

In the Matter of HAZEL-ATLAS GLASS COMPANY AND CLARKSBURG PAPER COMPANY and FEDERATION OF GLASS, CERAMIC AND SILICA SAND WORKERS OF AMERICA, C. I. O.

*Case No. 6-R-1015.—Decided December 1, 1944*

*Messrs. W. G. Stuart Sherman and Jerome Black, for the Board. Messrs. James M. Guiher and Karl Weaver, of Clarksburg, W. Va., for the Company.*

*Holmes, Lewis & Menendez, by Mr. W. T. Lewis, of Columbus, Ohio, and Mr. Joseph Froesch, of Columbus, Ohio, for the CIO.*

*Messrs. Kenneth G. Jackson and George Dougherty, of Pittsburgh, Pa., for the Association.*

*Mr. W. G. Stathers, of Clarksburg, W. Va., and Messrs. Richard R. Lyman and Harry H. Cook, of Toledo, Ohio, for the Flints.*

*Miss Frances Lopinsky, of counsel to the Board.*

## DECISION

AND

## ORDER

### STATEMENT OF THE CASE

Upon a petition duly filed by Federation of Glass, Ceramic & Silica Sand Workers of America, C. I. O., herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Hazel-Atlas Glass Company and Clarksburg Paper Company, Clarksburg, West Virginia, herein individually called the Glass Company and the Paper Company, and collectively called the Company or Companies, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Clarksburg, West Virginia, on October 17, 19, and 20, 1944. The Company, the CIO, and National Association of Manufacturers of Pressed and Blown Glassware, herein called the Association, and American Flint Glass Workers Union of North America, A. F. of L., herein called the Flints, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The trial

59 N. L. R. B., No. 142.

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. Inasmuch as all issues were clearly presented at the hearing and in the briefs, oral argument requested by the Flints and the CIO is hereby denied.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANIES

Hazel-Atlas Glass Company, a West Virginia corporation, operates glass and mining properties throughout the United States. At its plant in Clarksburg, West Virginia, it is engaged in the manufacture and sale of various types of glass containers, such as glass jars, bottles, tumblers, tableware, food containers, and specialty items. The principal raw materials used at the Clarksburg plant are sand, soda-ash, and limestone. The total amount of raw and other materials used by the Glass Company at its Clarksburg plant during the year 1943 exceeded 61,000 tons in weight and \$500,000 in cost, approximately 95 percent of which was procured from outside the State of West Virginia. The total amount of finished products manufactured by the Glass Company at its Clarksburg plant in the year 1943 exceeded \$5,000,000 in value. Over 95 percent of these finished products was shipped from the Clarksburg plant to points outside the State of West Virginia.

Clarksburg Paper Company, a West Virginia corporation, has plants attached or adjacent to the plants of the Glass Company, to which all of the products of the Paper Company are sold. It is engaged in the manufacture and sale of corrugated fiber shipping containers. During the year 1943, the approximate value of the raw and other materials used by the Paper Company at its Clarksburg plant was in excess of \$1,000,000, of which approximately 100 percent was shipped to the Clarksburg plant from points outside the State of West Virginia. During 1943, the Paper Company sold and delivered its entire output of corrugated fiber shipping containers to the Glass Company at its plants within the State of West Virginia. The value of the Paper Company's finished products in 1943 was in excess of \$1,000,000.

The Companies admit and we find that they are engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

Federation of Glass, Ceramic and Silica Sand Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

American Flint Glass Workers Union of North America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

### III. THE ALLEGED APPROPRIATE UNIT; THE ALLEGED QUESTION CONCERNING REPRESENTATION

Although the Paper Company is a separate corporate entity from the Glass Company, it operates for all intents and purposes as a division of the Glass Company. Labor policy for both companies is determined by the same man. All parties are in agreement that whether the appropriate unit be plant-wide, as contended by the CIO, or association-wide, as contended by the Companies and the Flints, the Companies constitute one entity for the purposes of collective bargaining.

The National Association of Manufacturers of Pressed and Blown Glassware was organized in 1892, and exists for the sole purpose of bargaining for its members with the Flints. It admits to membership only glass companies engaged in what is termed the flint glass industry as distinguished from the bottle making industry. The Association is comprised of approximately 50 members, employing 20,000 individuals. In the entire industry, there are approximately 75 manufacturers with a total employment of approximately 30,000 individuals. The Association has authority to bind its members in all matters pertaining to collective bargaining with the Flints, with which it has bargained for 50 years. In addition to its rules and regulations and constitution which are reduced to writing, the Association enforces a set of unwritten rules and regulations which has grown by custom.

