

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Motion of	:	
	:	
OFFICE AND PROFESSIONAL EMPLOYEES	:	
INTERNATIONAL UNION LOCAL 39	:	
	:	Case IV
For a Certification of Authority to	:	No. 14653 R-5167
Make an All-Union Agreement Between	:	Decision No. 10324-B
	:	
OFFICE AND PROFESSIONAL EMPLOYEES	:	
INTERNATIONAL UNION LOCAL 39 and	:	
CUNA MUTUAL INSURANCE SOCIETY	:	
	:	

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ORDER GRANTING MOTION FOR CERTIFICATE  
OF AUTHORITY TO MAKE AN ALL-UNION AGREEMENT

Office and Professional Employees International Union Local 39, Madison, Wisconsin, hereinafter referred to as the Union, having on May 14, 1971, filed, with the Wisconsin Employment Relations Commission, a Motion for Certificate of Authority to Make All-Union Agreement between Office and Professional Employees International Union Local 39 and Cuna Mutual Insurance Society, Madison, Wisconsin, hereinafter referred to as the Employer, wherein the Union alleged certain facts regarding its contractual relationship with the Employer since January 1, 1941, and certain facts in support of its Motion, wherein it requested the Commission to issue a Certificate of Authority to the Union and the Employer to enter into an "All-Union Agreement"; and the Commission, having considered said Motion and the facts stated therein, issued an Order on May 18, 1971, wherein any party, person or employe having an interest in the matter, who was aware of any relevant facts which might justify denial of the Motion may, on or before June 1, 1971, file a statement of facts in support of such position with the Commission, and at the same time mail a copy thereof to the parties and their various counsel; and further in said Order the Commission provided that if any statement so filed contained facts which on their face would justify the denial of the Motion, the Commission may, at its discretion, set hearing in the matter, and further, in the absence of the timely filing of such a statement of facts which would justify the possible denial of the Motion, the Commission would, without further proceeding, make its determination as to whether the Motion should be granted; and the Commission further ordered that the Employer should post a copy of the Order together with its statement of facts in its place of business where its employes would observe same and maintain the posting thereof until at least June 1, 1971.

Subsequently, the Commission on May 28, 1971, issued an Order extending time to file such statement of facts, from June 1, 1971 to June 15, 1971. On June 22, 1971, the Employer, in writing, advised the Commission that it had posted the Order issued by the Commission on a bulletin board in its cafeteria and that such Order remained posted from May 26, 1971, to and including June 15, 1971. On June 22, 1971, five employes of Cuna International Inc., Madison, Wisconsin, an

employer separate and apart from the Employer involved herein, opposed the granting of the Motion. Subsequently, on August 19, 1971, Counsel for said five employes of Cuna International Inc. withdrew their opposition to the Motion; and the Commission, having reviewed the Motion, and the facts in support thereof, and the positions of the parties involved, being satisfied that the Motion be granted;

NOW, THEREFORE, it is

ORDERED

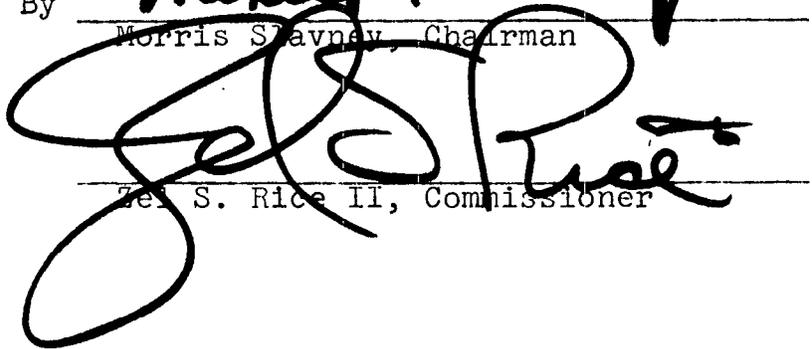
That the Motion to grant Certificate of Authority to make an all-union agreement between Office and Professional Employees International Union Local 39 and Cuna Mutual Insurance Society, Madison, Wisconsin, is hereby granted, and said authorization shall be deemed to exist from October 1, 1948, and shall continue in full force and effect until rescinded in accordance with Section 111.06(1)(c)1 of the Wisconsin Employment Peace Act.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 15th  
day of September, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Ted S. Rice II, Commissioner

