

In the Matter of ALEXANDER BROTHERS LUMBER COMPANY, INC.,
EMPLOYER and INTERNATIONAL WOODWORKERS OF AMERICA, CIO,
PETITIONER

Case No. 10-RC-114.—Decided August 18, 1948

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organization named below claims to represent employees of the Employer.

3. A question of representation exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.¹

4. The Petitioner contends that production and maintenance employees at the Employer's Columbus, Georgia, plant, including checkers, tally men, employees in the yard and dry kiln, and workers in the sawmill and planing mill, but excluding the independent trucker and his helper, subcontractors operating away from the plant, their crews and employees, retail and wholesale office clerks, salesmen, office clerical, guards, watchmen, professional employees, and supervisors,

*Houston, Reynolds, and Gray.

¹The Employer moved to dismiss the petition upon the grounds that there was (1) no showing of interest by the Petitioner and (2) no proof that Petitioner is in compliance with Section 9 (f), (g), and (h) of the Act. Inasmuch as the showing of interest is an administrative matter (see *Matter of Southern Advance Bag & Paper Co., Inc.*, 75 N. L. R. B. 614), and according to our investigation, the Petitioner is in complete compliance with the aforesaid section, we find no merit in the Employer's motion.

constitute an appropriate unit. The Employer contends that workers in the sawmill and planing mill are employees of independent contractors, and, therefore, should be excluded from the unit.

The Employer's production processes consist of three operations: (1) the sawmill, (2) the yard or kiln drying, and (3) the planing mill. The Employer purchases the majority of its lumber in the form of boards. Approximately 5 percent of its lumber purchases, however, are in the form of logs which go through the sawmill process to be made into boards. All boards go through the planing mill operations.

The sawmill and planing mill are distinct operations on the Employer's premises, but they are not roped or marked off from the Employer's surrounding plant property. The workers in both mills pass freely over the Employer's surrounding property. All the workers in the plant, including sawmill and planing mill workers, use the same facilities, are subject to the same protective regulations and are covered by insurance carried by the Employer. All workers received similar wage increases, and Christmas bonuses were given by the Employer to all workers including those in the sawmill and the planing mill. As labor shortage develops, employees are transferred temporarily from one operation to another.

The Employer's sawmill is operated by Sam King and a crew of six workers. The Employer pays King for his services on the basis of a certain rate per thousand board feet of lumber sawed. King hires and discharges the members of the sawmill crew. He keeps their time records. He submits his records to the Employer, who gives him a check for the amount covering wages for the crew. King cashes the check and pays the crew in cash, retaining and paying the withholding and social security taxes. This amount is then deducted from the amount due King for the lumber sawed. During the frequent intervals when there is no lumber to be sawed, King and the sawmill crew do other work for the Employer.

Boards dried in the yard or kiln are sent through the planing mill for dressing, an essential operation for the Employer's sale of boards. The planing mill is operated by Bryant Ingram and the planing crew. Before the war, Ingram operated the planing mill admittedly as an employee of the Employer on a salary basis. Upon Ingram's return after the war, the Employer alleges that Ingram became an independent contractor, paid on the basis of certain rates per thousand board feet of lumber planed. The method of payment to Ingram was apparently the only change made in the planing mill operations.

Ingram hires and discharges members of the planing crew. He keeps their time records which he submits to the Employer. The Em-

ployer then pays the planing crew their wages with the Employer's check, deducting their withholding and social security taxes. This total amount is deducted from the sum due Ingram for the lumber planed during the pay period. The Employer may instruct Ingram as to the manner of operation and Ingram may consult the Employer for advice or suggestions.

The Employer furnishes the property, equipment, and power for the sawmill and planing mill operation without rent or lease. The respective operators work exclusively for the Employer and they may not make substantial changes in the equipment without the permission of the Employer.

Upon the above facts, particularly the close integration of the three operations necessary for the Employer's final production, the dependence of King and Ingram upon the Employer's facilities and arrangements for their operation, the Employer's control over their operations, and the interchange of employees, we find that King and Ingram are not independent contractors but supervisors of the Employer and that the sawmill crew and planing mill crew are employees of the Employer and properly included in the unit.²

Therefore, we find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act: All production and maintenance employees at the Employer's Columbus, Georgia, plant, including checkers, tally men, employees in the yard and dry kiln, and employees in the sawmill and planing mill operations, but excluding the independent trucker and his helper, subcontractors operating away from the plant, their crews and employees, retail and wholesale office clerks, salesmen, office clerical, guards, watchmen, professional employees, and supervisors as defined by the Act.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, among the employees in the unit found appropriate in paragraph numbered 4, above,

² See *Matter of Morris Steinberg and Julian Leslie Steinberg, a Louisiana Partnership, d/b/a Steinberg & Company*, 78 N. L. R. B. 211.

who were employed during the pay-roll period immediately preceding the date of this Direction of Election, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for purposes of collective bargaining, by International Woodworkers of America, CIO.