

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

SITTA PAIGE ASSOCIATES, INC.¹

Employer

and

Case 19-RC-14081

PACIFIC COAST METAL TRADES
DISTRICT COUNCIL²

Petitioner

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record³ in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. No question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6)(7) of the Act, for the following reasons:

¹ The name of the Employer appears as corrected at hearing.

² At hearing, Ronald Eastburn, a representative of International Union of Painters and Allied Trades District Council No. 5, appeared on the record as a "joint petitioner." However, Petitioner did not seek to amend the petition to include a joint petitioner and further declared that it is Petitioner's intention that it alone be named as the collective bargaining representative in any certification of representative resulting from this petition. Eastburn did not participate in the hearing except as a witness.

³ No briefs were filed.

The Employer is engaged in installing and repairing decking on ships. The parties stipulated that the appropriate unit is one which includes all production employees of the Employer in the Puget Sound area who perform flooring work. The Employer contends that the petition should be dismissed because it is closing its business in the Puget Sound area.

The Employer has operations in California and in the Puget Sound area in Washington. At the time of the hearing, there were about four unit employees. The Employer's president, Scott Paige, testified that he had decided in December 2000 to cease doing business in Washington. To that end, the Employer has ceased bidding on jobs. On the day of the hearing (March 28, 2001), employees were installing an emblem on the deck of the *USS Georgia*, and were engaged in work on the *Fife*. Paige expected the work on the *Georgia* to be completed that day, and the work on the *Fife* to be completed on Monday, April 3 or Tuesday, April 4.

Paige testified that he had already informed the employees that the Employer would have no further work for them. In addition, Paige said he has informed his office employees that their jobs will end no later than April 15. He testified that he is in the process of selling the assets of the Employer, and has so far sold a shipping container located on a pier in Everett, Washington. He further testified that he had a meeting scheduled for the next day with a potential buyer of the other assets of the Employer.

Paige testified that the Employer had earlier been awarded the renewal of a "CIS" (undefined in the record) contract with the government, but had not yet been awarded any specific jobs under that contract, that the government contract officer has assured him that the Employer can be released from its responsibilities under that contract, and that he intends to write a formal letter of request for release in the next few days. In addition, Paige said he has notified Todd Shipyards that the Employer is withdrawing any bids it had pending there. At some unspecified time at least a month prior to the hearing, the Employer engaged in negotiations with a potential buyer of its entire operation, but the buyer withdrew from those negotiations shortly before the hearing.

Petitioner contends that the Employer has been awarded a contract from Todd Shipyards to work on the *Camden*, but offered no direct evidence.⁴ Paige denied that his company had even bid on work on the *Camden*.

The Board has consistently held that it will not conduct an election at a time when a permanent layoff is imminent and certain. *Hughes Aircraft Company*, 308 NLRB 82 (1992).

Here, the Employer has offered testimony that all unit work will cease by April 4, and that it has not bid on any further work in Washington. Further, after the potential buyer of the operations withdrew from those negotiations, the Employer commenced a course of conduct designed to sell off its assets. It has notified the appropriate government agency that it will be seeking release from the CIS contract. It has withdrawn pending bids at Todd Shipyard. The Union's claim that the Employer has been awarded future work on the *Camden* is unsubstantiated. In these circumstances, I conclude that permanent layoff of the unit employees is imminent and certain, and that further processing is not warranted. I shall, therefore, dismiss the petition.⁵

⁴ Petitioner's only evidence consisted of hearsay testimony by a Union official regarding a conversation he had had with an unnamed person employed in human resources at Todd Shipyards.

⁵ In the event Petitioner, within 6 months following the date of this Decision, were to furnish evidence that the Employer had not terminated operations in accord with its

ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by May 2, 2001.

DATED at Seattle, Washington, this 18th day of April 2001.

Paul Eggert, Regional Director
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testimony, I would on proper motion of Petitioner, reinstitute the instant petition and expedite same, without further showing of interest.