- I guess the general number. I was directed to an individual who basically asked for Mr. F . . . 's social security number. And I gave it to them. I told them I was calling for an employment verification.

They looked up the information on the computer, and they told me that he had been terminated and gave me the date.

And then I told them that this conflicted with the information that I had and asked that they please refer me to someone else, was there any other location that might have additional records.

And I was referred to Carol Lord.

. . . . .  
As a matter of fact, they transferred me to Carol Lord.

. . . . .  
I called Carol Lord and let her know my name and told her that I was calling for employment verification for F . . . . She asked me for his social security number, which I gave her.

She put me on hold, came back in 10 minutes and told me that the person had been terminated -- F . . . had been terminated.

I told her it conflicted with the information that I had. And I told her I was referred to her from a previous call and could she refer me to someone else because, you know, this is conflicting with the information I had. She referred me to Betty Miller.

. . . . .  
I spoke with Betty Miller and was asked F . . . 's social security number. And I gave it to her. And she told me that . . . F . . . was terminated.<sup>16</sup>

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15 Tr. Page 55

16 Tr. Pages 55-57

The Employer called William Shelley, the acting benefits administration supervisor. He testified that his department was responsible for giving out information to individuals calling to see whether an employee was covered by medical benefits. The files that his office maintains show that the grievant's social security number is not on file. The only information his office would give to anyone inquiring about medical coverage would be that the person is not on the plan. Information concerning the employee is kept only for a period of 12 months. If someone had called in 1990 from a doctor's office and asked about the grievant's coverage, a response that would have been given based on the information on file was that there was no social security number, and the grievant was not covered. On cross-examination, Mr. Shelley was asked what if a doctor's office called a local PG&E office to ask whether the grievant was covered by health benefits. According to Mr. Shelley, the caller would be referred to his office. But if not, Mr. Shelley stated, he did not believe the local offices had any information about whether an employee was covered by health benefits or not.<sup>17</sup>

Mr. Robert Towle, a senior labor relations representative, testified that he was familiar with the Settlement Agreement entered into between the grievant and the Employer. He stated that the official personnel file kept by the Employer on individuals is referred to as a 701 file. It is this file that the Employer makes available to employees who request to see their personnel file. Mr. Towle testified concerning what steps were taken by the Employer in response to the Settlement Agreement to change the grievant's status from terminated to resigned. He stated,

... it was my understanding that, as a result of this agreement, that we had agreed to amend his personnel file and official record to change his status from terminated or discharged to resigned/not eligible for re-hire.

I then had -- I'm looking at a payroll change tag, the last one in his file. I had this payroll change tag prepared. It was prepared by Jenny Jodsaas, who was then the secretary to the region human resources manager, Paul Poulos.

I then had it signed by Harry Herrera, who was the manager -- the regional manager of the -- the regional electric operations department. Mr. Herrera indicated that he signed this tag on March 2nd of 1989, the following week after Mr. Yang signed this, in terms of the last signature.<sup>18</sup>

After the changed document was signed, Mr. Towle's stated, it was processed with the multiple copies being distributed to the payroll department where the information is key-punched and processed. According to Mr. Towle, Mr. S , who is a shop steward, is not authorized to provide any information to outside individuals concerning the status of employees. Furthermore, Mr. Towle's stated, Mr. S would not have access to the change in payroll information contained in the official personnel file. In investigating the alleged disclosure by Betty Miller, Mr. Towle testified, he discovered that she worked in the employee locator department, but when he talked to her about the grievant, Ms. Miller had no recollection of making any disclosures. According to Mr. Towle, Ms. Miller stated that the information given out with respect to employment verification involves the dates of employment from beginning to end and the classification in which the employee worked. Ms. Carol Lord, the other individual who allegedly disclosed information concerning the grievant's termination to the grievant's wife, also denied any specific knowledge of such disclosure to Mr. Towle. She verified the information from Ms. Miller indicating that outside callers were only given the dates of employment from beginning to end and the classification in which the employee worked.

