

Framed Picture Enterprise, Inc. and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union 1196, Petitioner. Case 26-RC-7326

July 19, 1991

DECISION AND ORDER DIRECTING HEARING

BY CHAIRMAN STEPHENS AND MEMBERS CRACRAFT AND RAUDABAUGH

The National Labor Relations Board, by a three-member panel, has considered objections to an election held on December 7, 1990, and the Regional Director's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 66 for and 131 against the Petitioner, with 1 challenged ballot, an insufficient number to affect the results.

The Board has reviewed the record in light of the exceptions and brief, and has adopted the Regional Director's findings and recommendations as modified.¹

¹In the absence of exceptions we adopt pro forma the Regional Director's recommendation that the Petitioner's numbered objections be overruled.

Unfair labor practice charges were filed before the election, and the Regional Director obtained information pursuant to the investigation of these charges regarding conduct alleged to have occurred between the filing of the representation petition and the date of the election. Although that conduct was not referred to in the Union's numbered objections, the Regional Director found it to be an appropriate basis for directing a hearing on these matters as objectionable conduct. The Board concurs with the Regional Director's recommendation that this case be consolidated with the unfair labor practice cases despite the absence of reference in the objections to the subject matter of these complaint allegations. Representation cases may use such evidence. See *White*

ORDER

It is ordered that this case be consolidated for hearing with any hearing held before an administrative law judge in consolidated Cases 26-CA-14141, 26-CA-14173, and 26-CA-14191.

IT IS FURTHER ORDERED that the administrative law judge designated for the purpose of conducting the hearing shall prepare and cause to be served on the parties a decision containing resolutions of credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of the issues. Any party may, within the time prescribed by Section 102.46 of the Board's Rules and Regulations, file exceptions to the judge's decision. If no exceptions are filed, the Board will adopt the recommendations of the judge.

IT IS FURTHER ORDERED that the above-entitled matter is remanded to the Regional Director for Region 26, who shall arrange and issue notice of the hearing.

Plains Lincoln Mercury, 288 NLRB 1133 (1988). See also *Seneca Foods Corp.*, 244 NLRB 558 fn. 3 (1979), in which the Board made no distinction between evidence obtained in an unfair labor practice investigation and evidence obtained in an investigation of objections.

In addition to our agreement with the Regional Director's distinguishing of this case from *Burns Security Services*, 256 NLRB 959 (1981), and *Rhone-Poulenc, Inc.*, 271 NLRB 1008 (1984), we further note that the concern expressed in those two cases over piecemeal submissions of objections is not here present. In this case, there was no attempt to file late or supplemental objections, and the information relied on by the Regional Director was previously obtained during the investigation of unfair labor practice charges.

We do not adopt the Regional Director's recommendation that the conduct alleged in pars. 12 through 19 of the consolidated complaint in Cases 26-CA-14141, 26-CA-14173, and 26-CA-14191 be found to be objectionable conduct that warrants setting aside the election. A decision on whether the election should be set aside on the basis of those allegations must await a decision by the administrative law judge in the consolidated case.