

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8

CLEAR CHANNEL OUTDOOR, INC
d/b/a CLEAR CHANNEL OUTDOOR

and

CASE NOS. 8-RC-16600
8-CA-34985

INTERNATIONAL UNION OF PAINTERS
AND ALLIED TRADES DISTRICT COUNCIL #6

**ORDER CONSOLIDATING CASES, ORDER DIRECTING
HEARING ON OBJECTIONS AND NOTICE OF HEARING**

Pursuant to the provisions of Section 102.69 of the Board's Rules and Regulations an investigation of the objections has been made, and I have arrived at the following conclusions.

I order that Objection Nos. 1, 2, 3, 4 and the unnumbered "catch-all" Objection be resolved at a hearing before an administrative law judge. I further order that such hearing be consolidated with the unfair labor practice hearing in Case No. 8-CA-34985.

During the course of the administrative investigation, the Petitioner requested in writing that Objection No. 5 be withdrawn. I approve the withdrawal of this Objection.

PROCEDURAL HISTORY

Pursuant to a stipulated election agreement an election was conducted on April 8, 2004 among employees in the following unit:

All full-time employees in the operations department of the Employer's Parma, Ohio facility, including all construction and rotate employees, and all bill posters, but excluding all salesmen, all electricians, all office clerical employees, all professional employees, and all guards and supervisors as defined in the Act and all other employees.

The tally of ballots reflects that of the 10 votes cast, 3 votes were cast for, and 7 against, the Petitioner. There were no challenged ballots.

On April 14, 2004, the Petitioner filed timely objections to conduct affecting the results of the election. A copy of the objections was served on the Employer. A copy of the Petitioner's Objections is attached as an exhibit and is incorporated.¹

The Petitioner filed an unfair labor practice charge in Case No. 8-CA-34895 on April 14, 2004, that was amended on May 7, 2004 and July 16, 2004. A Complaint issued in Case No. 8-CA-34985 on July 21, 2004 alleging violations of Section 8(a)(3) and (1) of the Act. The Petitioner's remaining objections are co-extensive with the unfair labor practice charge allegations in Case No. 8-CA-34985.

THE OBJECTIONS

Objection No. 1 alleges that on or about February 19, 2004 the Employer changed working conditions during the campaign. The evidence in support of this Objection is co-extensive with the allegations in paragraphs 15(a) and (c) of the Complaint.

Objection No. 2 alleges that on or about February 19, 2004 the Employer "threatened to get someone else to do the work if they did not accept the changes made to the daily work practices." The evidence in support of this Objection is co-extensive with the allegations in Paragraph 8(b) of the Complaint.

Objection No. 3 alleges that on or about March 29, 2004 the Employer "polled" employees support of the Union. The evidence in support of this Objection is co-extensive with the allegations in Paragraph 14 of the complaint.

Objection No. 4 alleges that on or about April 1, 2004 the Employer terminated an employee for his Union and other concerted activity. The evidence in support of this allegation is co-extensive with the allegations in paragraph 16 of the Complaint.

With respect to the "catch-all" **Objection**, the evidence supporting the allegations contained in paragraphs 6, 7, 8, 9, 10, 11, and 15(b) and (c) was discovered during the investigation of Case 8-CA-34985. Since this evidence involves conduct which is clearly, or, in the case of the allegations of paragraphs 15(b) and (c), arguably within the critical period, I shall order that it be considered as to whether it constitutes objectionable conduct. The Board has a longstanding policy that allows a Regional Director to consider evidence uncovered during the investigation, even though that particular conduct has not been the subject of a specific objection. See **White Plains Lincoln Mercury, 288 NLRB 1133, 1138 (1988)**, **Dayton Tire & Rubber Co., 234 NLRB 504 (1978)** and **American Safety Equipment Corp., 234 NLRB 501 (1978)**.

¹ The petition was filed on February 18, 2004. I have considered only conduct occurring during the critical period that began on and includes the date of the filing of the petition and extends through the election. **The Ideal Electric and Manufacturing Company, 134 NLRB 1275 (1961)**.

ORDER

IT IS HEREBY ORDERED that Objection Nos. 1, 2, 3, and 4 and the “catch-all” Objection be resolved at a hearing before a duly designated administrative law judge.

It having been charged in Case No. 8-CA-34985 by the International Union of Painters and Allied Trades District Council #6 that Clear Channel Outdoor, Inc. d/b/a Clear Channel Outdoor has engaged in, and is engaging in, unfair labor practices affecting commerce as set forth and defined by the National Labor Relations Act, as amended, 29 U.S.C. Section 15 *et. seq.*, and a Complaint and Notice of Hearing having issued on July 21, 2004, the matters contained herein have been scheduled for a hearing before an administrative law judge of the Board commencing on the 27th of September, 2004 and on consecutive days thereafter until completed, at 1:00 p.m. in a hearing room of the National Labor Relations Board, 1695 AJC Federal Office Building, 1240 East 9th Street, Cleveland, Ohio.

IT IS FURTHER ORDERED pursuant to Section 102.33 and 102.72 of the Board’s Rules and Regulations, Series 8, as amended, that Case No. 8-RC-16600 be consolidated for hearing with Case No. 8-CA-34985, at the same time and place and they hereby are consolidated for purposes of hearing before an administrative law judge. Form NLRB-4348 is attached.

WHEREFORE the General Counsel of the National Labor Relations Board, on behalf of the Board, has caused the foregoing Order Consolidating Cases to be signed and issued by the Regional Director of Region 8 this 12th day of August 2004.

/s/ Frederick J. Calatrello _____

Frederick J. Calatrello
Regional Director
National Labor Relations Board
Region 8

Attachment