

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

**MAGNANI MEDIA INC.**

**AND**

**CASE 34-RC-2035**

**GRAPHIC COMMUNICATIONS  
INTERNATIONAL UNION,  
LOCAL 74-M, AFL-CIO**

**DECISION ON CHALLENGES**

**I Statement of the Case**

The petition was filed on May 21, 2003 and pursuant to a Stipulated Election Agreement approved on June 3, 2003, a secret ballot election was conducted on July 3, 2003. The Tally of Ballots showed that of approximately 66 eligible voters, 28 cast ballots for the Union, 29 cast ballots against unionization, and 5 cast challenged ballots. The Regional Director issued a notice of hearing on July 18, 2003.

Based on the record as a whole, including my observation of the demeanor of the witnesses and after considering the arguments of counsel, I hereby make the following:

**II Findings and Conclusions**

The ballots of Donald Seuss, Jose Leano, William Wilson, Scott Lepage and Russell Willis were challenged by the Board agent conducting the election because their names were not listed, by the Employer, on the voter eligibility list. In this respect, it is noted that when the parties entered into the Stipulated Election Agreement, they also agreed to defer any decision regarding the unit placement of these five employees who were employed by a separate corporation called MagnaPrint Suburban LLC. I suspect that the agreement was made with the expectation that their votes would not be determinative and that the election could therefore be conducted expeditiously.

The Company's position is that these five employees are employed by a separate employer and therefore, are not part of the unit. The Union's view is that MagnaPrint Suburban and Magnani Media constitute a single employer and that the employees of both constitute a single appropriate bargaining unit.

Apart from these five employees, the bargaining unit described in the Stipulated Election Agreement included all full-time and regular part-time production and maintenance employees, including bindery, stripping, pre-press, shipping, sheet feed press and web press employees, employed by the Employer at its 199 Moody Road and 5 Pearson Way, Enfield Connecticut facilities, but excluding office clerical employees, guards, professional employees and supervisors as defined in the Act. It should be noted that although some of the employees in this unit are highly skilled and have undergone years of training, this was not intended to be a printer's craft unit. Rather, it is a production and maintenance unit consisting of some very highly skilled workers and other employees with considerably less skills and training.

Magnani Media, which operates under the trademark of MagnaPrint, is a printing company that has been existence for about 40 plus years. One of its founders was John M. Magnani, who in the late 1990s purchased the shares of his partner and became the sole stockholder. Thereafter, his son John P. Magnani and his daughter Margaret Iancu, who had  
 5 been employed in the business, were issued shares. At the present time, the shareholders of Magnani Media are John M. Magnani with 60%; John P. Magnani with 27% and Margaret Iancu with 13%. John M. Magnani is the CEO of the Company, John P. Magnani is the President and Margaret Iancu is the Secretary/Treasurer. These three are the sole stockholders and officers of Magnani Media. And although there are several other siblings, Iancu and John P. are the  
 10 only members of the family who receive dividends from the corporation. (Iancu's husband is employed as a salesman).

According to Margaret Iancu, her father, although semi-retired, still advises her and her brother. She testified that if a major decision had to be made, such as the purchase of a press,  
 15 her father's opinion would be decisive.

Magnani Media has and is now engaged in the high end printing business which encompasses such products as annual reports, corporate or collegiate brochures etc. Typically, the type of work it has done has been high quality, multi-color printing.  
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Magnani Media has several four color sheet fed presses located at its headquarter building at 199 Moody Road and one web press which is so large that it requires its own building at 5 Pearson Way. In addition, it has a bindery department, a pre-press department, and a shipping and receiving department. (It also employs office clerical, sales, and  
 25 administrative employees who are not involved in this case).

As of the time of the election, the printing by Magna Media was almost completely done with electronic or computer aided processes by pre-press and press room employees who utilized digital files which eliminated some of the steps previously required by the old fashioned  
 30 offset printing method of using a camera to make negatives which were in turn used to make plates and which were then used in an offset press or duplicator to turn out printed pieces of paper. At the time of the election, Magnani Media employed about 64 employees in the various job categories described above.

In 1999, John P. Magnani and Margaret Iancu, decided, against the advice of their  
 35 father, to buy out a small printing business in South Windsor, Connecticut called Suburban Printing. This was owned by a man named Ralph Harris. To do this, they set up a separate corporation called MagnaPrint Suburban LLC, which bought the assets of Suburban including the land, building and equipment. It also retained all of the employees. Mr. Harris, stayed on  
 40 for six months as a consultant.

