

PPG Industries, Inc., Shelby Plant, Fiber Glass Division and Glass Bottle Blowers Association of the United States and Canada, AFL-CIO, Petitioner. Case 11-RC-4597

February 7, 1980

**SUPPLEMENTAL DECISION AND
CERTIFICATION
OF RESULTS OF ELECTION**

BY CHAIRMAN FANNING AND MEMBERS JENKINS
AND PENELLO

Pursuant to a Stipulation for Certification Upon Consent Election, an election by secret ballot was conducted in the above-entitled proceeding on December 7 and 8, 1978, under the direction and supervision of the Regional Director for Region 11, among the employees in the appropriate unit. At the conclusion of the balloting, the parties were furnished a tally of ballots which showed that of approximately 1,400 eligible voters, 1,323 cast ballots, of which 329 were for, and 870 were against the Petitioner. There were 124 challenged ballots and no void ballots. The challenged ballots were insufficient in number to affect the results of the election. Thereafter, the Petitioner filed timely objections to conduct affecting the results of the election.

In accordance with the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Regional Director conducted an investigation and, on February 1, 1979, issued and duly served on the parties his Report on Objections in which he recommended that Objection 9 be sustained, that a second election be ordered, and that the Petitioner's other objections be overruled.

Thereafter, the Employer filed exceptions to the Regional Director's Report on Objections, and a supporting brief, and the Petitioner filed exceptions to the Regional Director's failure to sustain its Objections 1, 2, 5, 7, 8, 10, 14, and 15. On May 4, 1979, the National Labor Relations Board issued its Decision and Order Directing Hearing¹ on the issues raised by the Petitioner's Objection 9 and adopting the Regional Director's recommendation to overrule the Petitioner's Objections 1-8 and 10-15.

Pursuant to the Board's order a hearing was held on June 7, 1979, before Hearing Officer Paris Favors, Jr. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence on the issues. On July 19, 1979, the Hearing Officer issued his report recommending that

the Petitioner's Objection 9 be sustained, that the election be set aside, and that a second election be directed. The Employer filed timely exceptions to the Hearing Officer's report and a supporting brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the Hearing Officer's report, the exceptions and briefs, and the entire record in the case and finds as follows:

The issues here arise from a speech delivered by Frank Green, the Employer's vice president, to five separate groups of employees at the change of each shift during the week prior to the election. In its Objection 9, the Petitioner alleges that:

Frank Green held a captive audience meeting, in his speech he stated if PPG were organized by the Glass Bottle Blowers Association there's a possibility PPG would close the Shelby, N.C. plant.

The Hearing Officer, crediting the Employer's witnesses, found that Green did not deviate from the speech. However, upon analysis of the speech and the employees' testimony regarding "the message they got from the speech,"² the Hearing Officer concluded that the Employer utilized the speech:

. . . as a means of instilling in the minds of its employees the inevitability of strikes, job losses and plant closure if the employees selected the union as their collective bargaining representative. The Employer's statement in reference to the three plants deliberately nurtured in the minds of the employees the fear that the Shelby plant could likewise be closed, thereby creating an atmosphere of fear that interfered with the employee's free choice in the election.

We agree with the Employer's contention that the speech was permissible election campaign propaganda. One of the campaign issues raised by the Petitioner was that the employees could secure increased benefits without having to resort to a strike because the Employer would not take a strike that required shutting down its production furnaces. To counter this argument by the Petitioner, Green first briefly reviewed the history of the Employer and its relationships with the unions representing its employees. Green pointed out that at one time the Employer "constantly conceded [sic] to unions and tried to get along with them", but that some years ago the Employer changed its policy for dealing with the various union because its earlier approach presented

Petitioner's witnesses but indicated that they were relating in their own words the message they got from the speech.

¹ *PPG Industries, Case 11-RC-4597* (not reported in volumes of Board Decisions).

² The Hearing Officer pointed out that he was not generally discrediting the

the Employer with problems in the areas of competition and plans for expansion. Green used the example of the Employer's plant at Ford City, Pennsylvania, where the employee complement dropped from almost 5,000 to a few hundred, asserting that because the union refused to work with the Employer in installing a new glassmaking process it became necessary for the Employer to build a new plant elsewhere. Green then reiterated that "[s]ince that time [Ford City] our position has been that we will no longer concede [sic] to *unreasonable* union demands and agree to whatever they may ask—simply to avoid a strike." (Emphasis supplied.) He also referred to three other plants: Clarksburg, West Virginia, Mount Vernon, Ohio, and Henryetta, Oklahoma, stating that these three union-organized plants "have been completely shut down for one reason or another."³

Green next spoke of the Employer's history of dealing with strikes, mentioning first a strike for 3 months. He also talked about the strike at the Shelbyville, Indiana, plant several years earlier, showing newspaper captions indicating that there had been sabotage, that some strikers had been given suspended sentences, and that the state police had been called to the scene of the strike. He closed his remarks on the Shelbyville strike by stating that the employees went back to work on exactly the same terms that the Company had offered before the strike started. Finally, Green discussed a 1976 strike at the Owen-Corning fiberglass plant at Jackson, Tennessee, which lasted almost 4 months, commenting that as a consequence of that strike Owen-Corning lost considerable busi-

³ Although the Hearing Officer found that Green did not deviate from his text, two of the Petitioner's witnesses admitted on cross-examination that in their affidavits given in the initial investigation of the Petitioner's objections, they stated that Green made reference to the plants being closed because of lack of profits. Thus, whether there were minor deviations from the prepared text or the witnesses drew their conclusions from the overall text or the totality of the campaign itself, it is clear that the closure of the three plants was attributed to a legitimate reason—the lack of profits.

⁴ *Rudy's Farm Company, Inc.*, 190 NLRB 324 (1971).

We find inapposite *The Singer Company, Friden Division*, 199 NLRB 1195

ness, much of which the Employer's Shelby plant was able to pick up.

In sum, we find that the speech, read as a whole, did not exceed the bounds of permissible campaign propaganda. Green's remarks about strikes were in direct response to the Petitioner's campaign position that the Employer would not take a strike that required shutting down its production furnaces. There is nothing in the speech that would instill in the minds of the employees that they would have to strike to secure any gains, that a strike was inevitable, that the Employer has rejected the principles of collective bargaining, or that the plant would be closed or jobs lost simply because the Petitioner won the election. Rather, in our opinion, Green's speech amounts to nothing more than a partisan explanation of the realities of collective bargaining and was noncoercive and temperate.⁴ Accordingly, we shall overrule Objection 9, and, as the Petitioner has failed to secure a majority of the valid ballots cast, certify the results of the election.⁵

CERTIFICATION OF RESULTS OF ELECTION

It is hereby certified that a majority of the valid ballots have not been cast for Glass Bottle Blowers Association of the United States and Canada, AFL-CIO, and that said labor organization is not the exclusive representative of all the employees, in the unit herein involved, within the meaning of Section 9(a) of the National Labor Relations Act, as amended.

(1972), relied on by the Hearing Officer. There, the evidence revealed a pattern of statements of the inevitability of strikes and dire consequences of such strikes, including the loss of jobs if the union were selected. Such evidence included the speeches of the respondent's officials (six different speeches during a 6-week period) and the respondent's preelection portfolio and other campaign material. No such pattern emerges in the instant case.

⁵ Having found that Green's speech did not constitute objectionable conduct affecting the results of the election, we find it unnecessary to reach the procedural issues raised by the Employer's other exceptions to the Hearing Officer's report.