In the Matter of Irvin L. Young, D/B/A Young Engineering Company and International Association of Machinists, District No. 8, A. F. of L.

Case No. 13-R-2039.—Decided November 17, 1943

Mr. Irvin L. Young, of Chicago, Ill., for the Company. Mr. James McDonald, of Chicago, Ill., for the Union. Mr. Louis Cokin, of counsel to the Board.

#### DECISION

AND

### DIRECTION OF ELECTION

#### STATEMENT OF THE CASE

Upon petition and amended petition duly filed by International Association of Machinists, District No. 8, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Irvin L. Young, d/b/a Young Engineering Company, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George S. Freudenthal, Jr., Said hearing was held at Chicago, Illinois, on Trial Examiner. October 20, 1943. The Company and the Union 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

Irvin L. Young, d/b/a Young Engineering Company operates a plant at Chicago, Illinois, where he is engaged in the manufacture and design of high production automatic machinery. During the first 6 months of 1943, the Company purchased raw materials valued at about \$24,860, approximately 40 percent of which was shipped to it 53 N L. R. B., No. 123.

from points outside the State of Illinois. During the same period the Company sold products valued at about \$101,299, substantially all of which was shipped to points outside the State of Illinois. The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATION INVOLVED

International Association of Machinists, District No. 8, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of its employees.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>1</sup>

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

The Union urges that all production and maintenance employees of the Company, excluding watchmen and clerical and supervisory employees, constitute an appropriate unit. The only controversy with respect to the unit concerns several named employees.

Henry J. Harvey, Ferdinand W. Tulpo, George P. Young, Walter W. Young, and Reuben F. Young are classified by the Company as supervisors. These employees are the highest paid persons in the plant, and, in the absence of the owner of the Company, the plant is left in charge of such members of this group of five as the owner might designate. Each of them has been so designated at some time. Any two or more of this group of five, acting jointly, could, in an emergency, discharge employees. Accordingly, we find that the employees in question are supervisors, and as such, we shall exclude them from the unit.

John Neuwald, Ben Ronson, Francis Thelen, and Oscar H. Young are classified by the Company as operators. Although these men are the highest paid employees in their respective departments, their status is lower than that of the five employees discussed above. It

<sup>&</sup>lt;sup>1</sup>The Regional Director reported that the Union presented 26 membership application cands bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of September 14, 1943. There are approximately 37 employees in the appropriate unit.

appears that none of these persons has the duty of making any recommendations that might effect the status of the employees. Accordingly, we find that they are not supervisors and we shall include them in the unit.

We find that all production and maintenance employees of the Company, excluding watchmen, clerical employees, Henry J. Harvey, Ferdinand W. Tulpo, George P. Young, Walter W. Young, Reuben F. Young, 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 purpose 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 Irvin L. Young, d/b/a Young Engineering Company, Chicago, Illinois, 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 Thirteenth 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 have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by International Association of Machinists, District No. 8, A. F. of L., for the purposes of collective bargaining.