STATE OF WISCONSIN

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MEMORANDUM ACCOMPANYING  
ORDER GRANTING MOTION FOR CERTIFICATE  
OF AUTHORITY TO MAKE AN ALL-UNION AGREEMENT

In support of its Motion filed herein the Union set forth the following facts material to the disposition of the Motion:

"1. The Union, based upon available records, was originally recognized as the lawful collective bargaining representative of employees of Credit Union National Association, CUNA Mutual Insurance Society, the instant employer herein, and CUNA Supply Cooperative in the latter part of the year 1940. At that time, the three named employers, closely affiliated in a common purpose, and with common officers, made one collective bargaining contract with the Union, covering employees of all three companies. The first collective bargaining agreement became effective on January 1, 1941, and contained an all-union agreement as a part of its terms.

2. The Union at that time was named Office Employees Union, No. 21543, affiliated with the American Federation of Labor. It has been in continuous existence from that time to the present date. Its name was changed to Local 39 Office Employees International Union, after the chartering of the Office Employees International Union by the American Federation of Labor as a new international labor organization in 1945. More recently, the International Union's name was expanded in 1965 to its present title, Office and Professional Employees International Union, which has become a part of the official name of the Local Union, the moving party herein.

3. Continuous contracts were consummated between the Union and the three companies referred to above for a number of years thereafter, as will be more fully set forth hereinafter. In the year 1948, the parties were aware of their statutory obligations which were required if they were to continue the all-union agreement then in effect.

- (a) The Union Was Represented By Experienced and Competent Legal Counsel, John A. Lawton, of Madison, Wisconsin.

Mr. Lawton has advised us that he does not have any files relating to 1948 and the instant parties, and that the passage of time has made it unable for him to recall any details with accuracy. However, he did give constant and regular advice, both oral and written, to one Robert E. (Gene) Cotterman, now deceased, who was the Union's steward at that time. Cotterman, under date of January 30, 1948, sent a memorandum to the membership in which he advised the members: 'In order to legalize the union-shop provision of our contract, it is necessary that an election be conducted and approved by both the federal and state labor relations boards.' This reflects the Union's full awareness and knowledge that it was required to follow state law.

- (b) The Employer Was Represented By John Ernest Roe, Now Deceased.

Under date of May 3, 1948, Mr. Roe wrote the Managing Director of Credit Union National Association (who was also Managing Director of the instant Employer at the same time) advising him of the requirements for meeting both federal and state law.

4. Consequently, a petition was filed with the National Labor Relations Board in Case No. 31-UA-442, seeking authorization to make a union security agreement. The petition was filed with the Board's sub-regional office in Milwaukee on or about June 19, 1948, and a consent agreement between the parties was executed on or about August 30, 1948, which occurred at a time prior to the making of an agreement between the Wisconsin Employment Relations Board and the National Labor Relations Board.

5. A secret ballot election was conducted by the National Labor Relations Board in Case No. 31-UA-442 on September 23, 1948, in which the tally of ballots showed 61 eligible voters, 53 casting ballots, 49 votes in favor of authorizing the Union and the Employer to enter into a union security agreement, and only 4 votes opposed. The certification of results of the union authorization election was issued by the National Labor Relations Board on October 1, 1948.

6. The parties have continuously negotiated union security agreements from that time to the present without any challenge, question, or petition of any kind ever having been filed. No action has been taken by any person or employee pursuant to Section 111.06(1)(c)1, Wisconsin Statutes, to terminate such agreements.

7. For some years prior to the instant date, the three separate employers referred to above have diverged and the instant Employer, CUNA Mutual Insurance Society, has negotiated and executed separate bargaining agreements with Local 39.