Suburban continued to do printing the old fashioned way, utilizing a couple of duplicators and one offset printing press. At the time of the takeover in 1999, it had about 13 employees including strippers, bindery workers and printing press operators. It specialized in one or two  
 45 color printed products that were not particularly complicated such as newsletters, business cards, printed envelopes and the like.<sup>1</sup> In this regard, although Suburban was engaged in the business of printing, its product and processes were considerably different from those of

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<sup>1</sup> A two-color press is capable of three or four color printing. It does, however, require that the printed material go through the press two times in order to get all the colors. Similarly, it is possible to print two colors by using a duplicator, but it is more time consuming and less accurate.

Magnani Media.

5 After the purchase, the stockholders and officers of Suburban were Margaret Iancu and John P. Magnani. (The father did not participate in the corporation as a stockholder or officer). While being ultimately responsible for the operations of Suburban, Iancu and John P. Magnani still performed their jobs at Magnani Media and left the day to day operations of Suburban to the supervisors and employees of that entity. These employees continued to work at Strong Road in Windsor, Connecticut.

10 I should note that after the purchase, the employees of Suburban were given the Magnani Media employee handbook, and were told that with some exceptions, the terms of that document applied to them. The exceptions were that the employees of Suburban were not offered the 401(k) plan, the profit sharing plan or the health insurance options that the employees of Magnani Media had. But in all other respects, it appears that the Suburban employees were covered by the same conditions that Magnani Media's employees as represented in the Employee Policy Handbook. (By the way, the cover of the handbook has photographs of the three facilities, including Suburban's facility at 388 Strong Road). It is also noted that Margaret Iancu and John P. Magnani made the decisions as to what benefits and conditions the employees of Suburban were to work under after the purchase was concluded. That is, they decided to change some of the terms and benefits, (such as health insurance benefits), that these employees had worked under before the purchase.

25 The evidence also shows that after the purchase of Suburban, the two companies were held out to the public as related entities. Thus Union exhibit 3 is a piece of advertising put out by Magna Print/Suburban, which states *inter alia*;

30 As part of the MagnaPrint family, we are complemented by our parent company's sophisticated pre-press, digital production, sheeted printing, web printing, high-speed binding and finishing capabilities. As a subsidiary of MagnaPrint, we can bring you the cost efficiencies of MagnaPrint's buying power and resources. We also share MagnaPrint's work ethic, commitment to professionalism, attention to detail, and honest business practices. And even though we are part of a larger company, we have still kept our small shop feeling and dedication to personal service.

35 Although we are known for small format work in one or two colors, as part of Magnani Media, Inc., MagnaPrint/Suburban is now in position to offer you a full spectrum of services. When you bring us your one or two color work, consider us for four color, longer run work as well. By partnering with MagnaPrint/Suburban, you can realize significant time and money savings by managing a variety of printing projects through one vendor. You can avoid having to constantly evaluate new vendors, schedule multiple meetings and make numerous follow up calls and a variety of contacts. We can be your single source for all your printing projects.

45 Unfortunately, due to the downturn in the overall economy, Suburban became unprofitable. As a consequence, Iancu and John P. Magnani decided to lay off some of the employees and to sell the building and property of Suburban. They also decided to move the equipment and remaining employees into 199 Moody Road, which is the main facility of Magnani Media. Therefore, the land was sold, the money put into the bank and the employees, presses and other printing equipment were moved to Moody Road. In this regard, a five-year lease was executed on September 15, 2002 whereby MagnaPrint Suburban leased 7000



ownership, while normally necessary, is not determinative in the absence of such a centralized policy. *Western Union Corp.*, 224 NLRB 274, 276 (1976); *Alabama Metal Products*, 280 NLRB 1090, 1095 (1986).

