

DC37, L.803, IBT v. OTB,14 OCB 20 (BOC 1974) [(Decision No. 20-74 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

DISTRICT COUNCIL 37, AFSCME,
AFL-CIO

DECISION NO. 20-74

-and-

DOCKET NOS. RU-433-74
RU-434-74

LOCAL 803, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

-and-

NEW YORK CITY OFF-TRACK BETTING
CORPORATION

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DECISION, ORDER AND DIRECTION OF ELECTION

Both of the petitions herein, as amended, seek certification of a unit of Area Managers (OTB) and Branch Office Managers (OTB). The employer objects to the inclusion of Area Managers (OTB) in the bargaining unit on the ground that their duties "are managerial in nature...".

Since the number of Area Managers (OTB) is small in comparison with the number of Branch Office Managers (OTB) and in order not to delay the determination of the employees' desires concerning collective bargaining representation while resolving the dispute concerning the alleged managerial status of Area Managers (OTB), we shall direct the holding of an election forthwith.

DIRECTION OF ELECTION

Pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

DIRECTED that, as part of the investigation authorized by the Board, an election by secret ballot shall be conducted under the supervision of the Board of Certification or its agents, at a time, place, and during hours to be fixed by the Board, among the Area Managers (OTB) and Branch Office Managers (OTB) employed by the New York City Off-Track Betting Corporation, who were employed during the payroll period immediately preceding the date of this Direction of Election (other than those who have voluntarily quit or who have been discharged for cause before the date of the election), to determine whether they desire to be represented for the purposes of collective bargaining by District Council 37, AFSCME, AFL-CIO; by Local 803, International Brotherhood of Teamsters; or by neither. Area Managers (OTB) may vote challenged ballots. If a sufficiently large majority of unchallenged ballots are cast in favor of representation by one of the Petitioners so that inclusion of the challenged ballots could not affect the outcome of the election, we

shall direct prompt issuance of an appropriate certification, and we shall direct a hearing in this case to aid us in making a determination on the alleged managerial status of the Area Managers (OTB). Any such employees found not to be managerial will be included by the Board in the cited unit. On the other hand, if inclusion of the challenged ballots would be dispositive of the outcome of the election, any certification will be delayed until an appropriate determination is made with regard to the alleged managerial status of Area Managers (OTB).

DATED: New York, N.Y.
May 8, 1974

ARVID ANDERSON
CHAIRMAN

WALTER L. EISENBERG
MEMBER

ERIC J. SCHMERTZ
MEMBER