In the Matter of COHN-GOLDWATER MANUFACTURING CO. *and* AMALGAMATED CLOTHING WORKERS OF AMERICA, C. I. O.

Case No. 21–R–2084.—Decided November 15, 1943

Wright & Millikan, by *Mr. Herschel B. Green*, of Los Angeles, Calif., for the Company.

Katz, Gallagher & Margolis, by *Mr. Milton S. Tyre*, of Los Angeles, Calif., for the Amalgamated.

Mr. Leo M. Rosencrans, of Los Angeles, Calif., for the United.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Amalgamated Clothing Workers of America, C. I. O., herein called the Amalgamated, alleging that a question affecting commerce had arisen concerning the representation of employees of Cohn-Goldwater Manufacturing Co., Los Angeles, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William B. Esterman, Trial Examiner. Said hearing was held at Los Angeles, California, on October 28, 1943. At the commencement of the hearing the Trial Examiner granted a motion of United Garment Workers of America, Local 125, A. F. of L., herein called the United, to intervene. The Company, the Amalgamated, and the United appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Cohn-Goldwater Manufacturing Co. is a California corporation engaged in the manufacture of men's shirts and work clothes. We

are here concerned with its branch plant at 750 East 12th Street, Los Angeles, California. During 1942 the Company purchased raw materials valued at not less than $500,000, at least 90 percent of which was shipped to it from points outside the State of California. During the same period the Company sold products valued in excess of $750,000, not less than 50 percent of which was shipped to points outside the State of California. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Garment Workers of America, Local 125, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Amalgamated Clothing Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Amalgamated as the exclusive collective bargaining representative of the employees at the 750 East 12th Street plant because of a contract between it and the United.

On June 16, 1939, the Company and the United entered into an exclusive collective bargaining contract. The contract provides that it shall remain in force and effect for at least 1 year and shall continue in force thereafter subject to 60 days' notice of a desire to terminate by either party thereto. Since the agreement by its terms may be terminated upon 60 days' notice by either party thereto it does not constitute a bar to a determination of representatives at this time.[1]

A statement of an agent of the Board, introduced into evidence at the hearing, indicates that the Amalgamated represents a substantial number of employees in the unit hereinafter found to be appropriate.[2]

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees at the 750 East 12th

[1] See *Matter of Phelps-Dodge Refining Corporation*, 40 N. L. R. B. 1159.

[2] The Board agent reported that the Amalgamated presented 47 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 18, 1943. There are approximately 61 employees in the appropriate unit. The United did not present any evidence of representation but relies on its contract as evidence of its interest in the instant proceeding.

Street Branch plant of the Company, excluding truck drivers, foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Cohn-Goldwater Manufacturing Co., Los Angeles, California, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Twenty-First Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and who have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by United Garment Workers of America, Local 125, affiliated with the American Federation of Labor, or by Amalgamated Clothing Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.