

105 Casino Corporation d/b/a Nevada Club¹ and International Association of Machinists and Aerospace Workers (AFL-CIO),² Petitioner.

105 Casino Corporation d/b/a Nevada Club, Petitioner, and International Association of Machinists and Aerospace Workers (AFL-CIO) and Casino Employees Union Local 7, Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO; Joint Executive Board of Culinary Workers and Bartenders, Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO, and its affiliates, Culinary Workers Local 226, and Bartenders Union Local 165³ and American Federation of Casino and Gaming Employees and Gaming and Office Employees Union.⁴ Cases 31-RC-623 and 31-RM-103

August 14, 1969

DECISION, ORDER, AND DIRECTION OF ELECTION

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 consolidated hearing was held before Max Steinfeld, Hearing Officer of the National Labor Relations Board. Briefs have been filed by the Employer, IAM, Local 7 and the Joint Board, and the Gaming Unions.

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 Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in these cases, including the briefs, the Board finds:

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

¹The names of the parties appear in the caption as corrected at the hearing. The Employer is sometimes referred to in the record as Diamond Jim's or Lucky Nevada Club.

²Herein referred to as IAM.

³The Joint Executive Board of Culinary Workers and Bartenders and its affiliates intervened jointly, and are sometimes referred to herein collectively as the Joint Board.

⁴American Federation of Casino and Gaming Employees and Gaming and Office Employees Union intervened jointly; they are referred to herein respectively as AFCGE and GOEU and collectively as the Gaming Unions. Subsequent to the hearing herein, AFCGE, the Employer, and the General Counsel entered into a Settlement Stipulation, approved by the Board on May 7, 1969, in Cases 31-CA-1106 and 31-CB-383 in which, *inter alia*, AFCGE agreed to disestablish itself as a labor organization. In these circumstances, we shall not place the name of AFCGE on the ballot in the election directed herein.

2. The Joint Board contends that GOEU is not a labor organization, but is defunct. The record shows that GOEU filed articles of incorporation, as required by the State of Nevada, on December 1, 1964; this corporation has never been dissolved, merged, or consolidated with any other association or corporation. GOEU entered into a collective-bargaining agreement with the Employer effective from January 1, 1966, until December 31, 1967, covering the Employer's casino employees, and on March 21, 1966, and April 17, 1967, executed with the Employer supplements to that agreement. On April 20, 1967, the members of GOEU Local 109⁵ voted to merge with Casino Employees Union Local 7. On April 27, Local 7 notified the Employer of the merger, and claimed to be the successor to GOEU. On July 13, 1967, the president of GOEU advised the Employer that the "attempted merger" had been rescinded, and that GOEU was the representative of its casino employees under the contract. About September 29, 1967, a majority of the Employer's casino employees signed a petition to reactivate GOEU, select new temporary officers, and affiliate with AFCGE. Some of these employees subsequently paid dues to GOEU on a voluntary basis. Thereafter, the Employer dealt with both Local 7 and GOEU on matters involving employees covered by the January 1, 1966, contract. On October 31, 1967, both notified the Employer of their desire to negotiate a new agreement covering casino employees.

In these circumstances, we find that GOEU is not now defunct and that it and the other unions (except AFCGE),⁶ concerning which there is no dispute, are labor organizations within the meaning of Section 2(5) of the Act, and claim to represent certain employees of the Employer.

3. The Gaming Unions contend that the January 1, 1966, GOEU contract covering casino employees was amended on March 21, 1966, to include slot keymen and slot mechanics, and is therefore a bar to the petition in Case 31-RC-623, requesting a separate unit of slot keymen and mechanics, which was filed by IAM on July 21, 1967, more than 90 days before the December 31, 1967, expiration date of the GOEU contract. We find, however, that the aforesaid contract is not a bar to the IAM petition, because the Decision herein is issuing after the expiration date of that contract.⁷

Accordingly, we find that a question affecting commerce exists concerning the representation of certain employees of the Employer, within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.⁸

⁵GOEU and Local 109 appear to be referred to in the record interchangeably.

⁶See fn. 4, *supra*.

⁷*Modern Plastics Corporation*, 169 NLRB No. 99; *United Fruit Company*, 134 NLRB 287, fn. 23.

