

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

and LABORERS UNION LOCAL 1086, Union.

Case III
No. 20804 R-5831
Decision No. 15332-A

Mr. E. C. Panetti, appearing on behalf of the Employer.

Laborers Union Local 1086, hereinafter referred to as the Petitioner, having filed a petition on September 1, 1976 with the Wisconsin Employment Relations Commission requesting that the Commission conduct a referendum, pursuant to Section 111.06(1)(c)1 of the Wisconsin Employment Peace Act, among certain employees of Panetti Stone Company, Inc., Fond du Lac, Wisconsin, hereinafter referred to as the Employer, to determine whether the required number of employees favored an all-union agreement between the Petitioner and the Employer. A hearing on such petition was held at Fond du Lac, Wisconsin on October 19, 1976 before Ellen J. Henningsen, Examiner. During the course of the hearing, General Teamsters, Warehouse and Dairy Employees Union Local 126, hereinafter referred to as the Intervenor, was permitted to intervene in the matter on the basis that it presently represents certain of the employees involved herein. Petitioner and Intervenor jointly represent the employees in the bargaining unit, each representing certain classifications of employees within said unit. On March 8, 1977 the Commission issued an order holding the instant proceeding in abeyance pending disposition of an unfair labor practice charge filed with the National Labor Relations Board against the Employer, and pending clarification of the recall rights of certain individuals. 1/ On May 13, 1977 Petitioner notified the Commission that the unfair labor practice charge had been resolved and requested a determination on voter eligibility. Thereafter, a hearing was held at Fond du Lac, Wisconsin on June 3, 1977 before Examiner Henningsen. During the course of the hearing, the Union, Intervenor and Employer entered into a Stipulation for Referendum.

NOW, THEREFORE, it is

That a referendum by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within

1/ Panetti Stone Co., Inc. (15332) 3/77.

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thirty days from the date of this Directive in the collective bargaining unit consisting of working foremen, blockmen, laborers, equipment operators, mechanics and over-the-road truck drivers, who were employed by Panetti Stone Company, Inc. on June 15, 1977, except such employees as may prior to the referendum quit their employment or be discharged for cause, for the purposes of determining whether the required number of employees favor an all-union agreement between Laborers Union Local 1086, General Teamsters, Warehouse and Dairy Employees Union Local 126, and Panetti Stone Company, Inc.

Given under our hands and seal at the
City of Madison, Wisconsin this 15th
day of June, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Charles D. Hoornstra
Charles D. Hoornstra, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF REFERENDUM

Hearing on the instant petition was first conducted on October 19, 1976. During said hearing, a question arose concerning the eligibility of Robert Tonn, David Haller and Donald Kern to vote in the referendum. At the time Tonn and Haller were on layoff status and Kern had not been recalled after securing a doctor's release from an on-the-job injury. The eligibility of these employees was dependent upon whatever recall rights they had under the parties' collective bargaining agreement. The Commission, however, was unable to determine their eligibility at the time because the parties had no collective bargaining agreement in effect. Their past agreement had expired and, although the Petitioner and Intervenor believed that a successor agreement had been reached, the Employer refused to sign such successor agreement. After the hearing, Petitioner notified the Commission that it intended to file an unfair labor practice charge with the National Labor Relations Board concerning the Employer's refusal to execute the successor collective bargaining agreement. The Commission, therefore, ordered the conduct of the referendum held in abeyance pending disposition of said unfair labor practice and pending clarification of the recall rights of Tonn, Haller and Kern under the successor agreement.

On May 13, 1977, Petitioner notified the Commission that the matter before the National Labor Relations Board had been resolved and that the Employer had executed the successor collective bargaining agreement. Petitioner requested that a determination be made on voter eligibility. Accordingly, a second hearing was held on June 3, 1977. During the course of the hearing, the parties executed a stipulation for referendum wherein they agreed that the only employees eligible to vote are Thomas Halfman, Jerry Burg and Darrell Batterman. 2/

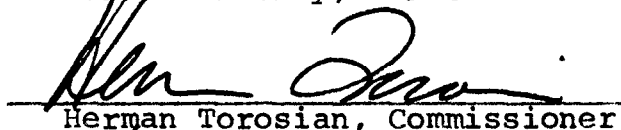
Based on the parties' stipulation, the Commission has directed a referendum among the employees in the bargaining unit presently jointly represented by the Petitioner and Intervenor.

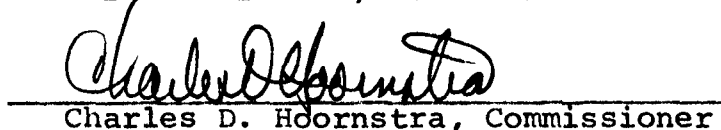
Dated at Madison, Wisconsin this 15th day of June, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Charles D. Hoornstra, Commissioner

2/ Petitioner withdrew its claim that Tonn, Haller and Kern are eligible to vote.