## POSITION OF THE PARTIES

### UNION

The Union argued that the agreement to cleanse the grievant's personnel record was a material and critical element of the Settlement Agreement. The grievant's future earning capacity is directly and substantially linked to the Employer's agreement to cleanse all his personnel records, not just the official 701 file. The grievant had to be in a position to claim that he had resigned from his job without fear of being contradicted if the prospective employer called to verify that information with the Employer. The Employer failed to cleanse the grievant's record. The testimony from the grievant's wife concerning Betty Miller, Carol Lord and a third unnamed individual established that long after the official personnel record was modified to show resignation, the Employer was still telling outside individuals that the grievant had been terminated. The Employer could have called Carol Lord and Betty Miller as witnesses to contradict the claim made by the grievant's wife, but it failed to do so. Instead, the Employer introduced evidence showing that the official file had been cleansed and showing what should have been said. The overwhelming weight of evidence demonstrates that the Employer miscarried in its obligation to cleanse all of the grievant's personnel files.

The failure of the Employer to cleanse the record is predictable and disastrous to the grievant's possibility of finding future employment. Because the grievant discovered that the Employer was giving out information about his termination, he quit looking for work, believing that it was fruitless. The grievant's disclosure of the Settlement Agreement to the psychotherapist

whom he had seen on an emergency treating basis at the time of his termination does not raise to the level of an unclean hands defense to counter the fact that \_\_\_\_\_ H \_\_\_\_\_ had been giving information to rehabilitation counselors, including Ms. Tinchler. Because the Employer's disclosure of information concerning the grievant's termination prevented the grievant from finding employment, the appropriate remedy is to give the grievant back pay for the period September 26, 1990 forward in addition to some front pay so that the grievant may restart his job search. Furthermore, the non-disclosure provision should be considered to have been abrogated, leaving the parties free to disclose the terms as they wish.

## **EMPLOYER**

The Employer argued that it did not violate the confidentiality clause of the Contract. The confidentiality clause was included at the request of the Employer. The purpose of the clause was to prevent the Agreement from becoming public knowledge to the detriment of the Employer. The disclosure to the rehabilitation counselor concerning the terms of the settlement was not a public disclosure and did not violate paragraph 12 of the Agreement. The rehabilitation counselor was engaged by the Employer to evaluate the grievant's rehabilitation prospect and to assist in his rehabilitation. The disclosure of the information by Ms. Hertzmann to Ms. Tinchler was from one agent of the Employer to another and was for the legitimate purposes, allowing the rehabilitation counselor to assist the grievant in working out a rehabilitation program in conjunction with the grievant's worker's compensation claim. The Employer's position is supported by the fact that the grievant himself disclosed the existence and terms of the Settlement Agreement during a medical evaluation also in conjunction with his worker's compensation claim. Even if the disclosure was arguably a violation of paragraph 12, the remedy sought by the Union is not available. To

eliminate the clause would constitute a reformation of the explicit Contract language which is outside the scope of the arbitrator's authority.

The Employer met its obligation under the Settlement Agreement. The Agreement obligated the Employer to amend the grievant's personnel records to reflect that he resigned and was not eligible for re-hire. Within a few days after the signing of the Agreement, the Employer took the required action, and the grievant's official file was formally amended to state that he had resigned. The grievant's contention that he was given different information by a clerk at his former job site does not support his claim. This bargaining unit employee does not have access to the grievant's personnel file and was not authorized to provide employee information to the grievant or anyone else. The Union's contention that the Employer violated the Agreement by allegedly informing the grievant's wife that he was terminated is not supported by the facts. One must first assume the grievant's wife was truthful, but assuming she was, the Employer only agreed to change the official record and nothing else. Assuming Ms. F<sup>r</sup> had been informed that the grievant was terminated, that does not constitute a violation of the Agreement. Terminated simply means his employment had come to an end.

