

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION SIX**

THE L. & E. T. COMPANY, INCORPORATED

Employer

and

Case 6-RC-11973

OPERATIVE PLASTERERS' & CEMENT  
MASONS' INTERNATIONAL ASSOCIATION OF  
THE UNITED STATES AND CANADA, LOCAL  
NO. 31, AFL-CIO, CLC

Petitioner

RAM ACOUSTICAL CORPORATION

Employer

and

Case 6-RC-11979

OPERATIVE PLASTERERS' & CEMENT  
MASONS' INTERNATIONAL ASSOCIATION OF  
THE UNITED STATES AND CANADA, LOCAL  
NO. 31, AFL-CIO, CLC

Petitioner

**DECISION AND DIRECTION OF ELECTIONS AND ORDER SEVERING CASES**

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, the respective parties entered into a Stipulation of Facts in Lieu of Representation Hearing.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.<sup>1</sup>

---

<sup>1</sup> Each party waived the right to file a Request for Review of this Decision and Direction of Elections.

Upon the entire record in this matter,<sup>2</sup> the Regional Director finds:

1. Each of the Employers is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in each of the matters herein.
2. The labor organization involved claims to represent certain employees of each of the Employers.
3. Questions affecting commerce exist concerning the representation of certain employees of each of the Employers within the meaning of Section 9(c)(l) and Section 2(6) and (7) of the Act.

On April 20, 2001 and April 27, 2001, the Petitioner filed the petitions in Cases 6-RC-11973 and 6-RC-11979, respectively, pursuant to Section 9(c) of the Act seeking elections for certain employees of each Employer. On May 1, 2001, these cases were consolidated pursuant to Section 102.72 of the National Labor Relations Board Rules and Regulations.

In the instant proceeding, the respective parties stipulated that the Petitioner is the representative, pursuant to Section 8(f) of the Act, of certain employees of each of the Employers and that, by the petitions herein, the Petitioner is seeking to become the Section 9(a) representative of the petitioned-for employees.

The respective parties stipulated that each employer is a specialty contractor in the construction industry, performing commercial construction; that they are each members of the Master Interior Contractors' Association (MICA),<sup>3</sup> which is a multi-employer bargaining group, in existence since the early 1970's; that MICA is signatory to a collective-bargaining agreement with the Petitioner for the period June 1, 1998, through May 31, 2005; and that each of the Employers herein is bound to that agreement as a member of MICA.

---

<sup>2</sup> Each party waived the filing of briefs in this matter.

<sup>3</sup> The parties stipulated that MICA is the Intervenor in these matters.

The respective parties further stipulated that there are no eligibility issues and that the following petitioned-for unit is an appropriate unit for the respective Employers:

All full-time and regular part-time journeymen and apprentice plasterers employed by the employer in Allegheny, Armstrong, Fayette, Forest, Greene, Jefferson, Lawrence, Mercer, McKean, Potter, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Washington, Westmoreland, Warren and Venango counties; excluding office clerical employees and guards, professional employees and supervisors as defined in the Act, and all other employees.

Accordingly, based on the above and the record as a whole, I find that the following employees of the respective Employers constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

In Case 6-RC-11973: All full-time and regular part-time journeymen and apprentice plasterers employed by The L. & E. T. Company, Incorporated in Allegheny, Armstrong, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Fayette, Forest, Greene, Jefferson, Lawrence, Mercer, McKean, Potter, Venango, Warren, Washington and Westmoreland counties in Pennsylvania; excluding office clerical employees and guards, professional employees and supervisors as defined in the Act, and all other employees.

In Case 6-RC-11979: All full-time and regular part-time journeymen and apprentice plasterers employed by RAM Acoustical Corporation in Allegheny, Armstrong, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Fayette, Forest, Greene, Jefferson, Lawrence, Mercer, McKean, Potter, Venango, Warren, Washington and Westmoreland counties in Pennsylvania; excluding office clerical employees and guards, professional employees and supervisors as defined in the Act, and all other employees.

### **DIRECTION OF ELECTIONS**

Elections by secret ballot will be conducted by the undersigned Regional Director among the employees in the units set forth above at the time and place set forth in the Notices of Election to be issued subsequently, subject to the Board's Rules and Regulations.<sup>4</sup> Eligible to vote are those employees in the respective units who were employed during the payroll period

---

<sup>4</sup> Pursuant to Section 103.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the respective Employers in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employers will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed. The Board has interpreted Section 103.20(c) as requiring an employer to notify the Regional Office at least five (5) full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.

immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. In accordance with the Board's holdings in Daniel Construction Company, Inc., 133 NLRB 264 (1961), as modified 167 NLRB 1078, 1081 (1967), and Steiny and Company, Inc., 308 NLRB 1323, 1326 (1992),<sup>5</sup> I find the following individuals are also eligible to vote in the elections: those individuals who were employed in the respective units for either (1) a total of 30 working days or more within the 12 months immediately preceding the eligibility date for the elections or (2) a total of 45 working days or more within the 24 months immediately preceding the eligibility date for the elections, with some employment in the immediately preceding 12-month period, and who have not been terminated for cause or quit voluntarily prior to the completion of the last job for which they were employed by the respective Employers. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.<sup>6</sup> Those eligible shall vote whether or not they

---

<sup>5</sup> The parties stipulated to the application of this eligibility formula.

<sup>6</sup> In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc. 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that the election eligibility list, containing the full names and addresses of all eligible voters, must be filed by each of the respective Employers with the Regional Director within seven (7) days of the date of this Decision and Direction of Elections. The Regional Director shall make the appropriate list available to all parties to the respective elections. In order to be timely filed, such list must be received in the Regional Office, Room 1501, 1000 Liberty Avenue, Pittsburgh, PA 15222, on or before May 15, 2001. No extension of time to file the respective lists may be granted, except in extraordinary circumstances.

desire to be represented for collective bargaining by Operative Plasterers' & Cement Masons' International Association of the United States and Canada, Local No. 31, AFL-CIO, CLC.

The undersigned having duly considered the matter and deeming it no longer necessary that these cases be consolidated in order to effectuate the purposes of the Act,

**IT IS HEREBY ORDERED**, that these cases be, and they hereby are, severed.

Dated at Pittsburgh, Pennsylvania, this 8<sup>th</sup> day of May 2001.

---

Gerald Kobell  
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD  
Room 1501, 1000 Liberty Avenue  
Pittsburgh, PA 15222

355-1100  
362-3350-6000