United States Government
National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL

Advice Memorandum

DATE: May 7, 1998

TO : Victoria E. Aguayo, Regional Director
Region 21

FROM : Barry J. Kearney, Associate General Counsel
Division of Advice

SUBJECT: California Portland Cement Co.
d/b/a/ Catalina Pacific Concrete Co.
Cases 21-CA-31978 and 32027

This Section 8(a)(5) case was submitted for advice on whether the Employer had a good faith doubt of the Union's majority status under Allentown Mack Sales and Service v. NLRB, 118 S.Ct. 818 (1998).

On July 17, 1997, the Region issued complaint alleging that the Employer (1) engaged in unlawful direct dealing with employees and also unilaterally removed three-quarters of the unit positions from the unit; and (2) subsequently unlawfully withdrew recognition based upon a claimed good faith doubt.[1]

We conclude, in agreement with the Region and for the reasons set forth in its request for advice, that the Employer did not have a good faith doubt of the Union's status. We note that any such doubt (1) was asserted in the context of substantial unfair labor practices which would tend to cause employee disaffection from the Union; and in any event (2) was largely based upon unreported conclusory opinions, or upon other evidence not probative of the Union's majority status, e.g., the mere fact that a number of employees crossed the Union's picket line. Accordingly, the Region should continue its prosecution of this case.

B.J.K.

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[1] The hearing before the ALJ closed on February 11, 1998; briefs are due May 15.