

July 14, 2004

American Federation of Professionals Union
Yasir Marifel
5202 Washington, Suite 11
Downers Grover, IL 60515

Re: Maramont Corporation
Case 4-RC-20865

Dear Mr. Marifel:

The above-captioned case petitioning for an investigation and certification of representative under Section 9(c) of the National Labor Relations Act, as amended, has been carefully investigated and considered.

As a result of the investigation, I find that further proceedings are unwarranted. The Petitioner seeks to represent a unit of all full time and regular part-time warehousemen, drivers and helpers employed by the Employer. The evidence established that the Employer and Paper and Allied Industries Chemical Energy Employees Local 1-300 are party to a collective bargaining agreement which on its face is effective from June 20, 2003 through June 19, 2007. While the Petitioner asserts that the employees who assisted in negotiations did not sign the agreement and that the employees in the unit believed they had ratified only a one-year contract, the Board has consistently limited its inquiry to the document itself in determining whether a contract can serve as a bar. *Waste Management of Maryland, Inc.*, 338 NLRB No. 155 (2003). The collective bargaining agreement was signed by an agent of PACE, has been applied by the parties and does not according to its terms expire until June 19, 2007. While the contract contains a midterm modification provision which permits wages, holidays and a dental program to be "negotiated for the remaining three years of [the] agreement," it is well settled that such midterm modification provisions do not remove a contract as a bar unless the parties actually terminate the contract. *Deluxe Metal Furniture Co.*, 121 NLRB 995, 1003 (1958). Accordingly, I find that the contract serves as a bar to the processing of the petition. *Appalachian Shale Products Co.*, 121 NLRB 1160 (1958). I am dismissing the petition in this matter.

Pursuant to the National Labor Relations Board Rules and Regulations, you may obtain a review of this action by filing a request therefore with the National Labor Relations Board, addressed to the Executive Secretary, National Labor Relations Board, Washington, DC 20570, either by mail (eight copies) or by electronic filing through the Agency's website. A copy of the request for review must be served on each of the other parties to the proceeding, and with the Regional Director either by mail or by electronic filing to Region4@nrlb.gov.¹ This request for

¹ See OM 04-31, dated February 27, 2004, for a detailed explanation of requirements which must be met when electronically submitting representation case documents to the Board, and OM 04-43, dated March 30, 2004, for requirements when submitting representation case documents to a Region's electronic mailbox. These memoranda are available on the Agency's Web site at www.nrlb.gov.

review must contain a complete statement setting forth the facts and reasons upon which it is based. The request for review (eight copies) must be received by the Executive Secretary of the Board in Washington, D.C., by the close of business on July 27, 2004. Upon good cause shown, however, the Board may grant special permission for a longer period within which to file. The request for extension of time should be submitted to the Executive Secretary of the Board in Washington, D.C., and a copy of any such request for extension of time should be submitted to the Regional Director, and to each of the other parties to this proceeding.

The request for review and any request for extension of time for filing must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding, and the copy must be served in the same or faster manner as that utilized in filing the request with the Board. When filing with the Board is accomplished by personal service, however, the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail or telegraph.

Very truly yours,

DOROTHY L. MOORE-DUNCAN
Regional Director

cc:

Lester A. Heltzer, Executive Secretary, NLRB, Washington, DC 20570

Maramont Corporation
Mr. Richard Segil
200 Pattison Avenue
Philadelphia, PA 19148

Franczek Sullivan, P.C.
Kyle B. Johansen, Esq.
300 South Wacker Drive
Suite 3400
Chicago, IL 60606

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