⁸In view of our exclusion of change girls and booth cashiers from the

4. As indicated, IAM, in Case 31-RC-623, requests an election in a unit of slot keymen and slot mechanics. The Employer, in Case 31-RM-103, requests an election in a unit of casino employees, including slot keymen and slot mechanics. All the parties agree, and we find, that dealers, souvenir girls, camera girls, darkroom employees, towermen, slot floormen, and skills should be included in the casino unit; and that boxmen, pit floormen, shift bosses, slot machine department supervisor, floor slot machine supervisors, slot floor supervisors, confidential employees, professional employees, and guards should be excluded. None of the parties requests the inclusion of the following, and, as the record shows that they possess authority effectively to recommend promotion, transfer, increase in pay, or assignment of additional work, we find they are supervisors and shall exclude them: personnel, advertising and promotion, auditing, souvenir, coin and currency, parking lot, bar, restaurant, and entertainment department heads, and the four casino supervisors. We shall also exclude the casino supervisor who is in charge of the entire operation, and the general manager, to whom he is responsible. The parties disagree as to the unit placement of the classifications discussed below.

Slot keymen and mechanics: IAM and the Joint Board contend that these employees constitute an appropriate skilled craft unit. The Employer and the Gaming Unions contend that a separate unit is not appropriate, and that these employees should be included in the casino-employee unit.

In *El Dorado, Inc., d/b/a El Dorado Club*, 151 NLRB 579, the Board issued a Decision and Direction of Elections on March 11, 1965, in which it found, *inter alia*, that slot keymen and slot mechanics appropriately should be included in a unit of this Employer's casino employees. However, no collective bargaining resulted from that determination. Slot mechanics were specifically excluded from the casino-employee unit covered by the January 1, 1966, GOEU contract; and they remained unrepresented until March 21, 1966, when GOEU and the Employer executed a supplementary agreement including slot keymen and slot mechanics in their contract unit. Thereafter, on April 27, 1967, as described above, the Employer received Local 7's demand for recognition as the contract representative of the casino-employee unit based on the merger resolution, followed by GOEU's July 13, 1967, letter purportedly rescinding the merger and claiming to be the contract representative, after which the Employer dealt with both organizations for these employees.

There are six slot mechanics, and four keymen on the Employer's payroll. Their immediate day-to-day supervisors are the slot floor supervisors who also supervise dealers, camera girls, towermen, and other

employees whom the parties agreed to include in the unit. Slot floor supervisors are responsible to the casino supervisor. Over him are the slot machine department head and the general manager.

The Employer has about 450 slot machines of which 150 to 200 are mechanical, a dozen or more are solid-state electronic, and the rest mechanical-electronic. Slot keymen and mechanics check, maintain, and repair these machines. Seventy-five percent of the work consists of minor repair such as unjamming and replacing nuts and bolts, which is done on the floor where most of the employees in the casino unit work. When a slot machine is not operating properly, a change girl or floorman notifies the towerman, who summons a mechanic over the PA system. If the machine cannot be repaired quickly, the malfunctioning part is repaired at the bench under the stairs on the casino floor. If major repair is required, it is taken to the shop on the fifth floor, where there are hand tools, drill press, bench punch, 4-ton mechanical punch, small lathe, bandsaw, acetylene-oxygen and arc welding equipment, and small electronic testing equipment. Machines are also taken to the shop on a regular maintenance schedule for overhauling, where they are cleaned and checked, and parts are replaced, greased, and lubricated. Maintenance and repair of the new electronic machines are done according to schematics provided by the manufacturer. Special assignments to develop and incorporate new types of components into machines are performed by the slot machine department head with one of the two best mechanics chosen to assist him, or are subcontracted out.

Slot keymen and mechanics do not interchange with other employees. All keymen and mechanics, but no other employees, have access to the shop, and all mechanics work on the floor as well as in the shop.

Although the Employer prefers to hire men with mechanical experience, 90 percent of these employees have been transferred from other classifications, such as parking lot attendant and office clerical. There is no formal apprentice program for slot mechanics. Keymen are given on-the-job training and pay increases every 3 months as they learn the work, as are all casino classifications. Six months to 1 year is required to do 90 percent of the work; 1 to 4 years to become a fully qualified mechanic.

