

**COMPULSORY UNION DUES
AND CORPORATE CAMPAIGNS**

HEARING

BEFORE THE
SUBCOMMITTEE ON WORKFORCE PROTECTIONS
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THE WORKFORCE

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Testimony of Bruce G. Esgar

When the MGM Grand Hotel, Inc. opened its doors it announced that it was going to be a “non-union” house. However, if the employees wanted to be represented by a union, management would only recognize a National Labor Relations Board [NLRB] secret ballot vote.

The MGM Grand Hotel, Inc. was offering to its employees [Cast Members] wages, health benefits and a 401k-retirement plan that far exceeded any union contract in the Las Vegas area. In fact it set a new standard in the industry.

Working under this understanding, the MGM Grand was a very friendly and relaxed place to work. Cast Members became friends, and helped each other out, as did the different departments.

When the MGM decided to change directions and marketing strategy, they also changed their upper management. The management team that had promised that they would only recognize a NLRB secret ballot was replaced, but the Cast Members were told that there would be “no changes” in its stand on an NLRB secret ballot election for unionism.

When the new management announced that they were going to pursue a market in the Detroit area, it was soon followed by the announcement that they were now going to recognize a “card count” by the Culinary Workers Union, Local 226. At that point the nightmares began for the Cast Members.

Many of the Cast Members had come to the MGM to get away from the Culinary Union, while others were there to get away from other unions and there were those that the unions had asked to go there to work. The Culinary Union’s history in the city was not one that showed that it cared about the workers they represented or had the power to do anything for them.

They [the Culinary Union] had an eight-year stretch of not getting any raises for the workers. They were in a three-year strike against a family owned casino and showed no signs of strength to break management down. [They finally say they “won” when they found a sympathetic person towards unionism to buy the casino after the strike had gone on for five and one half years.] They had not gotten a raise in their pension plan for the workers since 1984, which was 42¢ per hour for every hour worked up to 2,000 hours.

The local press in previous years had flirted with the Culinary Union’s ties with organized crime.

All though the leaders of the Culinary Union were decrying that they no longer had ties to organized crime, they did seem to enjoy the reputation of organized crime’s intimidation methods of control. Even while the leaders were denouncing any ties to the Mob, U.S. District Judge Garret E. Brown, Jr. appointed Kurt Muellenberg as a Monitor overseeing

Hotel Employees and Restaurant Employees International Union [HEREIU]. Mr. Muellenberg found and documented many instances of corruption and Mob affiliations within the HEREIU.

When the monitor ship ended, and the then HEREIU President, the late Edward T. Hanely, was disbarred for life from the union, the newly "elected" HEREIU President, John Wilhelm, proudly proclaimed basically, "See I told you we were squeaky clean with no ties to organized crime." Yet in April, 2002, Judge Brown has once again appointed Mr. Muellenberg as a Monitor to run and reform HEREIU Local 69, in New Jersey under the civil RICO Act [Racketeer and Corrupt Organization].

When the Culinary Union walked through the door they immediately began telling union followers whom they could talk to and whom they could not associate with. The union representatives had soon divided the workers into two groups, union and non-union, which they quickly labeled as 'anti-union'. This label was quickly followed by 'welfare recipients', 'freeloaders' and of course 'liars', were a few of the many.

When the employees wanted to ask questions about the pros and cons about unionizing they soon found that they could only "hear" about the pros. To find out about the cons, they learned that no one was able to help them. The management had signed a neutrality contract with the union that meant they could not/would not say a word about aspects of unionizing or not unionizing. There was no group that they could turn to seek help. These groups the unions had labeled "Union Busters" and the laws governing them meant basically that only management could hire them. These groups we soon learned cannot advise employees on their own without suffering fines and/or loss of license.

