

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 15

MORRISON MANAGEMENT SPECIALISTS,
A DIVISION OF COMPASS GROUP USA, INC.

Employer

and

Case No. 15-RC-8477

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION
733, AFL-CIO, CLC

Petitioner

**REPORT ON OBJECTIONS, ORDER APPROVING
WITHDRAWAL OF OBJECTION NO. 1, ORDER
DIRECTING HEARING AND NOTICE OF HEARING**

Procedural History

On July 23, 2003,¹ the Petitioner filed a petition under Section 9(c) of the Act seeking an election among certain employees of the Employer. On August 1, the Acting Regional Director of Region 15 of the National Labor Relations Board approved a Stipulated Election Agreement.² On August 28, pursuant to that agreement, an election

¹ Unless otherwise noted, all dates are in 2003.

² The collective bargaining unit set forth in paragraph 13 of the Stipulated Election Agreement is as follows:

All regular full-time and part-time Cooks (bakers, meats, production, salad prep employees and vegetables), Patient Line Employees (coordinators, hostesses and patient services employees), Retail Employees (cashiers, dining attendants, grill employees, line servers, pizza shop employees and sub shop employees) and Sanitation/Utility Employees (dishwashers, pot washers, porters and runners) employed by the Employer at its Pascagoula, Mississippi operations; excluding office clerical employees, managers, guards, supervisors as defined in the Act, and all other employees.

was held among certain employees of the Employer to determine whether they wished to be represented by the Petitioner.

The tally of ballots served upon the parties immediately following the ballot count disclosed the following results:

Approximate number of eligible voters.....	53
Number of Void ballots.....	0
Number of votes cast for Petitioner.....	27
Number of votes cast against participating labor organization.....	22
Number of valid votes counted.....	49
Number of challenged ballots.....	4
Number of valid votes counted plus challenged ballots.....	53

Challenges are not sufficient in number to affect the results of the election. A majority of the valid votes counted plus challenged ballots has been cast for Petitioner.

Thereafter, on September 3, the Employer timely filed objections to the election. The objections are appended hereto as Attachment A.

On September 10, the Employer requested the withdrawal of Objection No. 1. Thereafter, on September 17, the Employer requested the withdrawal of Objection No. 8. I am approving these requests.

A preliminary investigation of the remaining objections, Objections Nos. 2 through 7, has been conducted. Based upon careful consideration of the results, I find that they raise substantial and material issues that would best be resolved by a hearing. I am therefore directing that a hearing be held for the purpose of taking testimony to resolve the issues raised in those objections. What follows will be a brief description of Objection Nos. 2 through 7 and the positions of the parties.

EMPLOYER OBJECTIONS NOS. 2 THROUGH 7

Objection No. 2

In this objection, the Employer contends that union representatives threatened to sue employees if they withdrew their support for the Petitioner after signing cards and/or attempted to get their cards back. In support of its objection, the Employer asserts witness(es) will testify that organizing committee member Kim Chestang told employees that employees would face retribution for refusing to support the Petitioner or withdrawing their support of the Petitioner. The Employer contends that Chestang, who served as the Petitioner's observer during the election, is an agent of the Petitioner. The Petitioner denies that it engaged in the conduct alleged above.

Objection No. 3

In this objection, the Employer contends that the board agent conducting the election refused to allow Gussie Richie, an office clerical employee, to serve as the Employer's observer. As a result, the ballots of certain employees that the Employer had intended to challenge were not challenged. In support of this objection, the Employer submitted statements from witnesses who collectively asserted that during the pre-election conference immediately preceding the election, at the Petitioner's request, the board agent told the Employer that Richie could not serve as an observer because he was not in the bargaining unit. Consequently, the Employer was forced to hastily select another employee to serve as its observer. The Petitioner asserts that Richie was a supervisory employee and was not eligible to serve as an observer.

Objection No. 4

In Objection No. 4, the Employer contends that the polls for the first voting session were opened and closed after the times set forth in the Stipulated Election Agreement. The Agreement provided for two polling sessions, the first of which would be conducted from 9:30 a.m. to 10:30 a.m. In support of this objection, the Employer submitted affidavits from individuals who stated that the polls for the initial session were opened at 9:35 a.m. and did not close until 10:45 a.m.

Objection No. 5

In Objection No. 5, the Employer alleges that some employees voted after the polls for the initial session were scheduled to close. In support of this objection, the Employer produced an affidavit from a witness who asserted that he/she saw several employees entering the polling place after 10:35 a.m.

Objection No. 6

In this objection, the Employer alleges that the voting booth was not properly set up, enabling other individuals in the polling place to observe employees as they were voting. In support of this objection, the Employer provided affidavits from witnesses who collectively asserted that before the election began the board agent was unable to open up the legs of the voting booth. Consequently, she stationed the booth on a table. However, the rear of the booth was not covered, and it was possible for the board agent, the observers, and employees waiting on line to vote, to observe employees as they were voting. The Petitioner argues that the voting booth was set up in a manner that protected the privacy of voters.

Objection No. 7

In Objection No. 7, the Employer alleges that on the day of the election, the Petitioner engaged in unlawful electioneering in the room immediately connected to and in view of the polling area. In support of this objection, the Employer provided an affidavit from a witness who asserted that just before the election began, he/she saw a union representative gathered with a group of employees outside the polling area. The Petitioner denies engaging in any impermissible electioneering.

SUMMARY

I have approved the Employer's withdrawal of Objection Nos. 1 and 8. I have further directed that the issues raised in Objection Nos. 2 through 7 be resolved at a hearing.

ORDER DIRECTING HEARING

IT IS HEREBY ORDERED that a hearing be held for the purpose of taking testimony to resolve issues raised by Employer Objection Nos. 2 through 7.

IT IS FURTHER ORDERED that the hearing officer will prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of these issues. Within 14 days from the issuance of such report, any party may file with the Board in Washington, DC, exceptions and supporting briefs in accordance with Section 102.69 of the Board's Rules and Regulations, Series 8, as amended. A party may thereafter file an answering brief as provided in said Section. If no exceptions are filed to such report, the

Board may decide the matter forthwith upon the record or make other disposition of the case.

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, on the 1st day of October, 2003, and on consecutive days thereafter until concluded, commencing at 9:30 o'clock a.m. (CDT), at the Old Courtroom, Jackson County Courthouse, 3104 Magnolia Street, Pascagoula, Mississippi, a hearing will be conducted before a duly designated hearing officer of the National Labor Relations Board for the purpose of taking testimony on the issues raised by Employer Objection Nos. 2 through 7 at which time and place the parties will have the right to appear in person, or otherwise, and give testimony.

Dated at New Orleans, Louisiana, this 18th day of September, 2003.

M. Kathleen McKinney
Acting Regional Director
National Labor Relations Board, Region 15
1515 Poydras Street, Suite 610
New Orleans, Louisiana 70112-3723