

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. 95-4(R)
ILWU, LOCAL 142, AFL-CIO,	)	ORDER NO. 1223
)	
Petitioner,	)	ORDER DIRECTING ELECTION
	)	OF COLLECTIVE BARGAINING
and	)	REPRESENTATIVE; EXHIBITS
	)	"A" AND "B"
HAWAII JOB CORPS,)	
)	
Employer.)	
_____)	

ORDER DIRECTING ELECTION OF
COLLECTIVE BARGAINING REPRESENTATIVE

On August 11, 1994, the Hawaii Labor Relations Board (Board) issued an order granting Petitioner's motion to proceed with the election in this case after the parties agreed to proceed to an election without a hearing and to permit Maurice Neville to vote in the election subject to challenge. Thereafter, the Board circulated an Agreement for Consent Election for signature and counsel for the Employer, HAWAII JOB CORPS, refused to sign the stipulation for the conduct of election. By letter, dated August 16, 1995, Counsel for Employer, advised the Board that the Employer agrees to proceed with the election and to permit Maurice Neville to vote in the election subject to challenge. The Employer, however, reserved its right to challenge the jurisdiction of the Board in any future proceeding based upon the recent National Labor Relations Board's decision in Management Training Corp., 317 NLRB No. 190 (1995).

Based upon the requisite finding of a valid showing of interest of thirty percent or more of the employees in the unit and having asserted jurisdiction in this case, as there are no outstanding issues before the Board to be disposed of and pursuant to the agreement of the parties that the Board proceed to the election in this matter, the Board hereby directs that an election be conducted according to the terms and conditions set forth below.

1. SECRET BALLOT ELECTION: An election by the secret ballot shall be conducted by a Board representative among the employees named in Exhibit "A", which is attached hereto and made a part hereof, to determine whether or not such employees desire to be represented by the Union. Said election shall be held at the time and place indicated in the "Notice of Election", which is attached hereto and made a part hereof as Exhibit "B".

2. BARGAINING UNIT: The Employer and the Union agree that the appropriate bargaining unit shall consist of the following:

Included: All education and vocation instructors.

Excluded: All managerial, secretarial and office clerical employees, guards or watchmen, confidential employees and supervisors as defined by the Act, and any other employee not specifically included above.

3. ELIGIBLE VOTERS: The eligible voters shall be those regular employees included within the unit described above who appear on the payroll of the Employer as of July 5, 1995.

Employees who did not work during certain payroll periods because they were ill or on vacation or temporarily laid off and

employees in the armed forces of the United States who present themselves in person at the polls are eligible. However, employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of election are ineligible.

A list of eligible voters submitted by the Employer is contained in said Exhibit "A". Maurice Neville will be permitted to vote subject to challenge.

4. NOTICE OF ELECTION: The Board shall prepare and issue a Notice of Election. The Employer, upon the request of, and at a time designated by the Board, shall post copies of said Notice of Election at such places on the premises of the Employer so as to afford all interested persons notice of the pending election.

5. OBSERVERS: The Employer and the Union shall be entitled to station an equal number of authorized observers selected from among the nonsupervisory employees of the Employer in the designated polling places during the election to assist in its conduct, to challenge the eligibility of voters, and to verify the tally. The Board representative may have other duly authorized representatives present at the time of voting to assist in any manner.

6. HANDING OUT BALLOTS: Each voter shall be handed a ballot by the Board representative in the presence of the observers. The representative shall be authorized to explain to any voter making inquiry regarding the method of marking the ballot. The services of an interpreter may be employed if necessary. Any further information requested by any voter shall be

given only by the representative and only after agreement of both observers.

7. MARKING OF BALLOTS: Each ballot shall be marked by pencil or pen in only one of the squares shown on the ballot. Ballots not marked or improperly marked or ballots signed shall be rejected.

8. CHALLENGES AND REPORTS THEREON: All challenged ballots shall be counted separately and the reason for the challenge recorded in a manner prescribed by the Board representative. If challenged ballots are determinative of the election, the Board shall investigate the challenge and make a finding with respect thereto, which finding shall be binding upon all parties.

9. DETERMINATION OF ELECTION: A majority of the valid ballots cast shall determine the question of representation for the employees of the Employer who are included in the bargaining unit hereinbefore described.

Immediately upon the conclusion of the election, the votes shall be counted and tabulated by the Board representative in the presence of the observers, and the representative shall report to the Employer and the Union the results of the election by furnishing a Tally of Ballots.

Thereafter, the Board shall certify the results of the election in accordance with the provisions of the Hawaii Labor Relations Act.

10. RUN-OFF PROCEDURE: In the event that no choice on the ballot in the election receives a majority of the valid ballots

cast, the Board shall proceed in accordance with Section 377-5(d),
Hawaii Revised Statutes.

DATED: Honolulu, Hawaii, August 17, 1995.

HAWAII LABOR RELATIONS BOARD



RUSSELL T. HIGA, Board Member



SANDRA H. EBESU, Board Member

Copies sent to:

Rebecca L. Covert, Esq.
Clayton A. Kamida, Esq.
Joyce Najita, IRC

EXHIBIT "A"

Daniel R. Bissler

Robert (Bob) Coombs

Robert Johnston

Dave Masters

Maurice Neville

Nikhilananda

Paul Standaert

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of	)	CASE NO. 95-4(R)
ILWU, LOCAL 142, AFL-CIO,)	
Petitioner,	)	NOTICE OF ELECTION TO
	)	CERTAIN EMPLOYEES OF
and	)	HAWAII JOBS CORPS
HAWAII JOB CORPS,)	
Employer.)	

NOTICE OF ELECTION TO CERTAIN EMPLOYEES OF HAWAII JOB CORPS

An election will be held to determine whether certain employees of the HAWAII JOB CORPS wish to be represented, if at all, for the purpose of collective bargaining by the INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION, LOCAL 142, AFL-CIO.

The election will be held on August 29, 1995 in the Back Classroom, Hawaii Job Corps, 500 Ike Drive, Makawao, Hawaii 96779. The voting hours will be between 11:30 a.m. and 12:30 p.m.

At the option of the representatives of the Hawaii Labor Relations Board, the polls may be reopened at a time and place specified by said representatives in order to permit any employee to vote who was unable to do so at the time specified above because of being on company business.

The Petitioner and the Employer shall file a letter with the Board indicating the names of its respective designated observer by August 25, 1995.

A list of those who are eligible to vote is attached to this Notice as Exhibit A. A sample ballot is attached as Exhibit B.

DATED: Honolulu, Hawaii, August 17, 1995.

HAWAII LABOR RELATIONS BOARD



RUSSELL T. HIGA, Board Member

Copies sent to:

Rebecca L. Covert, Esq.
Clayton A. Kamida, Esq.
Joyce Najita, IRC

EXHIBIT "A"

Daniel R. Bissler

Robert (Bob) Coombs

Robert Johnston

Dave Masters

Maurice Neville

Nikhilananda

Paul Standaert

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
HAWAII LABOR RELATIONS BOARD

OFFICIAL SECRET BALLOT

For Employees of

HAWAII JOB CORPS

This ballot is to determine the collective bargaining representative, if any, for the unit in which you are employed.

If you spoil this ballot, return it to the agent of the HAWAII LABOR RELATIONS BOARD for a new one.

DO NOT SIGN THIS BALLOT

MARK AN "X" IN THE SQUARE OF YOUR CHOICE

Do you wish to be represented for the purpose of collective bargaining by the:

INTERNATIONAL LONGSHOREMEN'S AND
WAREHOUSEMEN'S UNION, LOCAL 142, AFL-CIO?

YES

NO