

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

TREASURE ISLAND FOODS, INC.
Employer

and

Case 13-RD-2515

DAN SCHALIN
Petitioner

and

**UNITED FOOD AND COMMERCIAL
WORKERS UNION, LOCAL NO'S 881 AND 1546,
AFL-CIO, CLC**
Unions

**ORDER REINSTATING PETITION
AND NOTICE OF HEARING**

On December 29, 2005, the Acting Regional Director of Region 13 dismissed the above-noted decertification petition on the grounds that in Cases 13-CA-42746 and 13-CA-42958, the Region issued a Consolidated Complaint alleging that the Employer, *inter alia*, unlawfully encouraged decertification of the Union in a letter to employees, thereby tainting the showing of interest in support of the petition. The dismissal letter noted that the petition was subject to reinstatement upon application of the Petitioner after final disposition of the unfair labor practices if there was a finding of no merit.

In his underlying decision rendered January 16, 2007, the Administrative Law Judge did not find that the letter to employees unlawfully encouraged or incited employees to decertify the Union¹. On March 6, 2007, the Board adopted the Administrative Law Judge's decision in the unfair labor practice cases. On April 17, 2007, the Petitioner, by its counsel, filed a request to reinstate the decertification petition. On April 26, 2007, the Unions filed a joint request to deny Petitioner's request to reinstate the decertification petition.

After careful consideration, and in light of the Board's adoption of the Administrative Law

¹ The Administrative Law Judge found that certain conduct of the Employer violated Sections 8(a)(1) and (5) of the Act, specifically the portion of the letter to employees that restricted the Union's access to employees. The Acting Regional Director, in dismissing the petition, did not rely on that conduct in reaching his decision to dismiss the petition. Final disposition of that portion of the unfair labor practice charges has been achieved and the cases have been closed.

Judge's finding of no merit with respect to that portion of the unfair labor practice charge that was relied upon by the Acting Regional Director to dismiss the petition in the first instance, I grant the Petitioner's request and reinstate the petition. While the Unions argue in their opposition to the request to reinstate the petition that the Petitioner's showing of interest in support of the decertification petition is stale and does not accurately reflect the employees' current sentiment, I note that the adequacy or staleness of the showing of interest is a matter within the administrative determination of the Region. Further, the Petitioner and the showing of interest in support thereof should not be faulted for the passage of time while the unfair labor practice charges were being litigated and decided. More importantly, an election by secret ballot will be the best indicator of employee support for the Unions. IT IS THEREFORE,

ORDERED that the petition be, and hereby is, reinstated.

YOU ARE HEREBY NOTIFIED that pursuant to Sections 3(b) and 9(c) of the Act, on **Wednesday, June 6, 2007 at 9:00 a.m.**, and continuing on consecutive days thereafter, at 209 South LaSalle Street, Suite 900, Chicago, Illinois, a hearing will be conducted before a Hearing Officer of the National Labor Relations Board upon the question of representation affecting commerce which has arisen, at which time and place the parties will have the right to appear in person, or otherwise, and give testimony.

Dated at Chicago, Illinois, this 23rd day of May 2007.

/s/ Joseph A. Barker

Joseph A. Barker, Regional Director
National Labor Relations Board
Region 13
209 South LaSalle Street, Suite 900
Chicago, Illinois 60604

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case: 13-RD-2515
Treasure Island Foods

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(a).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained by the requesting party and set forth in this request; **and**
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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