

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF UNION CITY

Public Employer

and

Docket No. RO-181

LOCAL 1959, AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

Petitioner

and

LOCAL 102, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, HELPERS AND WAREHOUSEMEN OF AMERICA

Intervenor

DECISION AND CERTIFICATION OF REPRESENTATIVES

Pursuant to a Consent Election Agreement, a secret ballot election was conducted under the supervision of the Executive Director on November 9, 1970 among the employees in the units agreed to be appropriate, i.e. non-uniformed employees and professional employees, (more fully set forth below).

The election officer served upon the parties a Tally of Ballots for the non-uniformed employees which revealed that of 230 eligible voters, 104 voted for the Petitioner, 79 for the Intervenor, 2 voted for neither organization, one was void, and eight ballots were challenged. The challenged ballots are not determinative. For the unit of professional employees the original tally was later corrected and, as corrected, revealed that of 10 eligible voters, 5 had voted against inclusion with the non-professional employees, and 2 had voted for inclusion. On the choice of

representative, if any, 6 voted for the Intervenor, one ballot was void. There were no challenges or votes for any other choice on the ballots.

Subsequent to the election, objections were timely filed by the Intervenor.

Intervenor objects as follows:

"1. Notices of the election were not posted properly by the employer. 1/

2. Representatives of the Employer solicited authorization cards for the Petitioner and urged such employees to vote for the Petitioner.

3. Representatives of the Employer intimidated and coerced employees immediately prior to the election.

4. Petitioner distributed letters and leaflets during the election campaign which contained serious misrepresentations concerning Local 102.

By these and other acts, both the Employer and the Petitioner interfered with the free choice of the employees at the polls. As a result of the foregoing, the results of the election of November 9, 1970 should be set aside and the Public Employment Relations Commission should take such other further action as may be required under the circumstances."

1/ In a separate communique, the Intervenor stated the basis of this objection, namely, that because of inadequate posting of the Notice of Election and because the language on the ballot was not clearly understood, the professional employees voted against separate representation, contrary to their true desires, as disclosed to the Intervenor. The corrected tally issued after the objections were filed, indicates that in fact the professional employees voted for separate representation. Therefore, Objection No. 1 is moot.

Intervenor was requested to submit evidence to support its objections. In response, Intervenor's attorney filed a position paper which states in part that statements from employees who had witnessed the "unlawful conduct" would not be forthcoming "at this time" because such witnesses had been intimidated to the point of silence. The attorney then proceeds to detail "the best evidence that has been made available to me." There follow various assertions grounded upon the attorney's "information and belief" and newspaper articles, all of which are clearly hearsay in character. The position paper concludes "... this statement contains prima facie evidence which would warrant a hearing on these objections. Once a hearing is held, I, or you, or anyone connected with the hearing will then be in a position to subpoena reluctant employees to testify."

Several observations are in order. First, an election conducted by the Commission is presumed to be a valid expression of employee choice. 2/ Second, the party contesting the election's validity bears the burden of proving its invalidity. 3/ Third, a hearing on objections is reserved for those situations where the investigation indicates that substantial questions of fact exist which, if resolved favorably to the objecting party, would cause the election to be set aside. 4/ Mere allegations, as are contained in the enumerated objections themselves, do not, in the absence of evidence raise such substantial questions. Statements solely of a hearsay nature likewise are not sufficiently probative to put in doubt the presumed validity of the election and thus do not warrant invoking the hearing procedure. In the instant case, Intervenor's submission fails to raise substantial questions of fact requiring a resolution through hearing. Its objections are overruled because of insufficient evidence.

2/ Jersey City Department of Public Works, P.E.R.C. No. 43.

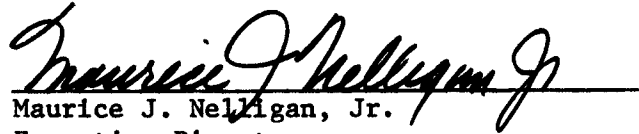
3/ Section 19:11-19(1) of the Commission's Rules and Regulations.

4/ County of Hudson - Meadowview Hospital, E.D. No. 13; Request for Review denied by the Commission.

Having received a majority of all valid votes, plus challenged ballots, cast in the non-professional unit, Petitioner will be certified in that unit. Similarly, Intervenor, having received a majority of all valid votes cast in the professional unit, will be so certified.

CERTIFICATION OF REPRESENTATIVES

IT IS HEREBY CERTIFIED that Local 1959, American Federation of State, County and Municipal Employees, AFL-CIO has been designated and selected by a majority of the employees voting in a unit of all non-uniformed employees of the City of Union City but excluding craft, seasonal and part-time employees, school crossing guards, professional employees, judges, doctors, policemen, managerial executives and supervisors within the meaning of the Act; and that Local 102, International Brotherhood of Teamsters, Chauffeurs, Helpers and Warehouseman of America has been designated and selected by a majority of the employees voting in a unit of all professional employees of the City of Union City but excluding non-professional, seasonal and part-time employees, judges, doctors, managerial executives and supervisors within the meaning of the Act; and that pursuant to the New Jersey Employer-Employee Relations Act of 1968, the said organizations are the exclusive representatives of employees in the respective units for purposes of collective negotiations with respect to terms and conditions of employment.


Maurice J. Nelligan, Jr.
Executive Director

DATED: January 21, 1971
Trenton, New Jersey