

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :

RETAIL STORE EMPLOYEES LOCAL 444, :
AFL-CIO :

For a Referendum on the Question :
of an All-Union Agreement between :

C. D. ASHLEY, trustee for FANNIE H. :
GOLDMANN TRUST; ALLEN GOLDMANN and :
SAMUEL E. KOHN, trustees under the :
will of LEO GOLDMANN, co-partners; :
and GEORGE MASIAKOWSKI, SEYMOUR :
GOLDMAN, SAM PIVAR AND SONS, and :
SAM PERSHING, lessees, d/b/a :
A. GOLDMANN AND SONS :
Milwaukee, Wisconsin, Employer :

and RETAIL STORE EMPLOYEES LOCAL 444, :
AFL-CIO, Union. :
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Case IV
No. 16224 R-5414
Decision No. 11549

Appearances:

Gratz, Shneidman and Myers, Attorneys at Law, by Mr. Howard N. Myers, and Mr. Kenneth Geroux, Business Representative, for the Petitioner.

Mr. C. D. Ashley, Attorney at Law, and Mr. Allen Goldmann, Partner, for the Employer.

DIRECTION OF REFERENDUM

Petition having been filed with the Wisconsin Employment Relations Commission by Retail Store Employees Local 444, AFL-CIO, requesting that a referendum be conducted, pursuant to the provisions of Section 111.06, Wisconsin Statutes, among certain employees of the above named Employer, for the purpose of determining whether the required number of such employees favored an "All-Union Agreement" between said Employer and Retail Store Employees Local 444, AFL-CIO; and a hearing on such petition having been conducted at Milwaukee, Wisconsin, on December 15, 1972, and January 4, 1973, by Stanley H. Michelstetter II, Hearing Officer, and the Commission having considered the evidence, arguments and briefs of Counsel, and being satisfied that a question has arisen concerning authorization for an all-union agreement involving certain employees of the above named Employer;

NOW, THEREFORE, it is

DIRECTED

That a referendum by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive in the collective bargaining unit consisting of all employees of the Employer, including

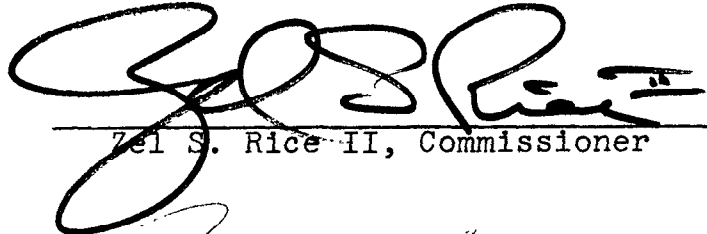
leased department employes, lunch counter employes and office clerical employes; excluding professional employes, guards and supervisors as defined in the National Labor Relations Act, who were employed by the Employer on January 4, 1973, except such employes as may prior to the referendum quit their employment or be discharged for cause, for the purpose of determining whether the required number of such employes favor an "All-Union Agreement" between the Employer and the Union named above.

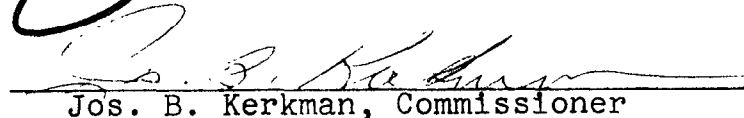
Given under our hands and seal at the City of Madison, Wisconsin, this 19th day of January, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING
DIRECTION OF REFERENDUM

The National Labor Relations Board directed an election in the bargaining unit involved herein, and prior to the filing of the instant petition, the National Labor Relations Board, following an election conducted by it, certified Retail Store Employees Local 444, AFL-CIO, hereinafter referred to as the Union, as the representative of the employees in said unit.

On November 29, 1972, the Union filed with the National Labor Relations Board a charge of refusal to bargain against the Employer. Petition for referendum was filed with this Commission on November 16, 1972, and hearing in the matter was scheduled for December 15, 1972, and, pursuant to an agreement of the parties, reconvened January 4, 1973.

The Employer challenges the appropriateness of the unit certified by the National Labor Relations Board and the conduct of a referendum therein because such unit includes the employees of A. Goldmann & Sons and its lessees. Under the Labor Management Relations Act, the National Labor Relations Board is vested with sole authority over employers, within its jurisdiction, to determine the appropriate unit for collective bargaining. The National Labor Relations Board determined that C. D. Ashley, trustee for Fannie H. Goldmann Trust; Allen Goldmann and Samuel E. Kohn, trustees under the will of Leo Goldmann, co-partners; and George Masiakowski, Seymour Goldman, Sam Pivar and Sons, and Sam Pershing, lessees, d/b/a A. Goldmann and Sons constituted a single employer for the purposes of collective bargaining. 1/

In a referendum proceeding the Commission will not change or alter the collective bargaining unit which has been established either by an election and certification or by voluntary recognition. 2/ Since the unit herein has been established by the National Labor Relations Board, the Commission will not change or alter the unit involved.

Normally, the Commission will not conduct a referendum among employees where there exists a pending unfair labor practice proceeding. While the Union did, on November 29, 1972, file a charge of unfair labor practices with the National Labor Relations Board alleging that the Employer had committed unfair labor practices within the meaning of the National Labor Relations Act, on January 8, 1973, the National Labor Relations Board, by its Regional Director of Region 30, advised the parties that the charge filed by the Union had been withdrawn. Therefore, there is no unfair labor practice proceeding presently pending, and we see no reason to delay the direction of referendum.

Dated at Madison, Wisconsin, this 19th day of January, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Shavney, Chairman


L. S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

1/ Case No. 30-RC-1736 (6/22/72)

2/ Woodman's Food Markets, Inc., (8826) 1/69.