Although slot keymen and mechanics perform a specialized function and do not interchange with other employees, their inclusion in the same unit with the other casino employees is supported by all the other considerations set forth above. Thus, the overwhelming majority of these employees were recruited from other classifications; they perform by far the greater part of their work on the casino floor where the bulk of the casino unit employees work and with whom they share the same immediate, intermediate, and highest-level supervision.

casino-employee unit, discussed *infra*, we find it unnecessary to rule on the Joint Board's contract-bar contention with regard to these employees

Moreover, as 90 percent of the slot machine work can be performed after 6 months to a year of on-the-job training, and as there is a variance of from 1 to 4 years in the time required to become a fully qualified mechanic, we find that these employees are not skilled craftsmen. In all the circumstances, and in view of their common interests with other casino employees, we find that a separate unit of slot keymen and slot mechanics is inappropriate, and we shall dismiss the petition in Case 31-RC-623, and include them in the casino-employee unit.⁹

Coin wrappers: The Employer and the Gaming Unions would include these three employees, and the other parties take no position on their unit placement. Coin wrappers were not covered by the January 1, 1966, GOEU contract, although there is testimony that they had been covered by previous contracts and their omission was inadvertent. Coin wrappers work in the vault below the main business level, receive coins brought down to them, count them by weighing or running them through counting machines, put them into automatic coin wrapping machines, and place the rolls in bins where they are picked up for delivery to the operating floor. In these circumstances, we find that these employees are engaged in functions related to those of the casino employees, and in the absence of opposition to their inclusion, we shall include them.¹⁰

Parking lot personnel: The Employer seeks to include, and the Joint Board and Gaming Unions to exclude, these employees. They were covered by the GOEU casino-employee contract of January 1, 1966, and are supervised by the parking lot department head and the casino supervisor. These 35 attendants man the 3 parking lots in the vicinity of the club. For the 50-cent parking charge, the attendants give the customer a free-play chip which is spendable in the club. Although they do not interchange with other employees, some have moved to floorman, mechanic, maintenance, and other jobs. Forty to 50 percent are employed full time, and the remainder, some of whom are Air Force personnel, work a full shift 1 or 2 days on weekends. The usual tenure of an attendant is 6 months to a year.

We find that none of the facts set forth above justify the exclusion of the parking lot personnel from the unit. On the contrary, we find that they have sufficient interests in common with the other employees in the unit to warrant their inclusion, and we shall include them.

Change girls and booth cashiers: At the time of the hearing, the Employer and the Gaming Unions took the position that these employees should be included, while the Joint Board sought to exclude them.

Change girls circulate on the casino floor making change for customers playing the slot machines; booth cashiers occupy booths in the casino and make change for change girls.

In *El Dorado, supra*, the Board excluded change girls and booth cashiers from the Employer's casino unit on the basis of the parties' agreement to exclude them, and from the casino units of all other employers involved in that case on the ground that they were covered by the Joint Board contract. Thereafter, the Joint Board filed with the United States District Court for the District of Nevada a petition to compel the Employer, and other employers who are not involved in the instant case, to arbitrate its claim to represent change girls and booth cashiers under its April 1, 1964, collective-bargaining agreements covering culinary employees. On October 7, 1966, the court granted the petition and ordered the employers to arbitrate the dispute. On January 25, 1968, the court's order was affirmed by the United States Court of Appeals for the Ninth Circuit.¹¹

After the hearing in the instant cases, the Employer, on April 2 and 17, 1969, filed with the Board a motion, with documents attached, requesting permission to amend its petition by excluding change girls and booth cashiers from the unit in Case 31-RM-103. Copies of the Employer's motion were served on all the parties. In the absence of objection, the motion was granted by the Board on May 13, 1969. The documents attached to the aforesaid motion, to which no objection was filed, reveal that the employers (including this Employer) and the Joint Board, in compliance with the court's order, submitted their dispute to Arbitrator Sam Kagel. In his award dated September 24, 1968, the arbitrator held that the change girls and booth cashiers were covered by the Joint Board collective-bargaining agreements expiring March 31, 1967, and April 1, 1970. Thereafter, on February 11, 1969, the Employer and the Joint Board entered into an agreement including change girls and booth cashiers in the unit covered by the Joint Board collective-bargaining agreements and granting them certain retroactive benefits thereunder.

