

El San Juan Hotel Corporation, d/b/a El San Juan Hotel and Union de Tronquistas de Puerto Rico, Local 901, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 24-RC-3625

November 6, 1969

DECISION ON REVIEW and DIRECTION OF ELECTION

BY MEMBERS FANNING, BROWN, AND ZAGORIA

On March 14, 1969, the Regional Director for Region 24 issued his Decision and Order in the above-entitled proceeding, in which he dismissed the petition on the ground that the unit requests were inappropriate.¹ Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, the Petitioner filed a timely request for review of the Regional Director's Decision, contending, *inter alia*, that in failing to find its primary or alternative unit requests appropriate, he departed from established Board policy.

On May 13, 1969, the National Labor Relations Board by telegraphic Order granted the request for review. The Employer and Petitioner filed briefs on review and the Petitioner requested oral argument.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the entire record in this case² with respect to the issues under review, including the briefs of the parties, and makes the following findings:

The Petitioner's primary request is for a separate unit of 10 casino cashiers or in the alternative that the casino cashiers be given a self-determination election to determine whether they wish to be included in the same unit with the 72 croupiers represented by the Petitioner.

In rejecting the Petitioner's unit requests, the Regional Director concluded that casino cashiers do not constitute such a homogeneous and functionally coherent group with skills so highly specialized as to warrant their separate representation and that their work function makes their interests dissimilar to those of the croupiers, taking administrative notice of the asserted general custom and practice in Puerto Rico to exclude casino cashiers from gambling casino units.

¹Union de Trabajadores de la Industria Gastronomica de Puerto Rico, Local 610, Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO was allowed to intervene in this proceeding on the basis of its existing multiemployer contract covering the Employer's hotel service and maintenance employees

²As the record, and the briefs of the parties, adequately present the issues and the positions of the parties, the request for oral argument is hereby denied

On review, the Petitioner contends that casino cashiers are employees of the gambling casino department and have common interests in working conditions with the croupiers it already represents; that the casino is, administratively, a separate and independent department and while they prepare and submit financial reports to the accounting department, they are otherwise under the supervision of the casino manager. The Petitioner requests that if the casino cashiers in this case do not constitute a separate appropriate unit, they should be given an opportunity to decide whether they wish to be added to the existing croupiers unit. We find merit in the Petitioner's latter request.

The Employer operates a hotel at Isla Verde, San Juan, Puerto Rico, in which there is a gambling casino. In addition to the croupiers represented by the Petitioner, the Intervenor is bargaining representative for the Employer's hotel service and maintenance employees as part of a multiemployer unit. Casino cashiers employed by member hotels are not included in the multiemployer bargaining unit.³ The timekeepers, life guards, night auditors, draftsmen, stagemen, electrical technicians, messengers, and guards are the only other unrepresented employees in the hotel.

This casino is arranged so that the gaming tables are located all around the room. There are 72 croupiers or dealers, represented by the Petitioner, who work at these tables. The center area of the room is reserved for working personnel such as kitchen help, waiters, bus boys and 10 casino cashiers, sought herein, who have a desk set up in this area. A casino manager is responsible for the operation of the casino and exercises control over the croupiers, as well as the casino cashiers and other employees⁴ whose work is performed in the casino. The casino cashiers primarily perform all their work on the casino floor. They interview patrons and guests who apply for credit and assist in the preparation of the credit application which is submitted to the casino manager for approval; they receive and account for the "bank", consisting of at least \$25,000 in cash, as required by law, which they disburse to patrons and serve as "runners", physically taking both documents and money to and from the pits where the cashier is stationed, to the patrons or guests and back. The croupiers and casino cashiers are the only employees in the hotel who must be licensed by the government. The casino cashiers are selected from employees who have had considerable experience in other cashiering departments such as night auditing, front office cashiering or food and beverage cashiering. When additional casino cashiers are requested by the casino manager and head casino cashier, the latter being the immediate supervisor of the casino

³The Regional Director found no merit in the Intervenor's request to add the Employer's casino cashiers involved herein, to its multiemployer unit as it is not coextensive with the multiemployer unit and represents only a segment of the residual group

⁴Waiters, housemen, and dishwashers represented by Intervenor in

cashiers, the accounting department head who has the ultimate staffing authority, selects employees having the requisite qualifications to obtain a license from the Department of Tourism.⁵ Those employees who meet the requirements and are selected make application for a license and, upon receipt, are assigned to the casino department.

The casino cashiers, like front office and food and beverage cashiers⁶ are part of and under the ultimate supervision of the accounting department. However, this supervision and control appears to be limited to the functional ramifications of the accounting operations. With respect to the day to day supervision, all cashiers are supervised by the supervisor in the departments to which they are assigned and are so charged for cost accounting purposes. Specifically, the head casino cashier, gives day to day instructions to the casino cashiers, determines which cashiers are to work overtime, authorizes and calls cashiers to come in and work on the sixth day or seventh day, reprimands and disciplines, schedules work shifts and vacations. Salaries and promotions of cashiers, and grievances with respect thereto, are determined apparently by head casino cashier on the basis of rules and criteria previously established by the head of the accounting department.

The record facts set forth above demonstrate to our satisfaction that the gambling casino is administratively a separate and independent department in the Employer's hotel. While the cashiers prepare and submit financial reports to the accounting department, and like all cashiers in the hotel are under the ultimate control of the accounting department with respect to their technical accounting responsibilities, they are otherwise under the supervision of the head casino cashier and/or the casino manager. They work exclusively in the casino area, do not interchange with other hotel employees, and must have special qualifications. Furthermore, it is quite clear from the record in this case, that while as found by the Regional Director the work of the cashiers differs from that of the croupiers, neither can perform their function in the operation of the casino without the

other. On the record as a whole, we find the casino cashiers, apart from the unrepresented employees, share a substantial community of interest with the croupiers. Under all the circumstances, we do not give controlling weight to the asserted area practice in Puerto Rico relied upon by the Regional Director. Therefore, since the Petitioner represents the Employer's croupiers, we shall direct, in accordance with the Petitioner's alternate contention, an election to determine whether the casino cashiers desire to be represented by the Petitioner, together with the presently represented croupiers.

Accordingly, we find the following voting group appropriate for purposes of a self-determination election:

All casino cashiers employed in the Employer's hotel gambling casino at Isla Verde, San Juan, Puerto Rico, excluding all other employees.

If a majority of the employees in the voting group vote for the Petitioner, they will be taken to have indicated their desire to be included in the existing unit of croupiers currently represented by Petitioner and the Regional Director will issue a certification to that effect.

[Direction of Election⁷ omitted from publication.]

multiemployer service and maintenance unit, and unrepresented guards

⁵In order to be eligible for a license, applicants must be U S citizens, over 25 years of age with a high school diploma, 10 years residency in Puerto Rico and have no felony record

⁶These cashiers are represented by the Intervenor as part of the multiemployer service and maintenance unit

⁷In 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 *Excelsior 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 24 within 7 days of the date of this Decision on Review 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