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|----------------------------------|---|--------------------|
| In the Matter of the Petition of | : |                    |
| LABOR ASSOCIATION OF             | : |                    |
| WISCONSIN, INC.                  | : | Case 20            |
|                                  | : | No. 39688 ME-2755  |
| Involving Certain Employees of   | : | Decision No. 25164 |
| TOWN OF CALEDONIA                | : |                    |
|                                  | : |                    |

Mr. Patrick J. Coraggio, Labor Consultant, Labor Association of Wisconsin, Inc., 2825 North Mayfair Road, Wauwatosa, WI 53222  
Thompson & Coates, Ltd., Attorneys at Law, by Mr. Kenneth F. Hostak,  
840 Lake Avenue, P.O. Box 516, Racine, WI 53401

On November 9, 1987, the Labor Association of Wisconsin, Inc., filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election among certain employees of the Town of Caledonia, to determine whether said employees desire to be represented by said Petitioner for the purposes of collective bargaining. Hearing in the matter was held in Caledonia on January 25, 1988, before Stuart D. Levitan, a member of the Commission's staff. At the hearing, at which a stenographic transcript was made, the parties agreed to the description of the proposed bargaining unit, and entered onto the record a stipulation reflecting that agreement.

## FINDINGS OF FACT

No. 25164

D. Managerial Employees: Assessor (Judy Miller); Director of Health Services (Kathy Aiello).

5. That where, as here, the labor organization in an election proceeding desires to include professional employees in a single unit with non-professional employees (i.e., the groups identified as 4A and 4B), Sec. 111.70(4)(d), Stats., requires that the professional employees be given an opportunity to vote to determine whether they desire to be included with the non-professional employees in a single unit.

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

#### CONCLUSIONS OF LAW

1. That employees of the Town of Caledonia employed in the following voting groups may constitute either two separate and distinct appropriate collective bargaining units, or one single appropriate collective bargaining unit, within the meaning of Sec. 111.70(4)(d), Stats.:

##### Voting Group 1

All regular full-time and regular part-time employees of the Town of Caledonia who are not now represented by a labor union or covered by a collective bargaining agreement, conditionally excluding professional employees, and fully excluding supervisory, executive, managerial, confidential and employees with the power of arrest.

##### Voting Group 2

All regular full-time and regular part-time professional employees of the Town of Caledonia who are not now represented by a labor union or covered by a collective bargaining agreement, excluding supervisory, executive, managerial and confidential employees and employees with the power of arrest.

2. That a question of representation exists with the voting groups referred to above in Conclusion of Law No. 1.

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

#### DIRECTION OF ELECTIONS

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission, within forty-five (45) days from the date of this directive, in the following voting groups for the purposes indicated therein:

##### Voting Group 1

All regular full-time and regular part-time employees of the Town of Caledonia who are not currently now represented by a labor union or covered by a collective bargaining agreement, conditionally excluding professional employees, and fully excluding supervisory, executive, managerial, confidential and employees with the power of arrest, who were employed on . . . , except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees voting desire to be represented, for the purposes of collective bargaining with the Town of Caledonia on wages, hours and conditions of employment, by the Labor Association of Wisconsin, Inc., or be unrepresented.

##### Voting Group 2

All regular full-time and regular part-time professional employees of the Town of Caledonia who are not now represented by a labor union or covered by a collective bargaining agreement, excluding supervisory, executive, managerial,

confidential employees and employees with the power of arrest, who were employed on . . . . , except such employees as may prior to the election quit the employment or be discharged for cause, for the purposes of determining;

(1) Whether a majority of said employees in said voting group desire to be included in a single collective bargaining unit with those eligible employees in Voting Group 1, and

(2) Whether a majority of such employees voting desire to be represented, for the purposes of collective bargaining with the Town of Caledonia on wages, hours and conditions of employment, by the Labor Association of Wisconsin, Inc., or be unrepresented.

Given under our hands and seal at the City of  
Madison, Wisconsin this 12th day of February, 1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld  
Stephen Schoenfeld, Chairman

Herman Torosian  
Herman Torosian, Commissioner

A. Henry Hempe  
A. Henry Hempe, Commissioner

TOWN OF CALEDONIA

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

When a union in an election proceeding requests to include professional employees in a single unit with non-professional employees, Section 111.70(4)(d) of the Municipal Employment Relations Act requires that the professional employees be given an opportunity to vote to determine whether they desire to be included with the non-professional employees in a single unit. In order to be included in a unit with non-professional employees, a majority of the eligible professional employees must vote for such inclusion. Therefore, in this proceeding, the professional employees (Voting Group No. 2) will be given two ballots (1) to determine whether they desire to be included in a single unit with the non-professional employees (Voting Group No. 1) and, (2) whether they desire to be represented by the Labor Association of Wisconsin, Inc. The professional employees who appear to vote will be instructed to place their representation ballots in a furnished blank white envelope and to seal such envelope and deposit same in the ballot box. The unit determination ballot will be a separate colored ballot and the professional employees will be instructed to deposit their unit determination ballots in the ballot box.

The unit determination ballots cast by the professional employees will be initially counted, and should a majority of the eligible professional employees vote in favor of being included in a unit with non-professional employees, the sealed envelopes, containing the ballots of the professionals with respect to representation will be opened and their ballots will be co-mingled with the representation ballots cast by the non-professional employees, and thereafter the tally will include the representation ballots cast by all employees.

Should a majority of the professional employees eligible not vote in favor of being combined in a unit with non-professional employees, then the professional employees shall constitute a separate unit, and their representation ballots will not be co-mingled with the representation ballots cast by the non-professional employees, and therefore, the representation ballots cast by the non-professional and professional employees will be tallied separately to determine separately their choice as to bargaining representative.

Dated at Madison, Wisconsin this 12th day of February, 1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld  
Stephen Schoenfeld, Chairman

[Signature]  
Herman Torosian, Commissioner

[Signature]  
A. Henry Hempe, Commissioner