The grievant is not entitled to the monetary damages he seeks. The Settlement Agreement entered by the grievant and the Employer does not have a damage-deserved remedy provision. Further, there is no confident evidence to support the damages the Union is seeking. The grievant claimed he applied for nine positions in two years after his termination and received no offers. He then stopped looking for work altogether. There is no evidence that the Employer's alleged actions caused his inability to find a job or what job he would have obtained but for the Employer's action.

The Employer gave the grievant a written letter of recommendation to use in his employment search. In Tincher's report it indicates that almost two years after the grievant's termination, he was not physically or mentally equipped for full-time employment. Further, the grievant's failure to even look for employment for 15 months is a breach of his obligation to mitigate damages. There is no basis for the claim that the grievant should get back wages. The Employer asked that the grievance be denied.

## DISCUSSION

This particular dispute arises not from the terms of a collective bargaining agreement but instead from the terms of a Settlement Agreement entered between the Employer, the Union and the grievant. Initially, the Employer refused to go forward on the dispute asserting that it was not properly the subject of a grievance under the collective bargaining agreement. As a compromise, the Employer and the Union entered into a special agreement to submit the question to arbitration, preserving to the Company the position that the matter was not properly the subject of a grievance under the collective bargaining agreement. In this respect, it is the Settlement Agreement itself which is before the arbitrator for interpretation and not the collective bargaining agreement or the understandings of the parties related to the collective bargaining agreement. What the parties have asked the arbitrator to do is to determine whether the Employer violated the terms of the Settlement Agreement, and if it did violate those terms to determine an appropriate remedy. Both the violation and the remedy must flow from the terms of the Settlement Agreement itself and not from the collective bargaining agreement.

Specifically, the Employer agreed to "... amend Mr. F... personnel records to the effect that he resigned from the Company employment on March 22, 1988 and that he is not eligible for re-hire." The testimony of Mr. Towle establishes clearly and convincingly that the Employer did exactly what it promised to do. There is no agreement with respect to what information the Employer is to give to prospective employers. If a prospective employer had checked the official record of the grievant, it would have indicated his resignation and his non-eligibility for rehire. The arbitrator has a great deal of difficulty accepting the testimony of the grievant's wife that she called for employment verification and was told that the grievant had been terminated. It would seem more likely that she would have been given the dates of the grievant's employment, but she claims she was not. According to Mr. Towle, that is the information the Employer is supposed to give to prospective employers who call concerning an employment verification.

In the arbitrator's opinion, it would be virtually impossible for either Ms. Miller or Ms. Lord to recall an inquiry such as the one the grievant's wife allegedly made several years after the fact in light of the nature of the job these two women have with the Employer. The best evidence with respect to what information is likely to have been given to the grievant's wife, if any information at all was given, would be the customary official line. There is nothing to suggest that either Ms. Miller or Ms. Lord violated the Company's official policy with respect to the disclosure of information, except for the assertion of the grievant's wife. The alleged disclosure of information from Mr. Smith is also suspect in the arbitrator's opinion. The grievant supposedly had files showing negative information but failed to bring them to the hearing. Furthermore, Mr. Smith was a Union shop steward and presumably could have been produced as a witness for the Union. The burden of proof in this case is not on the Employer but is on the Union. The

Union asserted the Settlement Agreement was violated and must establish by a preponderance of the evidence that, in fact, a violation occurred.