8. There is in existence a present collective bargaining agreement between CUNA Mutual Insurance Society and Local 39, which became effective on March 31, 1971, and which contains a standard union-security agreement consistent with the past contractual practices of the parties. The parties entered into this agreement in good faith, without any knowledge or awareness that there was any question whatever about the validity of the 1948 agreement under the laws of Wisconsin."

It should be noted that the then Wisconsin Employment Relations Board (now the Wisconsin Employment Relations Commission) and the National Labor Relations Board entered into an agreement on August 27, 1948, whereby, to avoid the duplication of elections on authorizations of union security agreements, 1/ it was agreed that the National Labor Relations Board would conduct the referendum and issue its own authorization for a union security agreement or it would issue a certificate indicating that the employes failed to approve such an agreement. It was further agreed therein that the tally of the votes as executed by the National Labor Relations Board would be sent to the Wisconsin Employment Relations Board, which would then proceed as though it had conducted its own referendum. For some reason which none of the parties nor the Commission is able to discover, no tally of ballots was furnished by the National Labor Relations Board to the Wisconsin Employment Relations Board with regard to the balloting conducted by the National Labor Relations Board in 1948, although the consent agreement executed by the parties was executed approximately two weeks following the agreement between the National Labor Relations Board and the Wisconsin Employment Relations Board, and the election was conducted approximately one month following the agreement between the National Labor Relations Board and the Wisconsin Employment Relations Board. It might very well have been that neither the Union nor the Employer had notified the Wisconsin Employment Relations Board of the pending union shop election to be conducted by the National Labor Relations Board.

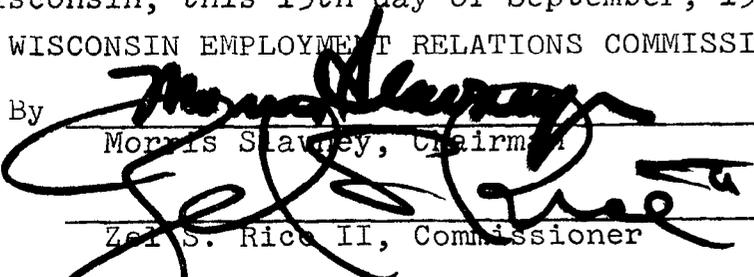
The election results met all the requirements of the Wisconsin law, the tally indicating an overwhelming margin in favor of the union security agreement, far more than the percentage required under the Wisconsin Employment Peace Act. As a result the Union and the Employer for the past 23 years retained the union security provision in their collective bargaining agreement without challenge, and their present agreement was entered into in the belief that the union security provision was in compliance with applicable Wisconsin law.

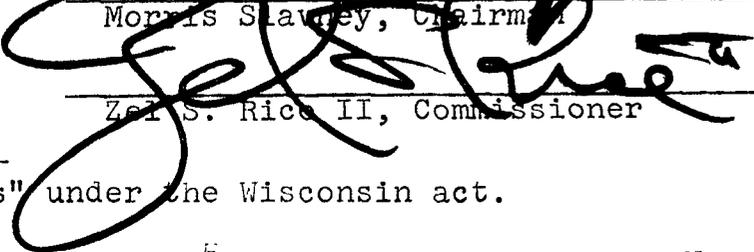
Under such circumstances, and since there are provisions in Section 111.06(1)(c)1 which provide for the "de-authorization" of union security agreements, we have granted the motion for the certificate of authority to make an all-union agreement, and, further, have considered such authorization to exist from October 1, 1948, the date upon which the National Labor Relations Board certified the results of the balloting on the question of the union security agreement, and further, that such authorization shall continue in full force and effect until rescinded in accordance with the procedures set forth in Section 111.06(1)(c)1 of the Wisconsin Employment Peace Act.

Dated at Madison, Wisconsin, this 15th day of September, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slattery, Chairman

  
Zel S. Rice II, Commissioner

1/ "All-union agreements" under the Wisconsin act.