In 1937, the Company recognized the Flints as the exclusive bargaining representative of its employees. It was not at that time a member of the Association, but became a member prior to 1940. In 1940, a member of the CIO filed a charge against the Company alleging its assistance to the Flints' organization in 1937. In partial settlement of this charge, the Company, the Flints and the CIO entered into a consent election agreement covering the production and maintenance employees of the Company. The Flints won by a vote of 830 to 480. Thereafter the Company and the Flints entered into a series of local agreements. Each agreement is titled "Local Agreement" and contains a clause making it subordinate to the agreements reached by the Joint Council of the Association and the Flints International. Through the years from 1940 to 1944, the Company has been, and it now is an active member of the Association. No provision in the local contracts runs counter to any provision of the general contracts printed yearly by the International. The grievance procedure, as set out in the local contracts, is taken verbatim from the

master agreement. The master agreement provides for minimum wages job by job, and for hours, working conditions, and a grievance procedure including last resort to the Joint Council. It further provides for local handling of all local problems and for all matters not covered by the master agreement.

The CIO contends that because the Company acceded to the consent election agreement in 1940 without participation of the Association, because voting in the 1940 election was confined to employees of the Company's plant, and because the election was followed by a series of local agreements, the association-wide unit has been repudiated by the Company and its employees and a plant-wide unit has been established and is appropriate.<sup>1</sup> We find no merit in this contention. The consent election agreement concerned the legality of the Company's recognition of the Flints in 1937, a local problem which did not concern the Association except collaterally. Not only do the circumstances of the election make it improbable that the issue of scope of unit was then involved, but also, if the issue was involved, it may be inferred that the Company's employees affirmed the multiplant unit by selecting the Flints, because, at the time of the election, the Flints was representing them in such a unit. In any event, the consent election did not preclude the effective assimilation of the Company's employees into a unit of broader scope through collective bargaining following that election.<sup>2</sup> Nor does the fact that the Company and the Flints have operated under local agreement affect the scope of the unit. The practice is common among employer associations handling labor relations to allow and encourage local agreements to implement the association-wide agreement.<sup>3</sup>

Under all the circumstances we find that the bargaining between the Company and the Flints has been on an association-wide basis.<sup>4</sup> We further find that the unit requested by the CIO is, therefore, inappropriate, and that accordingly, no question concerning representation of employees of the Company in an appropriate bargaining unit has arisen within the meaning of Section 9 (c) of the Act. We shall therefore dismiss the petition.

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<sup>1</sup> That the employees considered themselves as part of the association-wide unit is evidenced by the following resolution, passed August 3, 1944, by Local 569 of the Flints, which represents miscellaneous employees in the Company's plant: that members of Local No. 569 "will not be a party to, or be bound by any contract or agreement entered into after this date by or between the Manufacturing Association . . . the Hazel-Atlas Glass Company, and the American Flint Glass Workers' Union of North America."

<sup>2</sup> See *Matter of Bethlehem-Fairfield Shipyard, Inc.*, 58 N. L. R. B. 579.

<sup>3</sup> See *Matter of New Bedford Cotton Mfg. Association*, 47 N. L. R. B. 1345; *Matter of Central Foundry Company*, 48 N. L. R. B. 5; *Matter of Potlatch Forests*, 51 N. L. R. B. 288 and 52 N. L. R. B. 1377; *Matter of Detroit Michigan Stove Company*, 55 N. L. R. B. 1514.

<sup>4</sup> See *Matter of Alston Coal Company*, 13 N. L. R. B. 683; *Matter of Stevens Coal Company*, 19 N. L. R. B. 98; *Matter of Rayonier, Inc., Gray's Harbor Div.*, 52 N. L. R. B. 1269.

## ORDER

Upon the basis of the foregoing findings of fact and the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Hazel-Atlas Glass Company and Clarksburg Paper Company, Clarksburg, West Virginia, filed by Federation of Glass, Ceramic and Silica Sand Workers of America, C. I. O., be, and it hereby is, dismissed.