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UNITED STATES GOVERNMENT
National Labor Relations Board

A.D. C5239

Memorandum

DATE NOV 3 1983

TO Roger W. Goubeaux, Regional Director
Region 31

FROM Harold J. Datz, Associate General Counsel 530-4090-6000

Division of Advice

SUBJECT Telegram Tribune Company
Cases 31-CA-12672, 31-CA-13047-2 and 31-CA-13052

RELEASE

This case was submitted for advice because it involves the merger of two unions in circumstances where a "members only" vote was conducted.

FACTS

In July 1982, the IPGCU International Union was certified as the representative of a unit of the Employer's newsroom employees. In March 1983, upon a charge by IPGCU, the Region issued a complaint alleging, inter alia, a violation of Section 8(a)(5). In April 1983, IPGCU and GAIU (another international union) merged into the GCIU. The Employer's newsroom employees were not permitted to vote for or against the merger, apparently because they were not members of the IPGCU. The Employer argues that the Section 8(a)(5) allegation should be dismissed. In its view, there has been a change of bargaining representatives without the consent of the Employer's unit employees.

By their terms, the merger agreement and proposed GCIU constitution provide that officers, employees and members of the two merging Internationals will become officers, employees and members of the GCIU; that GCIU will succeed to the assets and liabilities of the two merging Internationals; that chartered locals of the merging Internationals will become chartered locals of GCIU, and that such locals will continue to exist according to their constitutions and bylaws. The agreement and constitution also provide that the merger is not intended to impair certifications or contracts.

ACTION

It was concluded that complaint should not be dismissed. Rather, it should allege that GCIU is now the Section 9 representative of the employees.

Where, as here, there is a merger of International unions, and the "new" International assumes the obligations and responsibilities of the merging Internationals, the "new" International becomes the alter ego of the merging Internationals. 1/ Consistent with this, where, as here, an International

1/ American Enka Company, a Division of Akzona Incorporated, 231 NLRB 1335 (1977), National Carbon Company, a Division of Union Carbide and Carbon Corporation, 116 NLRB 488 (1956); Lloyd A. Fry Roofing Company, 118 NLRB 587 (1957).

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union is the Section 9 representative of a given unit of employees, and that International merges with another International, the resulting "new" International succeeds to the Section 9 rights and obligations of the first one. 2/ In the instant case this nominal change of representatives has been accomplished without a substantive change at the unit level. In this regard, it appears that, when IPGCU was the certified representative, a person from the IPGCU and a person from an IPGCU Local participated in the negotiations covering the unit employees. There is nothing to indicate that these persons will not continue to negotiate for the unit employees. Concededly, these persons were once the agents of IPGCU, and they are now agents of GCIU. However, given the conclusion that GCIU is the alter ego of IPGCU, this fact would not require a contrary result. Finally, the fact that the Employer's unit employees did not participate in the merger vote does not require a contrary result. As American Enka makes clear, such participation is not a requirement. 3/ The case of Amoco Production Company, 262 NLRB 1240 (1982) is not to the contrary. That case deals with the situation where an unaffiliated union affiliates with an International union. The well-established principle is that such votes must accord with certain due process requirements. In Amoco, the Board held that participation of all employees (members and non-members) is an essential part of those due process requirements. However, as shown supra, the cases involving a merger of Internationals have never turned on such concepts. Accordingly, the fact that the Employer's unit employees did not participate in the merger vote does not require a dismissal of the Section 8(a)(5) allegations.

H.J.D.

2/ Lloyd A. Fry Roofing Company, supra, cited with approval in American Enka Company, supra.

3/ American Enka Company, supra, at 1337.