In order for the union to collect a signature on a card, we quickly learned their methods of obtaining them. Cast Members began telling each other what union representatives were telling them. Some of these promises, statements and actions union representative made were:

- Have supervisors fired
- Loose your job if you were not union or had not signed the card when they [the union] got in
- Loose your health benefits if you did not sign the card
- Loose your 401k if you did not sign the card
- Give them a turkey if they signed a "union yes" card
- Signing the card was *calling* for a vote
- "Hound" them in the privacy of the employee dressing room to sign a card, while they were dressing for work
- Keep "hounding" them to sign a card once they were told that they did not want to sign the card.
- The signing of the card only meant that you would be sent information about the union
- Invade the privacy of your home when you did not give them your address and/or telephone number [and keep coming back time after time after being told "NO"]

- Count a card that they had signed at another property in the past
- Stop the MGM from deporting one by signing the card
- They tore the “NO UNION” buttons off our uniforms
- If you sign the card we [the union] will help you get your “green card”

One Cast Member told us that union representatives had come to him and stated that if he did not sign the card his wife who worked at another property would be fired.

Another gentleman came to me and apologized for signing the card because union representatives had told him, “We know where you live, we know where your kids go to school and we know where your wife works. If you do not sign the card, ‘accidents’ can happen.”

While breaking in the Cast Members’ cafeteria, groups of the union followers would come to our tables chanting different slogans. Since management was never sure when one of us *non-union* Cast Members would strike back, they had security sanding by to calm the situation. [Remarkably, the non-union group stayed calm and did not start any incidents throughout the entire 2-year campaign asking for their right to vote.]

The Culinary Union also targeted three of us that worked on the casino floor and had union members from other properties come and threaten us on our stations. Subsequently two ladies were detained by MGM security and they admitted to the fact that they had been sent by organizers from the Culinary Union.

Those of us that tried to answer and educate those that were asking questions about the benefits of unionizing vs. staying non-union, had to face daily the hatred from the union representatives and anyone else they could incorporate into their way of “the end justifies the means”. For eleven months we had to endure the tactics of the union to obtain signatures on their cards.

With less than one month left in the unions one-year time span to acquire the required number of signatures, the union announced they had achieved the goal. To the shock of many of the Cast Members at the MGM, we did not see how they could have gotten the majority of the bargaining unit to sign a “union yes” card.

So many of the Cast Members could not believe that the Culinary Union had obtained the required signatures, we wanted the vote we had been promised. We all believed that if we were given the right to vote in a secret ballot, we would win. We also were willing to accept the fact that if the union was right and they had the majority, we could accept it. That was the American way that we all had grown up with, one wins or loses by a majority vote.

In order to try to get to the truth of the “numbers” a group of us formed an organization that we called: “Organized Non-Union Cast Members” [O.N.U.C.M.]. We immediately started circulating a petition asking for an NLRB sanctioned election. While circulating this petition, we began to self educate ourselves as to what options and steps we must

take to get what we believed was our American right to vote. Through the NLRB we learned that we had little precious time left for any steps left open to us. They showed us a form that we must fill out and even helped us fill it out. We went in search of a lawyer that would be willing to help us. That is when we met Gregory E. Smith, of Smith & Kotchka, who was willing to help us.

When he looked at everything that we had done on our own, he stated that he was impressed. When he looked at the form that the NLRB had us fill out, he informed us that if it had made it to an NLRB hearing it would have done us no good. He also was impressed that by this time, about one month, that we had been getting signatures asking for an NLRB vote, we had approximately 900 out of a 3,000 member bargaining unit. But he pointed out to us that there was no provision in the National Labor Relations Act[s] [NLRA] that permitted the employees a right to call for an NLRB vote. He went on to explain that under the NLRA the employer could call for a vote at anytime and that the union could call for a vote at anytime. But the employees that unionizing would affect their futures had no rights to call for a vote.

In explaining to us that since there was no right for us to call for a vote, the only option left for us was to file for a decertification. This being the case, we could not use our petition asking for a vote, but would have to start a new petition asking for a decertification. In filing for a decertification we would also have to follow the rules and regulations established for decertification. Again, these rules and regulations had nothing to do with simply asking for our right to vote. He said the good news was that we only needed 30% of the bargaining unit to file. The bad news was that we had even less time now to get them.

When we got our 30% in less time than our deadline, we notified our lawyer and we filed for a decertification. We continued to collect signatures on our petition and submitted them on the deadline date. We then learned that we had collected approximately 1,900 signatures out of the 3,000 member bargaining unit.

At the local NLRB hearing for a decertification in Las Vegas, we presented them with our petition and case histories that in some cases the NLRB had ruled that as little as three to four months was enough time to get a contract between the employer and the union. We were at about six or seven months without getting a contract.

