

In the Matter of SACRAMENTO PUBLISHING COMPANY, LTD. and SACRAMENTO UNION EMPLOYEES ASSOCIATION

In the Matter of SACRAMENTO PUBLISHING COMPANY, LTD. and SACRAMENTO VALLEY NEWSPAPER GUILD, CHAPTER 92, AMERICAN NEWSPAPER GUILD (CIO)

*Cases Nos. 20-R-1076 and 20-R-1094, respectively*

SUPPLEMENTAL DECISION

AND

CERTIFICATION OF REPRESENTATIVES

*October 14, 1944*

On August 26, 1944, the National Labor Relations Board issued a Decision, Direction of Election and Order in the above-entitled proceeding.<sup>1</sup> Pursuant to the Direction of Election, an election by secret ballot was conducted on September 12, 1944, under the direction and supervision of the Regional Director for the Twentieth Region (San Francisco, California). On September 23, 1944, the Regional Director, acting pursuant to Article III, Section 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended, issued a Consolidated Report on Election and Report on Challenged Ballots.

As to the balloting and its results, the Regional Director reported as follows:

Approximate number of eligible voters.....	37
Total ballots cast.....	32
Total ballots challenged.....	9
Total void ballots.....	0
Total ballots counted.....	23
Votes cast for Sacramento Valley Newspaper Guild, Chapter 92, American Newspaper Guild, CIO.....	16
Votes cast against participating union.....	7

In view of the fact that the challenged ballots were sufficient in number to affect the results of the election, the Regional Director investigated their validity and incorporated his findings and recommendations in his Report. He recommended that the challenges to the votes of Mabel Geiberger, Hugh L. Darrah, and Jack Odbert, be sus-

<sup>1</sup>57 N. L. R. B. 1636.

58 N. L. R. B., No. 194.

tained and that the remaining six challenges be overruled. None of the parties filed exceptions to the Regional Director's Report.

Upon the Regional Director's Report and the entire record in the case, the Board makes the following supplemental findings of fact with respect to the challenged ballots:

*Mabel Geiberger, Hugh L. Darrah, and Jack Odbert* were challenged at the polls by the Guild, on the ground that they were not included in the bargaining unit found to be appropriate in the Board's Decision in this proceeding. These employees collect "past-due" accounts owed to the Company by subscribers. They work approximately 37 to 111 hours each month on an hourly basis, and are paid semi-monthly. The Company states that their names were inadvertently omitted from the list of employees submitted in evidence at the hearing held herein. It appears that the errors occurred because the list submitted was prepared from a weekly pay-roll list which did not contain the names of employees paid on a semi-monthly basis. In view of the fact that the unit found to be appropriate in the Board's Decision included "all employees of the Company in its editorial and circulation departments . . ."; that these employees function as an integral part of the circulation department; and that they spend a substantial part of their working time in the employ of the Company; we perceive no validity in the challenges to their ballots. We find, therefore, that the ballots of Mabel Geiberger, Hugh L. Darrah, and Jack Odbert are valid.

*Harlan Smith, Jr.*, was challenged at the polls by the Company on the ground that he was hired on a temporary basis for general work during the summer vacation. He was hired as an office boy in June 1944, at that time giving notice that he would work until September 23, 1944. There is nothing in the record to indicate whether or not he has any reasonable expectancy of returning to the Company's employ during subsequent summers. Accordingly, we are of the opinion that as a temporary employee he had no substantial interest in the outcome of the election. Therefore, we find that he was ineligible to vote and that his ballot should not be counted.<sup>2</sup>

*Beth Hightower* was challenged at the polls by the Company on the grounds that she works only part time and earns her principal livelihood from employment in the Sacramento School Department. She works as a reporter, covering various sports events. During the school vacation period in the summer, she covers assignments which occupy, in some instances, entire working days. During the school term, her employment is restricted to covering sports events which take place at times when she is not otherwise engaged in the per-

<sup>2</sup> *Matter of Johnson-Handley-Johnson and Johnson Furniture Company*, 51 N. L. R. B. 1282. See *Matter of Sierra Pacific Power Company*, 56 N. L. R. B. 458.

formance of school duties. It appears that throughout the year she is in the employ of the Company an average of about 16 hours per week. In view of the fact that she is a regular part-time employee and spends a substantial portion of her working time in the performance of her duties, we find no merit in the contention that she was ineligible to vote. Accordingly, we find that her ballot is valid.

*Boruff Smith, Chapin A. Day, II, Millard Browne, and Richard Edmonds* were challenged at the polls by the Company on the basis of its allegations to the effect that each occupies a supervisory status in the Company's employ. Since March 1938, the Guild has bargained with the Company for these and other employees, as evidenced by written contracts. These men are among 23 employees in the editorial department all of whom are under the supervision of the editor and general manager, and managing editor. Smith is designated city editor and assigns reporters and the camera man to specific news events; in general, he directs the efforts of those employees in the editorial department engaged in local news coverage. Day, occupies the position of Sunday editor, and directs activities with respect to publishing the Sunday paper. Browne is an associate editor who does editorial writing which involves, to some extent, formulating the editorial policy of the paper. Edmonds is the sports editor. The only evidence detracting from the conclusion that these four men are not supervisory employees is that on one instance Smith discharged an office boy after securing permission to do so from the editor, that the editor directs applicants for the position of office boy to Smith and has advised Smith to handle such applicants; that Day and Browne, in isolated instances, have discussed the work of reporters with the editor; and that Browne, on infrequent occasions has acted as managing editor without exercising the supervisory authority attributed to that position. In view of circumstances here present, including the limited size of the editorial staff, and the fact that the Guild and the Company have bargained with respect to these men for approximately 6 years, we find that Boruff Smith, Chapin A. Day, II, Millard Browne, and Richard Edmonds are not supervisory employees and were therefore, eligible to vote.

For reasons indicated above, we conclude that Mabel Geiberger, Hugh L. Darrah, Jack Odbert, Beth Hightower, Boruff Smith, Chapin A. Day, II, Millard Browne, and Richard Edmonds were eligible to vote and their ballots are hereby declared valid; but that Harlan Smith, Jr., was ineligible to vote and his ballot is hereby declared invalid. Since 16 of the 31 valid votes were cast for the Guild in the election, it will be unnecessary to open and count the 8 challenged ballots declared above to be valid, accordingly, we find

that the Guild has been chosen as the exclusive bargaining representative of the employees in the bargaining unit heretofore found to be appropriate.

#### CERTIFICATION OF REPRESENTATIVES

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, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended,

IT IS HEREBY CERTIFIED that Sacramento Newspaper Guild, Chapter 92, American Newspaper Guild (CIO) has been designated and selected by a majority of all employees of Sacramento Publishing Company, Ltd., Sacramento, California, in the Company's editorial and circulation departments, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the National Labor Relations Act, the aforesaid organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

MR. GERARD D. REILLY took no part in the consideration of the above Supplemental Decision and Certification of Representatives.