5           In *Centurion Auto Transport Inc.*, 329 NLRB 394 (1999), a union sought a unit of drivers and loaders employed in Jacksonville Florida by four companies that it claimed constituted a single employer. Centurion was in the business of transporting vehicles while SED and Eagle were in the business of leasing drivers many of who worked for Centurion. The fourth company, ATC was involved in brokering of car transport to dealerships. All had common ownership and management and there was a high degree of functional integration among the four companies, all of which operated out of the same address, albeit one of the companies had employees at another location in Georgia. In finding that the four companies constituted a single employer and that their combined work force in Jacksonville Florida, constituted a single bargaining unit, the Board, stated:

15                     A single employer relationship exists when two or more employing entities are in reality part of a single integrated enterprise. Four criteria determine whether a single employer relationship exists: (1) common ownership; (2) common management; (3) functional interrelationship of operations and (4) centralized control of labor relations. Not all of these criteria need to be present to establish single employer status.

20                     Single employer status ultimately depends on “all the circumstances of a case” and is characterized by the absence of the “arms’ length relationship found among unintegrated companies. It is well settled that the fundamental inquiry is whether there exists overall control of critical matters at the policy level. (footnotes omitted).

25                     However, with respect to the employees located 300 miles away in Georgia, the Board found that its presumption that a single location unit is appropriate was not overcome by the other factors cited by the Petitioner in favor of a multi-facility unit.

30                     In my opinion, the Company’s reliance on *Edenwald Construction Co., Inc.*, 294 NLRB No. 22 (1989), is distinguishable. In that case, while agreeing that Edenwald and Belt constituted a single employer, the Board disagreed with the Judge’s conclusion that they constituted a single bargaining unit. Accordingly, the Board found that the employees of Belt were not encompassed into an existing unit of Edenwald employees and that the Employer was under no obligation to cover them under the collective bargaining agreement that it maintained with the Union. Citing *Land Equipment*, 248 NLRB 685, 688 (1980), the Board stated that a finding that two corporations constitute a single employer is “not conclusively determinate as to whether an employer wide unit is appropriate...” The Board noted that there was a distinction in the nature of the work done by both sets of employees, with Edenwald’s employees doing the more complicated work. But of most significance was the Board’s reliance on the separate bargaining history of both companies. In this regard, the Board noted that it was significant that Belt was in existence for 2 ½ years prior to the institution of the present proceeding and that the Union had not sought, in that time, to represent the employees of Belt. In this regard, the Board stated that such “separate bargaining history, which resulted in the Belt employees not being covered by the bargaining agreement, strongly supports the Respondents’ claim that the Belt employees possess a separate community of interest.”

45                     We find, therefore, that the separate bargaining history for Edenwald’s employees to the exclusion of Belt’s employees, coupled with the difference in the skills and types of work performed by the two groups of employees, are

determinative of the unit issues presented in this case. These factors clearly outweigh the evidence that Belt employees performed repair and maintenance services necessary for Edenwald's operations and had a significant degree of contact with Edenwald employees and that Ortiz and Paletta worked in close cooperation in order to coordinate the work of the Edenwald and Belt employees.

Nor am I persuaded by the Company's reliance on *United Operations Inc.*, 338 NLRB No. 18 (2002). In that case, the Board agreed with the Union's position that the Company's HVAC technicians should comprise a separate appropriate unit within the larger workforce of other field service employees. It did so on the evidence that the HVAC people constituted a separate department of skilled and governmentally certified employees who had little contact or interchange with the other less skilled group of employees.

But *United Operations* did not involve a question as to whether two companies comprised a single employer. More significantly, the petition here, (as opposed to the petition in *United Operations*), did not seek to represent a limited unit of highly skilled workers and the stipulated unit here is not so limited. Rather, the unit agreed to by the parties, encompasses all of the production and maintenance employee, which in this case, involves employees with a wide range of skills even within the framework of Magnani Media.

On the basis of the record as a whole, I conclude that for purposes of the National Labor Relations Act, Magnani Media and MagnaPrint/Suburban LLC constitute a single employer. Also, as the employees of both companies are engaged in the printing industry and as they are physically located on the same premises, they constitute a single appropriate bargaining unit. Therefore, it is my conclusion that the challenges to the ballots of Donald Seuss, Jose Leano, William Wilson, Scott Lepage and Russell Willis should be overruled and that their ballots should be opened and counted.<sup>2</sup>

Dated, Washington, D.C.

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Raymond P. Green  
Administrative Law Judge

<sup>2</sup> Any party may, within fourteen (14) days from the date of issuance of this recommended Decision, file with the Board in Washington, DC, an original and seven (7) copies of exceptions thereto. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof on the other parties and shall file a copy with the Regional Director of Region 22. If no exceptions are filed, the Board will adopt the recommendations set forth herein.