

#### STATE OF WISCONSIN

# BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

in the Matter of the retition of

HOTEL & RESTAURANT EMPLOYEES & BARTENDERS, INTERNATIONAL UNION

LOCAL 257, AFL-CIO

Involving Certain Employes of

BROOM & STATE CORP., d/b/a
GARGANO'S RESTAURANT 1/

Case I

No. 21375 E-2935

Decision No. 15401

Appearances:

Mr. Allan J. Graskamp, International Representative, appearing on behalf of the Petitioner.

Lee, Johnson & Kilkelly, S.C., Attorneys at Law, by Mr. Donald D. Johnson, appearing on behalf of the Employer.

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### DIRECTION OF ELECTION

Hotel & Restaurant Employees & Bartenders, International Union Local 257, AFL-CIO, hereinafter referred to as the petitioner, having, on February 18, 1977, filed a petition with the Wisconsin Employment Relations Commission requesting the commission to conduct an election, pursuant to Section 111.05 of the Wisconsin Employment Peace Act among certain employes of Broom & State Corp., d/b/a Gargano's Restaurant, to determine whether said employes desire to be represented by the petitioner for the purposes of collective bargaining; and a hearing on such petition having been held at Madison, Wisconsin, on March 25, 1977, Sherwood Malamud, Examiner, being present; and the commission having considered the evidence and being fully advised in the premises, and being satisfied that a question has arisen concerning representation of certain employes of said employer;

NOW, THEREFORE, it is

## DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this Directive in the collective bargaining unit consisting of all full-time and regular part-time employes of the kitchens and dining rooms, including cooks, butchers, banquet waitresses, bus persons, delivery drivers, set up persons, janitors and maintenance helpers, employed by Broom & State Corp., d/b/a Gargano's Restaurant, at its Madison, Wisconsin facility, but excluding managers, assistant managers, supervisory employes, auditors,

During the hearing, petitioner amended its petition to reflect the correct name of the employer, as stated above.

private secretaries, and clerical personnel, who were in the employ of said employer on March 25, 1977, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether such employes desire to be represented by Hotel & Restaurant Employees & Bartenders, International Union Local 257, AFL-CIO, for the purposes of collective bargaining with Broom & State Corp., d/b/a Gargano's Restaurant.

Given under our hands and seal at the City of Madison, Wisconsin, this 31st day of March, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Ву

Morris Slavney, Chairman

Herman Torosian, Commissioner

Charles D. Hoornstra, Commissioner

### MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

During the hearing both petitioner and the employer agreed:
1) that the volume of business of the Broom & State Corp., d/b/a
Gargano's Restaurant is not sufficient to place the employer within
the jurisdiction of the National Labor Relations Board; 2) that the
unit as described in the petition is an appropriate unit; and
3) that the eligibility date for purposes of the election shall be
the date of the hearing, March 25, 1977.

The parties agreed that Darryl Wolfe, Marty Zweifel, Bob Khouri and Matt Dollhausen be excluded from the within unit on the basis of their supervisory and/or managerial responsibilities. However, they could not agree as to the supervisory status of Michael Bunte and John Roderick Clark. It was agreed that should the latter two persons appear to vote, their ballots would be challenged by the employer. Should the challenged ballots, if any, be determinative of the election, the commission will then determine the supervisory and/or managerial status of Bunte and Clark.

Dated at Madison, Wisconsin, this 31st day of March, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney, Chairman

Herman Torosian, Commissioner

Charles D. Hoornstra, Commissioner