

Horseshoe Club Operating Co. d/b/a Horseshoe Hotel and Fremont Hotel, Inc. d/b/a Fremont Hotel and Golden Bear, Inc. d/b/a California Club and Exber, Inc. d/b/a El Cortez Hotel and Ghelfi, et al., d/b/a Golden Gate and Club Bingo, Inc. d/b/a Club Bingo and E. G. H., Inc., d/b/a Las Vegas Club and Vegas Vic, Inc. d/b/a Pioneer Club and El Dorado, Inc. d/b/a El Dorado Club, Employer-Petitioners and American Federation of Casino and Gaming Employees¹ and Local Joint Executive Board of Las Vegas, Nevada, representing Culinary Workers Union Local 226, and Bartenders Union Local 165, and International Union Hotel and Restaurant Employees and Bartenders, International Union, AFL-CIO.² Cases 31-RM-111, 31-RM-112, 31-RM-113, 31-RM-114, 31-RM-115, 31-RM-116, 31-RM-117, 31-RM-120, and 31-RM-121

August 23, 1968

DECISION AND ORDER

BY CHAIRMAN McCULLOCH AND MEMBERS FANNING
AND ZAGORIA

Upon separate petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held in this consolidated proceeding before Norman L. McCracken, a Hearing Officer of the National Labor Relations Board.³ On April 16, 1968, the Regional Director for Region 31 issued an order transferring the proceeding to the Board. The Joint Board filed a brief; the Employer-Petitioners, herein referred to as the Employers, filed a brief and a supplemental brief.⁴

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with these cases to a three-member panel.

The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in these cases, the Board finds.

1. The Employers are engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organizations involved claim to represent certain employees of the Employers.

3. No question affecting commerce exists concerning the representation of employees of the Employers within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act, for the following reasons:

The Employers herein, who are doing business as hotels, restaurants, and gaming casinos within the State of Nevada, have filed separate petitions alleging that the Joint Board and the American Federation have presented claims to be recognized as the exclusive bargaining representative of their change girls and booth cashiers, and the Employers seek elections in separate units of all change girls and booth cashiers of each Employer, excluding dealers, shills, keno writers and runners, employees covered by collective-bargaining agreements, guards, and supervisors as defined in the Act. The Joint Board and the American Federation contend that the units are inappropriate, and the Joint Board contends that no union seeks to represent these employees on the basis of the units petitioned for.

Change girls and booth cashiers are stationed on the casino floor and make change for patrons playing the slot machines. Booth cashiers occupy booths and make coin change for dollar bills or larger denominations of currency. Both change girls and booth cashiers are in the slot department, and their immediate supervisor is the shift manager. The shift manager has authority to hire and fire and direct their activities on the casino floor. Other employees in the slot department are slot floormen, tower girls, and slot mechanics. There is no interchange between change girls and booth cashiers, or between them and other classifications.

In *El Dorado Inc., d/b/a El Dorado Club*, 151 NLRB 579, a case which involved certain of these Employers,⁵ among others, the Joint Board contended that change girls and booth cashiers were covered by its 1964 collective-bargaining agreements for kitchen, restaurant, and bar employees, and that its agreements were therefore a bar to the inclusion of such employees in the casino employee units petitioned for, and the Board found merit in that contention.⁶ Thereafter, the Joint Board requested all the Employers herein, except Golden

¹ Herein referred to as American Federation

² Herein referred to as Joint Board

³ After the hearing in this proceeding, the Employer-Petitioners in *Horseshoe Club Operating Co. d/b/a Horseshoe Hotel*, Case 31-RM-111, *Fremont Hotel, Inc. d/b/a Fremont Hotel*, Case 31-RM-112, *Ghelfi, et al., d/b/a Golden Gate*, Case 31-RM-115, and *Vegas Vic, Inc. d/b/a Pioneer Club*, Case 31-RM-120 requested that the Board grant them permission to withdraw their petitions. As none of the other parties herein opposes these requests, although served with notice thereof, we shall grant the requests.

⁴ Joint Board filed a motion to correct the transcript in which it requested that the transcript be corrected in 12 numbered respects. In the

absence of opposition, the motion is granted as to corrections numbered 2 through 11, the motion is denied as to numbers 1 and 12, to which the Employers objected.

In view of our decision herein, Joint Board's motion to reopen the hearing is denied.

