

In the Matter of WHITING-MEAD POTTERY COMPANY, DOING BUSINESS AS  
ELJER OF CALIFORNIA COMPANY and NATIONAL BROTHERHOOD OF  
OPERATIVE POTTERS, AFL

*Case No. 21-R-2306.—Dated April 24, 1944*

*Mr. Cecil W. Collins*, of Los Angeles, Calif., for the Company.

*Mr. Frank Hull*, of Huntington Park, Calif., for the Union.

*Mr. Joseph W. Kulkis*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by National Brotherhood of Operative Potters, AFL, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Whiting-Mead Pottery Company, doing business as Eljer of California Company,<sup>1</sup> Los Angeles, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George H. O'Brien, Trial Examiner. Said hearing was held at Los Angeles, California, on March 27, 1944. The Company and the Union appeared,<sup>2</sup> 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 an 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

Whiting-Mead Pottery Company, a California corporation, doing business as Eljer of California Company, is engaged at Los Angeles, California, in the manufacture of plumbing fixtures and supplies.

<sup>1</sup> The name of the Company appears herein as amended at the hearing

<sup>2</sup> Although served with a copy of the Notice of Hearing, the International Union of Mine, Mill & Smelter Workers, CIO, did not appear at the hearing

During the year 1943, the Company's purchases amounted to more than \$250,000, of which 33 percent was purchased outside the State of California. During the same period, the Company's sales amounted to more than \$500,000, of which approximately 37 percent was shipped outside the State of California.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

National Brotherhood of Operative Potters, is a labor organization, affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On or about February 22, 1944, the Union requested the Company to recognize it as the exclusive bargaining representative of the employees within the alleged appropriate unit. The Company refused to accord the Union such recognition unless and until the Union is certified by the Board.

A statement of the Trial Examiner of the Board, introduced into evidence, indicates that the Union represents a substantial number of employees within the unit hereinafter found to be appropriate.<sup>3</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

We find, substantially in accordance with the agreement of the parties, that all production and maintenance employees of the Company, excluding office clerical employees, sales personnel, and all 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

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<sup>3</sup> The report of the Trial Examiner shows that the Union submitted 70 application for membership cards bearing apparently genuine signatures; 66 of these cards bear names appearing on a recent pay roll of the Company, which contains the names of 105 persons within the alleged appropriate unit.

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Whiting-Mead Pottery Company, doing business as Eljer of California Company, 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 have not been rehired or reinstated prior to the date of election, to determine whether or not they desire to be represented by the National Brotherhood of Operative Potters, AFL, for the purposes of collective bargaining.