

**The Wackenhut Corporation and Power Plant Police and Security Officers, Local 1. Case 3-CA-10352**

29 June 1984

**DECISION AND ORDER REVOKING CERTIFICATION**

BY CHAIRMAN DOTSON AND MEMBERS  
ZIMMERMAN AND HUNTER

On 5 March 1981 the National Labor Relations Board issued a Decision and Certification of Representative<sup>1</sup> in which it certified the Charging Party as the exclusive representative of certain employees of the Employer for the purposes of collective bargaining.

On 18 May 1982 pursuant to the General Counsel's Motion for Summary Judgment alleging that the Respondent refused to bargain, the Board issued a Notice to Show Cause why the General Counsel's motion should not be granted. Thereafter in *Harrah's Marina Hotel*, 267 NLRB 1007 (1983), the Board found that the Federation of Special Police and Law Enforcement Officers, with which the Charging Party is affiliated, and Casino Police and Security Officers, a sister local of the Charging Party, are not labor organizations. Subsequently on 27 December 1983 the Board in response to the Respondent's brief in opposition and motion to reopen the record and vacate certification issued a Notice to Show Cause why, in light of its findings in *Harrah's Marina*, the Board's certification of the Charging Party as representative in the instant proceeding should not be revoked. Neither the Respondent nor the Charging Party responded to the Notice to Show Cause. However in its brief in opposition, the Respondent contended that the Charging Party is not an organization dedicated to the interest of employees and that employees do not participate in it, to any significant extent. We find merit in the Respondent's contentions which are similar to those raised in *Harrah's Marina* above.<sup>2</sup>

<sup>1</sup> Case 3-RC-7881, not reported in Board volumes.

<sup>2</sup> In granting the Respondent's motion to reopen the record and vacate certification, we accept as new unavailable evidence a copy of the tran-

In the course of determining in *Harrah's Marina*, above, that the Federation is not a labor organization the Regional Director received evidence which tends to show that the Charging Party herein has no independent status sufficient to support a finding that it is a bona fide labor organization. Thus the Regional Director took notice of the apparently uncontradicted testimony of the Charging Party's president, William Wachholder, at the criminal trial of Federation officers Daniel Cunningham and Herman Jaffe, that Cunningham established the Charging Party and had made Wachholder, his father-in-law, the nominal president but that Wachholder never performed any functions as an officer of the Charging Party. In light of this evidence and in the absence of independent evidence that the Charging Party exists for the purposes set forth in the Act or that employees participate in the Charging Party to any significant extent we conclude that the Charging Party's initial showing in Case 3-RC-7881 that it was a labor organization has been rebutted and that on the record considered as a whole it has not demonstrated that it is a labor organization within the meaning of Section 2(5) of the Act. Thus, we conclude that the Respondent has not violated Section 8(a)(5) of the Act and we deny the General Counsel's Motion for Summary Judgment. Also we shall revoke the certification and dismiss the complaint.

**ORDER**

Upon the basis of the above findings and the entire record in this case and taking official notice of the record and findings in *Harrah's Marina*, above, the National Labor Relations Board hereby orders that the Certification of Representative heretofore issued in Case 3-RC-7881 is revoked.

IT IS FURTHER ORDERED that the General Counsel's Motion for Summary Judgment is denied and the complaint is dismissed.

script of the jury's verdict in *U.S. v. Daniel Cunningham, Herman Jaffe and Salvatore "Frank" Ponti*, No. CR 81-480-1 (E.D.N.Y. 1982), as submitted by the Respondent.