The local board's decision was based on that they did not feel that this amount of time was enough for the two sides to achieve a contract. They granted them a one-year period to work out a contract. Little emphasis, if any, was placed on the fact that over 60% of the employees was asking not to be represented by the Culinary Union and wanted to vote on it.

As an interesting side note, I would like to add that the union was telling their people not to sign our petition asking for an NLRB election. If the union truly had the majority, they would win the election and settle the matter. Why not prove it?

When union dues began to be deducted from the bargaining units Cast Members' pay checks, many Cast Members came to us asking: "How could they be taking dues from them as they had never signed a authorization card from the union?" As no Cast Member was asked to verify their 'signature' on an authorization card, there is still speculation on how the union had a card 'signed' by some Cast Members.

When these Cast Members sent in letters of resignation, the Culinary Union immediately let them resign. The union did not make them meet the union's 15-day window period of their date of signing the card before they could accept their resignations.

In the last Presidential election there are a great many American voters in the state of Florida that firmly believe that their vote did not count on the direction they wanted their country to take. In Las Vegas, Nevada there are approximately 3,000 Americans that were never given their right to vote on the direction that their lives would take.

On November 15, the MGM recognized the Union after the Union demonstrated majority support on authorization cards. This recognition bars the filing of any election petition, under National Labor Relations Board law.

No election petition can be filed where the employer has “extended recognition to the union in good faith on the basis of a previously demonstrated showing of majority.” Sound Contractors Association, 162 NLRB 364. And in Dale’s Super Valu, 181 NLRB 698, the National Labor Relations Board refused to accept an election petition filed by employees after the employer recognized the union on the basis of a showing of majority support, and refused to consider contentions that employees were misled when they signed cards.

A recent news story in the Review-Journal has misleading information about employee petitions. This notice sets forth the true information. This can be confirmed by calling the NLRB at 388-6416.

Where Does It Come From?

The money that is. It's no secret that the money for Union representation comes from Union dues. It is used for bargaining, arbitration cases, grievance procedure, representatives salaries, lawyers fees, salaries of clerical people working in the Union office, materials used in the office, copy machines, computers etc.

Now the big question? Where does their money come from? The anti-union people that is. Does it come from a certain casino owner who would like to see the Union out of this town so he can pay minimum wage and no benefits. Does it come from the pockets of a few cast members or are some of these anti-union people on someone else's payroll doing the dirty work for some big businessman. Just ask yourself, how can porters, change people, and housemen, some of which are single parents afford to wage a 2 year campaign against the Union and why? Are certain people benefiting from this? You certainly will not benefit from this kind of thinking. **So think Union. Be Union.**

Enough is Enough!

I've heard enough of the lies and half truths that Bruce Esgar and his bunch of mindless followers have put out there for all my fellow Cast Members. They have said that all the minorities signed Union cards because they were offered a free turkey by Union reps or were threatened to be deported. They assured people that if the Union got in, they would lose their flextime and their 401k's. They have just told one lie after another

Well, guess what, Bruce, we are not as stupid as you portray us to be. We want the Union in the MGM! Yes, the MGM gave us great wages and benefits, but we had no security in keeping them without a Union contract. A lot of departments were run by favoritism, not fairness! What would happen if the MGM were sold? Would a new owner keep our wages the same? Or would we even be allowed to keep our jobs?

You have put out a flier stating the Union told us they could get us better wages. I got a 25 cent raise for the last four years in a row from the MGM. I just got a 30 cent raise. I call that "better wages". And according to the papers, the MGM is making less profits today than they have since they opened. Now since the contract says that the MGM will meet or beat the other hotels, why didn't they give us more? That doesn't sound like the Union's fault to me.

You sound very concerned about the housekeeping department, Bruce. But if my math serves me right, they didn't lose 10 cents, they gained 30 cents. What are you doing for those Cast Members, Bruce? Are you doing anything to help the slave conditions that they work under? Are you getting them money if they get sent home? Do you get people's job back if they are terminated unfairly?

How dare you say that the Union didn't have anything to do with winning the IRS meal tax. The Union is the workers and the workers filled out the cards and letters by the ten of thousands and sent them to Washington. The politicians had to listen to us. Now I know you didn't sign a card or letter, Bruce, because you said, "The Union can't beat the IRS". Now isn't it amazing that you gave the Union credit until we won!

