

**IN THE TRADE DISPUTES PANEL  
SOLOMON ISLANDS**

**Case No. L9/5/06**

**Between: S.I. National Union of Workers (Applicant)**

**And: Guadalcanal Plains Palm Oil Limited (Respondent)**

**Panel :**

1. Francis Cecil Luza	- Chairman
2. David Iro	- Employer representative
3. Elijah Gui	- Employee representative

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**Appearances:**

Barry L. Samson for the Union.  
John Katahanas for the respondent.

Date of hearing - 4<sup>th</sup> December 2007.

Date finding delivered - 9<sup>th</sup> January 2007.

**FINDING**

By letter dated 9<sup>th</sup> August 2006, the General Secretary of Solomon Islands National Union of Workers, Mr. Tony Kagovai referred a trade dispute to the Trade Disputes Panel pursuant to the provisions of the **Trade Disputes Act, Cap 75**. The dispute was over a recognition issue in which the respondent refused to grant recognition to the union to represent the respondent's employees on matters concerning wages and other conditions of employment.

At a preliminary hearing on 16/11/07, the Panel, inter-alia, ordered that a secret ballot be conducted to assist the Panel determine the issue of whether or not the union be granted recognition.

In other words, the secret ballot was considered necessary by the Panel to ascertain whether the union has the support of the substantial proportion of the respondent's employees. The respondent at the time of the secret ballot had a total work force of 2,415 workers.

In view of the large number of employees involved and the concern over disruption of production, the Panel agreed to conduct the secret ballot at three different locations (Mbalisuna, Teterere and Ngalibiu) at different dates.

The secret ballot was eventually conducted as follows: Ngalibiu on 6<sup>th</sup> February 2007; Balisuna on 2<sup>nd</sup> and 3<sup>rd</sup> May 2007 and Teterere on 23<sup>rd</sup> and 24<sup>th</sup> May 2007.

As the Ngalibiu secret ballot could not be fully completed on the first day of the ballot (6/2/07), those who could not stay on till 7.00 pm on that day were given further opportunity on 20<sup>th</sup> and 21<sup>st</sup> June 2007 to cast their ballots.

On 24/7/07, the Panel secretary wrote to the parties informing them of the overall outcome of the secret ballot as follows:

<b>“A. In favour of SINUW</b>	<b>- 974</b>
<b>B. In favour of In House Union</b>	<b>- 35</b>
<b>C. Not in favour of option A or B</b>	<b>- 7</b>
<b>D. Blank Ballot paper</b>	<b>- 1</b>
<b>E. Spoilt Ballot paper</b>	<b>- 90</b>
<b>F. Absent</b>	<b>- <u>1,308</u></b>
	<b><u>2,415</u></b>

**In the meantime, I would like to thank both parties, especially the GPPOL management in making all arrangement possible for the secret ballot to be done successfully in various locations of the work place.”**

Subsequent to the declaration of the secret ballot result, the Panel on 18/9/07 ordered both parties to enter into further dialogue with the view to reaching an amicable settlement to the dispute.

No settlement however was reached, a result of which, the matter went before the full Panel on 4/12/07 for full hearing.

At the full hearing it was apparent from the respondent's submission that it could not grant recognition simply because no substantial proportion of the total work force of the respondent's employees supports the union as confirmed in the secret ballot. If it were to grant recognition, it suggested that it only did so limit to the number of employees who had shown support in favour of the union.

On the other hand, the union, in essence, submitted that of the total work force of 2,415 as indicated per voting result, it has a substantial support of 1786 financial members. It argued that only 974 financial members had the opportunity to cast their ballots as the rest could not do so as timing was not to their advantage. It claimed that during interval voting dates workers were shifted around in various work locations so they were not able to attend to voting. Unfortunately, these claims cannot be accepted as they were unsubstantiated. They were not even raised when the Panel was in the process of carrying out the secret ballot. The Panel therefore finds that there was nothing wrong with the way the secret ballot was conducted. The workers were given the opportunity to cast their ballots and those who opted to take part in the voting did cast their votes. It cannot be assumed that those who failed to take part in the voting were not given the opportunity to do so for it is for them to choose whether or not they should attend to cast their ballots.

The secret ballot result clearly shows only **974** out of the total work force of **2,415** employees support the union. This is far less than half of the total work force of the respondent.

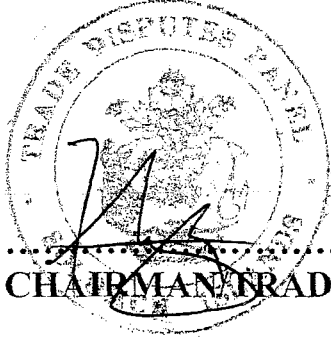
Accordingly, and in all the circumstances, the union does not have the right to claim recognition from the respondent at this stage, as it does not have the substantial support of the respondent employees.

It must also be noted that the scenario given in the union's submission regarding the declaration of a winning candidate in a general election is misleading and cannot be accepted.

**ORDER**

Both parties are ordered to contribute **\$1,000.00** each towards panel expenses within 14 days.

On behalf of the Panel:



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**CHAIRMAN, TRADE DISPUTES PANEL**