The alleged disclosure information to Ms. Tincher is not a violation of paragraph 12 of the Agreement as asserted by the Union. The information given to Ms. Tincher was given to her in her capacity as a rehabilitation counselor. In her job as a rehabilitation counselor, Ms. Tincher needed to know as much as she could about the grievant's background and current status in order to help him find an appropriate position. She was an agent for PG&E and not an outsider with no reason to know information of this nature. The grievant's disclosure to his psychotherapist about the terms of the Settlement Agreement was no more a violation of the Agreement than was the disclosure of the information to Ms. Tincher. In both cases, the information was relevant for the purposes these individuals were serving. There is nothing to indicate that either the grievant's disclosure of the information to his psychotherapist or the Employer's disclosure to Ms. Tincher did anything to harm the interests of either the Employer or the grievant. It was not the grievant who wanted the non-disclosure provision; it was the Employer. Based on the nature of the information which was shared and the persons with whom it was shared, there was no breach of paragraph 12.

In summary, the Settlement Agreement directed the Employer to amend the grievant's personnel records to reflect that he resigned and that he was not eligible for rehire. The Employer, in fact, carried out this portion of the Agreement. There is nothing in the Agreement concerning what information would be given to the public regarding the grievant's employment status. However, based on the best evidence, it is the Employer's policy with respect to employment

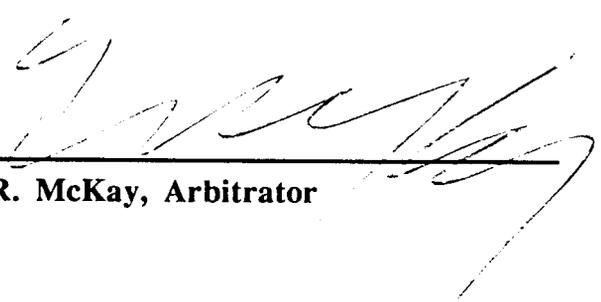
verification questions to give out only the dates of employment and to disclose no other information. The arbitrator believes that the Employer followed this policy in the case of the grievant. The disclosures concerning the terms of the Settlement Agreement were done for the benefit of the grievant and not to the detriment of the grievant. Neither the Employer nor the grievant were harmed by the disclosures that were made. Based on this, it is the arbitrator's conclusion that no breach of the Settlement Agreement has occurred. On this basis, the grievance must be denied.

**AWARD**

The Company did not violate the terms of the Settlement Agreement and Release. The grievance is denied.

It is so ordered.

January 23, 1992

  
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**Gerald R. McKay, Arbitrator**

COMPROMISE AGREEMENT AND GENERAL RELEASE

In Re: Arbitration Case No. 163  
Involving the Discharge of

This Compromise Agreement and General Release ("Agreement and Release") is made and entered into among PAUL DOUGLAS FORD, LOCAL UNION NO. 1245, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, and PACIFIC GAS AND ELECTRIC COMPANY ("the parties") to resolve the parties' Arbitration Case No. 163. Arbitration Case No. 163 involves a grievance (Fact Finding Committee File No. 4238-88-151) brought by Local Union No. 1245, International Brotherhood of Electrical Workers, AFL-CIO ("Local 1245"), challenging the March 22, 1988, discharge of F by the Pacific Gas and Electric Company ("PG&E" or "the Company").

In resolving Arbitration Case No. 163, its above-referenced grievance underlying that case, and other claims which Mr. F may have over his employment relationship with PG&E, including his discharge, the parties have agreed as follows:

1. The parties acknowledge PG&E has denied and continues to deny that it is liable for any claims Mr. F may have over his employment relationship with PG&E, including his discharge, and that it committed any wrongdoing against Mr. F. Nevertheless, the parties desire to bring their disagreements to a conclusion and to avoid the further incurring of costs and expenses incident

to their prosecution and defense. Therefore, the parties make this Agreement and Release, expressly recognizing that the making of this Agreement and Release does not in any way constitute an admission that PG&E had engaged in any wrongdoing against Mr. F whatsoever.

2. PG&E shall pay to Mr. F the sum of \_\_\_\_\_ Dollars (\$) no later than ten business days after the effective date of this Agreement and Release. For purposes of this paragraph, this Agreement and Release shall be deemed effective when all signatories have executed it.