The developments recited above indicate the establishment of a pattern in the Las Vegas area whereby change girls and booth cashiers are excluded from casino units, and included in the culinary units represented by the Joint Board. In all the circumstances, and particularly in view of the fact that no party objected to the Motion and documents filed by the Employer as discussed above, we shall exclude change girls and booth cashiers from the unit.

Office clerical employees: Although its position is not altogether clear, the Employer apparently would include these employees as would the Joint Board;

⁹*Hotel Conquistador, Inc., d/b/a Hotel Tropicana*, 176 NLRB No. 44; *El Dorado, Inc., d/b/a El Dorado Club, supra*, 591. Cf. *Fremont Hotel, Inc.*, 168 NLRB No. 23.

¹⁰*El Dorado, Inc., d/b/a El Dorado Club, supra*.

¹¹*Clanabach, Inc. v. Las Vegas Local Joint Executive Board of Culinary Workers and Bartenders, etc.*, 388 F.2d 766 (C.A. 9).

the Gaming Unions would exclude them. These employees were excluded by agreement from the casino unit found appropriate by the Board in *El Dorado, Inc., d/b/a El Dorado Club, supra*, but were brought under the GOEU contract by amendment on March 21, 1966.

There are approximately 15 of these employees who prepare the weekly payroll and required government reports, perform personnel work, timekeeping, auditing, advertising and promotion, receiving and purchasing work, assist the coin and currency department head, operate the telephones and PBX machine, and keep track of the linen. They are supervised by their respective department heads, and work in business offices on various floors throughout the building.

As the office clerical employees have been included in the casino unit since March 21, 1966, and as the parties did not stipulate to exclude them, we shall include them.¹²

Casino cage cashiers: The Employer and the Gaming Unions would exclude, and the Joint Board include, these approximately 10 employees, who have not previously been represented.

Casino cage cashiers work in the main casino cash operating bank; they issue bills or checks to the gaming tables, and charge aprons and coin banks to the change girls and booth cashiers; they receive money from the restaurant and bar. In addition, they cash all checks for customers at their discretion based on confidential credit reports and ratings, except those cashed by the casino supervisor and those for large amounts which are cashed only by top management. They submit reports to their supervisor, the coin and currency department head, and to the auditor, and do not interchange with other employees.

The above facts, including their historical exclusion, indicate that the functions and interests of the casino cage cashiers are more closely allied with those of administrative than with those of casino employees, and we shall exclude them.¹³

¹²See *James A. Hume and J. C. Jordan d/b/a The North Shore Club*, 169 NLRB No. 123, fn. 4; *Washoe Investment Co., Inc., d/b/a Crystal Bay Club*, 169 NLRB No. 120, fn. 5.

¹³*El Dorado, Inc., d/b/a El Dorado Club, supra*, 585, 590.

Accordingly, we find that the following employees constitute an appropriate unit for collective bargaining within the meaning of Section 9(b) of the Act:

All dealers, souvenir girls, camera girls, darkroom employees, towermen, slot keymen, slot machine mechanics, slot floormen, coin wrappers, shills, office clerical employees, and parking lot personnel at the Employer's locations at 105, 109, and 113 Fremont Street, Las Vegas, Nevada; but excluding casino cage cashiers, change girls, booth cashiers, boxmen, pit floormen, shift bosses, confidential employees, professional employees, guards; general manager, casino supervisors, the casino supervisor who is in charge of the entire operation, slot machine department supervisor; floor slot machine supervisors and slot floor supervisors; personnel, advertising and promotion, auditing, souvenir, coin and currency, parking lot, bar, restaurant, and entertainment department heads; all other employees; and supervisors as defined by the Act.

5. As we have found no merit in the contention that GOEU is not a labor organization, we shall list the unions on the ballot in the manner requested by the parties and not otherwise objected to.

ORDER

It is hereby ordered that the petition in Case 31-RC-623 be, and it hereby is, dismissed.

[Direction of Election¹⁴ omitted from publication.]

¹⁴In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelstor Underwear Inc.*, 156 NLRB 1236; *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759. Accordingly, it is hereby directed that an election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 31 within 7 days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. No extension of time to file this list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.