⁵ *El Dorado, Inc. d/b/a El Dorado Club*, and *Exber, Inc. d/b/a El Cortez Hotel*, were parties to that proceeding. *Phil Long's California Club Corporation, d/b/a California Club*, was also a party, however, the record herein does not reveal the relationship, if any, between it and the similarly named Employer herein.

⁶ No bargaining resulted from the elections directed in that proceeding.

Bear, Inc. d/b/a California Club,⁷ whose 1964 collective-bargaining agreements were similar to those involved in the *El Dorado* case, to bargain regarding units which included change girls and booth cashiers. The Employers refused, and, as the result of a petition to compel arbitration filed by the Joint Board, were ordered on January 28, 1968, by the United States Court of Appeals for the Ninth Circuit to arbitrate the dispute.⁸ Meanwhile, during the negotiations for its current agreements covering the culinary employees of these Employers, in April 1967, the Joint Board again requested that change girls and booth cashiers be included, but the Employers again refused. In this proceeding, the Joint Board contends that change girls and booth cashiers are appropriately a part of the culinary employee unit or units which it represents.

No evidence was presented that the American Federation currently represents any of the employees of these Employers. During April 1967, the American Federation made claims to represent units of change girls and booth cashiers employed by all these Employers, except Golden Bear, Inc. d/b/a California Club, which claims the Employers refused to recognize. In the present proceeding, the American Federation, however, withdrew these claims, and contends that the only appropriate units are units of all casino employees including change girls and booth cashiers of each of the Employers.

The Employers contend that the separate change girl and booth cashier units requested are appropriate, that both the Joint Board and the American Federation claim to represent them, and that elections should be directed in order to permit such employees to designate which, if either, of these Unions they wish to represent them. It is clear, however, that neither of these Unions claims to represent change girls and booth cashiers in the units requested. Thus, the Joint Board has never claimed to represent them separately, but has for many years claimed, as it does now, that they are included in the unit or units of culinary employees of which it is the contract representative.

⁷ The Joint Board also requested Phil Long's California Club Corporation, d/b/a California Club, to bargain regarding change girls and booth cashiers. But see fn 5, *supra*.

⁸ *Clanebach, Inc., et al. v. Las Vegas Local Joint Executive Board of Culinary Workers and Bartenders, et al.*, 388 F.2d 766.

Moreover, although the American Federation presented a claim at one time, more than a year ago, to represent these employees separately, it has consistently maintained throughout this entire proceeding that change girls and booth cashiers should be included in units of all casino employees. In these circumstances, we find that no question of representation exists in the units which the Employers allege to be appropriate.⁹

In addition, the facts reveal that the requested units would in no event be appropriate. Thus, the change girls and booth cashiers perform unskilled duties requiring little or no training and they work in the casino along with, and are in the same department as, other excluded employees with some of whom they share the same supervision. They therefore comprise neither a separate homogeneous group of employees with special skills, nor a functionally distinct department. Moreover, as the requested units do not include all the unrepresented employees of these Employers, they do not comprise an appropriate residual unit.¹⁰

Accordingly, we shall dismiss the petitions.

ORDER

It is hereby ordered that the petitions in Golden Bear, Inc. d/b/a California Club, Case 31-RM-113; Exber, Inc. d/b/a El Cortez Hotel, Case 31-RM-114; Club Bingo, Inc. d/b/a Club Bingo, Case 31-RM-116; E. G. H., Inc., d/b/a Las Vegas Club, Case 31-RM-117; and El Dorado, Inc. d/b/a El Dorado Club, Case 31-RM-121 be, and they hereby are, dismissed.

IT IS FURTHER ORDERED that the requests to withdraw petitions filed in Horseshoe Club Operating Co. d/b/a Horseshoe Hotel, Case 31-RM-111; Fremont Hotel, Inc. d/b/a Fremont Hotel, Case 31-RM-112, Ghelfi, et al., d/b/a Golden Gate, Case 31-RM-115; and Vegas Vic, Inc. d/b/a Pioneer Club, Case 31-RM-120 be, and they hereby are, granted.

⁹ *Maclobe Lumber Company of Glen Cove, et al.*, 120 NLRB 320.

¹⁰ See *North America Aviation, Inc.*, 131 NLRB 399, cf. *Pennsalt Chemicals Corporation*, 119 NLRB 128, 129. We find it unnecessary to rule on the additional reasons advanced by the Joint Board for dismissing the petitions, or, alternatively, deferring a decision herein.