I proudly pay my dues, Bruce! You keep trying to tell people they are going to get something for nothing. Well, I've never got something for nothing, yet, and this is my livelihood -- it's how I put food in my kids' mouths and a roof over their heads. The only way we continue to grow and protect our standard of living is by each of us taking the responsibility of paying our fair share.

Bruce, who are you, anyway? Don't you think workers wonder how a porter can afford an office, computers, radio ads, glossy fliers, mass mailings and high dollar polling firms? Do they know you work for Sheldon Adelson, Bruce, the owner of the Venetian? He wants to subcontract all our jobs and bring minimum wage to Las Vegas. Why are you helping him try to break our Union from the inside out? He's taking care of you, Bruce, but what about the rest of us? We have a great Union standard of living, and we won't let you or Adelson destroy that.

A Member of Workers for Truth and Fairness

Attention Union Cast Members

Beware that the Anti-Union people have recently filed complaints against Spanish-speaking workers who speak their native language at work. This is an attempt to get back at workers that signed for the union.

Don't be afraid of this intimidation. Let them know that you have the right to speak your own language. If you have a problem with this, let a Union committee leader know about it. They will assist you with this issue.

SMITH & KOTCHKA

ATTORNEYS AT LAW

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 TELECOPIER (702) 382-5

June 3, 1997

TELECOPIED (388-6248)
and U.S. MAIL

Mike Chavez
 National Labor Relations Board
 600 Las Vegas Boulevard South
 Las Vegas, NV 89101

Re: MGM and Culinary Workers Union Local 226
 Case Nos. 28-CA-14322
 28-CB-4711
 28-RD-776

Dear Mr. Chavez:

Please find enclosed a photocopy of two sides of a pre-printed postcard, obviously printed by Culinary Workers Union Local 226 and addressed to my client, employees of the MGM. On the back side, the Union has solicited individuals allegedly from various hotels around the city to fill in the blanks in the card and send them to MGM employees. Each of these cards contain the following identical language:

To the MGM anti-Union committee:

I've been a Union member for ____ years and I work at the _____. We built the standard of living in Las Vegas. If you like working non-Union, go back to low wage, low benefit, and no job security jobs. We will not let you destroy the standard of living in this town.

(signature) _____

More than 800 of these cards have been sent to MGM employees. The last phrase, "we will not let you destroy the standard of living in this town" is a threat. The obvious question arises as to how these individuals and the Union intend to prevent MGM employees from doing anything. Given the fact that the Union has been shown to engage in threats of physical violence, of termination of jobs and of deportation, it is fairly inferrable that the threat here includes the same sort of thing.

SMITH & KOTCHKA


June 3, 1997

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This is especially true in light of the fact that on February 27, 1997, the Board affirmed an Administrative Law Judge's finding that this same Union "unlawfully engaged in several threatening acts and one physical assault" in Local Joint Executive Board of Las Vegas, 323 NLRB No. 16 (1997). In that case, the Board affirmed the ALJ's finding that this Union violated the Act by "stating that it knew where the employees . . . lived and that it was going to get them, thereby implicitly threatening employees . . . with bodily harm because they failed to support Respondent's picketing" Here, the Union has requested the names and addresses of the employees from the MGM, the MGM has notified the employees that the Union will obtain their names and addresses, and the Union is saying to the employees that it "will not let you" do certain things. Thus, the impact is the same as that in the recent case. The Union knows where the employees live, and it is stating that it will prohibit them from doing something. Just as those facts created an implicit threat in the recent case, they create an implicit threat here, especially when there is corroborating hard evidence of those threats.

Moreover, the fact that there are more than 800 such cards being mailed to the very employees who do not support the Union makes these threats more than pervasive; they become almost universal. I have the originals of the cards in my office and am able and willing to supply them upon your request.

Sincerely yours,


Gregory E. Smith

GES:sdt

cc: Bruce Esgar
Jane Reidhead

To the MGM anti-Union committee:

I've been a Union member for 2 years and I work
 at the Pioneer (6.000TH FN PANTRY.)
 We built the standard of living in Las Vegas.
 If you like working non-Union, go back to low wage,
 low benefit, and no job security jobs.
 We will not let you destroy the standard of living in
 this town.



