

Local 25, International Brotherhood of Electrical Workers, AFL-CIO (Spectacore Management Group a/k/a SMG) and Ann Marie (Minella) Bartlett. Case 29-CB-9057

March 29, 1995

ORDER DENYING MOTION

BY CHAIRMAN GOULD AND MEMBERS STEPHENS
AND BROWNING

On May 25, 1994, the Regional Director for Region 29 of the National Labor Relations Board issued a complaint and notice of hearing alleging that the Respondent has violated Section 8(b)(1)(A) and (2) of the National Labor Relations Act by improperly referring a hiring hall applicant in September 1992 to a light duty job at the Employer and bypassing the Charging Party and other applicants. On January 30, 1995, the Respondent filed a motion to dismiss the complaint, contending that the complaint is barred by Section 10(b) of the Act. The Respondent asserts that the Charging Party learned in June 1993 of the alleged improper referral and therefore the January 1994 charge was filed more than 6 months after the Charging Party acquired knowledge of the alleged discriminatory re-

ferred. On February 13, 1995, the Board issued an order transferring the proceeding to the Board and Notice to Show Cause why the motion should not be granted.

The General Counsel filed a response opposing the Respondent's motion. The General Counsel contends that although the Charging Party heard a rumor in June 1993 about a light duty referral, the Respondent's concealment of the facts prevented her from verifying the referral until August 10, 1993, 5 months prior to filing the charge.

The Respondent filed a supplement to its motion in which it predicts that a hearing will not support what the General Counsel's opposition claims and argues that the complaint theory is inconsistent with the charge.

The Board, having considered the matter, has decided that the pleadings and submissions of the parties raise substantial and material issues requiring a hearing and the Respondent is not entitled to dismissal of the complaint as a matter of law. Accordingly,

IT IS ORDERED that the Respondent's motion is denied and the proceeding remanded to the Regional Director for Region 29 for further proceedings.