3. The parties understand that the amount the Company shall pay to Mr. F pursuant to paragraph two of this Agreement and Release does not represent reimbursement to Mr. F for damages he incurred attributable to lost wages, interim earnings, or other forms of taxable income. ~~Further, the parties understand and agree that Mr. F shall be responsible for any state or federal income tax liability resulting from his receipt of the amount paid by PG&E.~~

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4. Mr. F agrees not to seek employment with PG&E or with any current or future subsidiary, parent or affiliated company of PG&E.

5. PG&E shall amend Mr. F's personnel records to reflect that he resigned from Company employment on March 22, 1988, and that he is not eligible for rehire.

6. In consideration of the obligations which PG&E has undertaken and has further agreed to undertake pursuant to this Agreement and Release, Mr. F and Local 1245 do fully release and discharge PG&E, its officers, agents, employees, attorneys, subsidiaries, affiliated companies, successors, and assigns from all actions, causes of action, claims, judgments, obligations, damages, liabilities of whatsoever kind and character, arising out of Arbitration Case No. 163, and the grievance underlying that arbitration case. In addition, Mr. F fully releases and discharges PG&E, its officers, agents, employees, attorneys, subsidiaries, affiliated companies, successors, and assigns, from all actions, causes of action, claims, judgments, obligations, damages, liabilities of whatsoever kind and character, including, but not limited to, any claims relating to Mr. F 's relationship with PG&E before his March 22, 1988, discharge/resignation; his March 22, 1988, discharge/resignation; and his relationship with PG&E between his March 22, 1988, discharge/resignation and the date of this Agreement and Release. Further, Mr. F and Local 1245 expressly waive the benefits and rights under Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known to him must have materially affected his settlement with the debtor.

7. Mr. F agrees that his obligations under this Agreement and Release are made in behalf of himself, his heirs, estate, executors, administrators, successors, and assigns.

8. In the event, Mr. F, notwithstanding the waiver provisions under paragraphs six and seven of this Agreement and Release, obtains an award or a judgment against PG&E on a claim which, in any way, relates to his employment with PG&E and its termination, Mr. F understands and agrees that the amount he shall receive under paragraph two of this Agreement and Release shall be subtracted from such award and judgment.

9. Notwithstanding the foregoing provisions of this Agreement and Release, the parties understand the Mr. F currently has pending against PG&E a workers' compensation claim based on events which pre-dated his March 22, 1988, discharge/resignation from Company employment (Workers Compensation Case No. SRO 56101). Mr. F represents that he has not filed a cause of action based on section 132(a) of the Labor Code as part of his workers' compensation claim and further warrants that he has not assigned that cause of action or authorized any other person or entity to assert such cause of action in his behalf. Mr. F agrees that he shall not file, or cause to be filed, a cause of action based on section 132(a) of the Labor Code in his current workers' compensation claim

against PG&E.

10. This Agreement and Release contains the entire agreement among the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this Agreement and Release shall be of no force or effect, excepting a subsequent written modification signed by the parties to this Agreement and Release.

11. Upon execution of this Agreement and Release, Arbitration Case No. 163 will be closed with prejudice to the Company, Local 1245, and Mr. F

12. The parties agree not to disclose, publicize, or circulate information concerning the existence, terms and conditions of this Agreement and Release.

13. Mr. F states that he has carefully read this Agreement and Release, that he has been afforded the opportunity to review this Agreement and Release with his attorney and/or his union representative, that he fully understands its final and binding effect, that the only promises made to him to sign this Agreement and Release are

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those stated herein and that he is signing this Agreement  
and Release voluntarily.

PACIFIC GAS AND ELECTRIC COMPANY

By *Kenneth Yang*  
KENNETH YANG  
Attorney

Feb. 23, 1989  
DATE

LOCAL UNION NO. 1245

By *Tom Dalzell*  
TOM DALZELL

2/17/89  
DATE

*2/17/89*  
DATE