(signature)

James J. Quincy

Al comité anti-Unión del MGM:

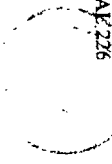
Yo he sido miembro de Unión por 2 años, trabajo
 en Pioneer (7.000th Frontline Cook)
 Nosotros creamos el nivel de vida aquí en Las Vegas.
 Sí a ustedes les gusta trabajar sin Unión, regresen a
 los trabajos que pagan salarios bajos, dan
 beneficios bajos, y no ofrecen seguridad de
 trabajo.
 No vamos a dejar que ustedes destruyan el nivel de
 vida en ésta ciudad.



(firma)

James Ray Phillips

CULINARY WORKERS UNION LOCAL 226
1630 South Commerce
Las Vegas, NV 89102



MGM anti-Union committee (o.n.u.c.m.)
3230 E. Flamingo Road
Mail Boxes, etc. -- Box # 253
Las Vegas, NV 89121

hold a vote at all. But it will not sacrifice its principles for what may be perceived as narrow, short-term tactical gain. It will submit the contract for ratification, come what may. That is why its members are so proud and supportive of it — and why I am so proud to be its counsel.

Because ratification is not required by any law, the Union is free to organize the ratification meetings. It can limit participation in the meetings to its members and those who have given it authorization cards. It could exclude your nominal clients and their friends altogether. Although there is some justifiable concern that your clients will attempt to disrupt the ratification meetings instead of participating rationally, the Union has nevertheless decided that it is in the best interests of everyone — the hotel, the workers and the Union — that these ratification meetings be open to all bargaining unit employees regardless of whether they are members or have signed authorization cards. There has been much divisiveness and it is time to bring everyone together. A ratification meeting that excluded those who have been opposed to the Union would work against this objective, so the Union will throw the meetings open to all bargaining unit employees.

I am writing to you principally to explain the law since you seem to be under an illusion that you and your nominal clients have some right to be involved in planning the ratification process. With one exception, none of the points you have made have any merit. The one exception is having Arbitrator George Hardbeck present during the ratification meetings and the tabulation of the votes. In fact, Jim Arnold decided this past Sunday to invite Dr. Hardbeck to serve in this capacity.

The times of the meetings, however, are good ones. The Union has always held its meetings at 11:00 a.m. and 7:00 p.m. This includes not only ratification meetings but organizing committee and negotiating committee meetings. Its lengthy experience in holding membership meetings has confirmed that these are the most convenient times for workers in the Las Vegas hotel-casino industry, and result in the best turnouts. In fact, ratification votes on contracts for employers you represent have been held at these times and this is the first occasion anyone has suggested that the times might be inconvenient. For these MGM ratification meetings, the Union has actually added another meeting at 5:00 p.m., which is unusual, in order to increase the level of participation. The reason why these meeting times work is the very thing you point out as a flaw: the meetings are not close to the shift beginning and ending times. Workers can therefore attend without worrying that they won't be able to get to work on time. There is one small group for which this is not true. This group begins work at 12:00 Noon. The Union has asked MGM to allow workers whose shifts begin at Noon to report late, to enable them to attend the 11:00 a.m. meeting. Your accusation that the times have been selected to inconvenience people and reduce participation is just a product of ignorance and paranoia.

There will be no security problems at the Union hall. Your statements about threats to MGM workers are merely repetition of groundless charges you have made in the past. You have filed charges alleging union misconduct but you have never been able to support them with evidence. In fact, the biggest security concern for the meetings on Thursday is that your nominal clients and their friends will attempt some form of disruption of the meetings, so that other employees who want to seriously consider the contract will be prevented from doing so. The Union has taken precautions to avoid any security problems. In addition to the Union's normal

security force, uniformed Metro officers will be present throughout the meetings to ensure everyone's safety and orderliness. I encourage you to advise your nominal clients and their friends to cancel any disruptions they have planned.

Voting on the contract will occur at the end of each meeting. The meeting is for the tentative contract to be explained and for the workers to have the opportunity to ask questions and express their views. Not only does the Union want the MQM workers to vote on the contract, it wants them to be able to make an informed choice. Again, we hope that you will advise those workers with whom you are in contact not to try to prevent their fellow workers from being able to give the tentative contract serious consideration.

This is the Union's final communication to you on this subject.

Very truly yours,



Richard G. McCracken

RGM/rw