

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
MORGAN-WIGHTMAN SUPPLY COMPANY : Case I
Involving Certain Employees of : No. 30708 E-3003
MORGAN-WIGHTMAN SUPPLY COMPANY : Decision No. 21048

Appearances:

Krukowski & Associates, S.C., Attorneys at Law, 811 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, by Mr. Kevin J. Kinney, appearing on behalf of Petitioner-Employer.

Goldberg, Previant, Uelmen, Gratz, Miller & Brueggeman, S.C., Attorneys at Law, 788 North Jefferson Street, Milwaukee, Wisconsin 53202, by Mr. Timothy G. Costello, appearing on behalf of the Union.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

Morgan-Wightman Supply Company having, on November 17, 1982, filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election, pursuant to the provisions of the Wisconsin Employment Peace Act, among certain employees of Morgan-Wightman Supply Company to determine whether said employees desired to continue to be represented by Carpenters' District Council of Milwaukee and Vicinity, for the purposes of collective bargaining on wages, hours and conditions of employment; and a hearing in this matter having been held on February 4, 1983, in Milwaukee, Wisconsin, Examiner Lionel L. Crowley being present; and the parties having filed briefs with the Commission; and the record having been completed on April 13, 1983; and the Commission having considered the evidence and arguments of the parties and being fully advised in the premises makes and issues the following

FINDINGS OF FACT

1. That Petitioner Morgan-Wightman Supply Company, hereinafter referred to as the Employer, is an employer within the meaning of the Wisconsin Employment Peace Act and has its offices located at 16260 West Roger Drive, New Berlin, Wisconsin 53151.

2. That Carpenters' District Council of Milwaukee County & Vicinity, hereinafter referred to as the Union, is a labor organization and has its offices at 3020 West Vliet Street, Milwaukee, Wisconsin 53208.

3. That for many years, the Employer has recognized the Union as the collective bargaining representative of certain of its employees, namely warehouse employees; that pursuant to said recognition and representative status the parties have entered into a series of collective bargaining agreements, including the latest agreement which by its terms was in full force and effect until May 31, 1982, and thereafter unless timely written notice of modifications were served by one party on the other; and that each party submitted such written notice to the other in a timely fashion.

4. That the parties have not reached agreement on the terms of a successor agreement to the agreement which expired May 31, 1982.

5. That the bargaining unit consists of a single employee employed in the warehouse by the Employer; that on an unspecified date after May 31, 1982 and prior to the filing of the petition, said employee approached the Employer's manager, and indicated that he wanted to withdraw from the Union; and that during this conversation the employee further stated that he wanted advancement to Commission Salesman, a non-bargaining unit position.

That upon the basis of the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. That a good faith doubt has been demonstrated on the part of the Employer as to the majority status of the Union.

2. That "all warehouse employes, excluding supervisors" constitutes an appropriate collective bargaining unit within the meaning of Section 111.02(6) of the Wisconsin Employment Peace Act.

3. That a question of representation, within the meaning of Section 111.05 of the Wisconsin Employment Peace Act, has arisen among the employes of Morgan-Wightman Supply Company included in the appropriate collective bargaining unit set forth above.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

DIRECTION OF ELECTION

IT IS HEREBY DIRECTED that an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within forty-five (45) days of the date of this Direction in the bargaining unit consisting of all warehouse employes excluding supervisors, who were employed by Morgan-Wightman Supply Company on October 7, 1983, except such employes as may prior to the election quit their employment or be discharged for cause, for the purposes of determining whether a majority of said employes voting desires to be represented by Carpenters' District Council of Milwaukee and Vicinity for the purpose of collective bargaining with Morgan-Wightman Supply Company with respect to wages, hours and conditions of employment.

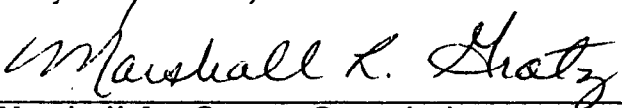
Given under our hands and seal at the City of
Madison, Wisconsin this 7th day of October, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Gary L. Covelli, Commissioner


Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DIRECTION OF ELECTION

The sole issue in dispute is whether the Employer has a good faith doubt as to the majority status of the Union. 1/

The Commission has held that an employer must demonstrate, by objective considerations, that it has reasonable cause to believe that the incumbent labor organization may have lost its majority status before the Commission will direct an election. 2/

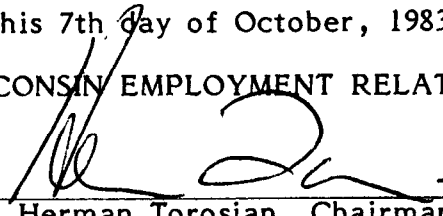
The Employer contends that the sole employee in the bargaining unit indicated he would like to withdraw from the Union, thereby providing the basis for the Employer's petition. The Union contends that the Employer misrepresented the wishes of the bargaining unit employee by taking his statement out of context. The Union argues that the employee wanted to be promoted into management in order to advance himself and did not want to abandon his collective bargaining representative.

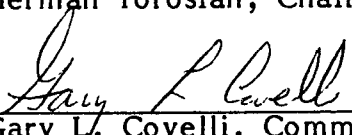
The evidence establishes that the only employee in the bargaining unit made an unsolicited statement to the Employer's manager that he wished to withdraw from the Union. While the conversation included a discussion of promotional opportunities, and arguably might be interpreted in that context, the Commission is satisfied that the plain meaning of the statement, even in the context of the conversation, provided the Employer with reasonable cause to believe that the Union might have lost its majority status, and, therefore, the Commission has directed an election to resolve any doubts as to whether the employee desires to continue to be represented by the Union.

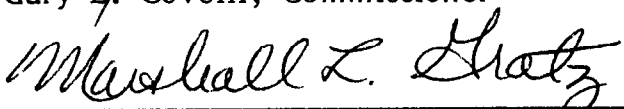
Dated at Madison, Wisconsin this 7th day of October, 1983.

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1/ In Morgan-Wightman, (20286-B) 10/83, the question as to whether there was a binding agreement was resolved in the negative.

2/ Wausau Hospitals, Inc., (11343) 11/72.