

Forcum-Lannon Associates, Inc. and International Union of Operating Engineers, Local 16-16B, Petitioner and Laborers International Union of North America, Local 676, Petitioner and Carpenters Union No. 978, affiliated with the International Brotherhood of Carpenters and Joiners of America, Petitioner. Cases 17-RC-8868, 17-RC-8869, and 17-RC-8870

March 18, 1980

DECISION AND DIRECTION

BY CHAIRMAN FANNING AND MEMBERS
JENKINS AND TRUESDALE

Pursuant to authority granted it by the National Labor Relations Board under Section 3(b) of the National Labor Relations Act, as amended, a three-member panel has considered challenges and objections to the elections held October 11, 1979,¹ and the Hearing Officer's report recommending disposition of same. The Board has reviewed the record in light of the exceptions and briefs, and hereby adopts the Hearing Officer's findings and recommendations,² as modified below.³

As noted above, the tallies of ballots reveals that 17 ballots were challenged during the election involving Carpenters Union No. 978, affiliated with the International Brotherhood of Carpenters and Joiners of America. These challenges included a challenge by the Employer to the ballot cast by employee William C. Hall. In her Report and Recommendations on Objections and Challenges, the Hearing Officer, finding that Hall was employed as a laborer in the laborers' unit, overruled the challenge to Hall's ballot. Hall testified that he was employed as a "project safety person." The Petition-

¹ The tallies of ballots show the following results:

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There were approximately 5 eligible voters and 4 ballots were cast. All ballots were challenged and are therefore determinative of the outcome of the election.

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There were approximately 15 eligible voters and 16 ballots were cast. All ballots were challenged and are therefore determinative of the outcome of the election.

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There were approximately 23 eligible voters and 17 ballots were cast. All ballots were challenged and are therefore determinative of the outcome of the election.

The Regional Director for Region 17 directed that a hearing be held to resolve the issues raised by the challenges and the objections.

² The Employer and the Petitioner have excepted to various credibility findings of the Hearing Officer. It is the established policy of the Board not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *The Coca-Cola Bottling Company of Memphis*, 132 NLRB 481, 483 (1961); *Stretch-Tex Co.*, 110 NLRB 1359, 1361 (1957). We find no sufficient basis for disturbing the credibility resolutions in this case.

³ The Hearing Officer's findings and recommendations being adopted by the Board are as modified by the Erratum issued by the Hearing Officer on December 21, 1979.

ers and the Employer filed timely exceptions to the Hearing Officer's report in which both parties excepted to the recommendation that the challenge to Hall's ballot should be overruled. Inasmuch as the parties agree, and the record supports, that Hall does not share a substantial community of interest with the unit employees, we shall sustain the challenge to the ballot of William C. Hall.

In her report, the Hearing Officer found that the Employer, through its agent Mack Parham, had on one occasion interrogated employee William Hall by questioning Hall as to the union sympathies of other employees and that this conduct had a tendency to affect or interfere with employee actions at the polls. However, in light of the above finding that Hall is not a unit employee, we are unable to conclude that this single interrogation of a nonunit employee, without more, impacted on the free choice of the unit members. This objection will therefore be overruled.⁴

DIRECTION

It is hereby directed that the Regional Director for Region 17 shall, pursuant to the Rules and Regulations of the Board, open and count the following ballots:

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C. L. Matthews
M. M. Moore
W. D. Dudley

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J. B. Houchens	R. L. Huffard
K. P. Walker	L. B. Pennington
B. L. Devore	R. Hicks
C. Clevenger	S. Moore
A. E. Rayles	B. P. Capps

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S. Kramer	K. McGuire
D. T. Winders	J. Coburn
C. W. Arnold	V. Funderburk
L. D. Everett	N. Booker
C. Hendrix	F. Roscoe
J. Burkhead	B. R. Jennings
J. D. Pierotti	R. Canada
D. T. Feakes	H. Griffin
E. R. Anderson	

⁴ *First Data Resources, Inc.*, 241 NLRB No. 114 (1979).

IT IS FURTHER DIRECTED that the Regional Director for Region 17 shall prepare and issue a revised tally of ballots to be served on the parties, and issue the appropriate certifications.