In the Matter of AIR CONDITIONING COMPANY OF SOUTHERN CALIFORNIA, ET AL.,[1] EMPLOYERS *and* REFRIGERATION FITTERS PROTECTIVE ASSOCIATION, ALSO KNOWN AS LOCAL 508, PETITIONER

Case No. 21–RC–38.—Decided October 15, 1948

DECISION

AND

ORDER

Upon an amended petition duly filed, a hearing in this case 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.

Upon the entire record in this case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYERS

All 50 Employers herein are residents of the State of California. Each Employer is a contractor engaged in the installation of com-

[1] There are 50 Employers involved in this proceeding. The following 31 Employers are members of the Refrigeration Contractors Association, Inc., hereinafter referred to as the Association: The Air Conditioning Company of Southern California, Baker Ice Machine Company, Inc, Cooling and Refrigeration Company, Hal Crumbly Company, Hieatt Engineering Company, Ralph E. Manns Company, National Refrigeration Company, Pacific Refrigeration Company, Perfecold Refrigeration Company, Temperature Engineering Company, Independent Refrigeration Company, Viking Sales Corporation, George M Cox Company, Associated Refrigeration Engineers, Western Air and Refrigeration, Inc., Gay Engineering Company, W. S. Kilpatrick Company, Parsons Refrigeration Service, Elsters, Commercial Refrigeration Company, Commerfords Refrigeration Company, Hugh Robinsons and Sons, Dell Smith Company, Inc., Kohlenberger Refrigeration Corp, Black and Patteson, Neilson Equipment Company, Cook & Price Refrigeration, Jennings Refrigeration Company, Cooles Incorporated Organization and Valley Temperature Control, H. H. Newton Company, York Corporation.

Neel Refrigeration Company, and Thompson Refrigeration Service are former members of the Association.

The following 17 Employers are non-members of the Association: Ampreneer, Alcan Refrigeration and Engineering Co., B. and M. Electric & Refrigeration Company, Coles Battery & Ignition Service, Cold Kraft Company, Jim Dandy's Markets, Inc., M. H. Fitch Company, Hokanson Company, Inc., Globe Ice Machine Company, Liquid Carbonic Pacific Corporation, Ltd, McWhinnie Electric Corp., Port Refrigeration, John Rogers & Son, R. B. Stevens, Southwest Refrigeration Company, Vernon Refrigeration & Electric Co., and Ritz Plumbing Company. The names of the Employers appear as amended at the hearing.

mercial refrigeration in stores, movie houses and apartments. The principal materials and/or machinery used by the Employers are condensors, evaporators, compressors, copper tubing, and valves. The record indicates that approximately 90 percent of these materials and/or machinery is manufactured outside the State of California.

During 1947, the total purchases made by the Employers amounted to approximately $15,373,000, of which approximately $5,998,000 represented purchases made outside the State of California. During this same period, the total sales made and services rendered by the Employers amounted to approximately $23,091,944, of which $2,250,670 or 10 percent, represented sales made and services rendered outside the State of California.

While the evidence is incomplete as to the exact interstate character of the purchases, sales, and services of certain individual Employers, the impact on interstate commerce of the totality of all the Employers' operations is apparent. Without determining whether or not the Board would assert jurisdiction as to each Employer were it before the Board individually, we find for purposes of this proceeding and contrary to the contention of the Intervenors that the Employers are engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

The Petitioner is an unaffiliated labor organization claiming to represent employees of the Employer.

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL, and its Local 250, herein called Intervenors, are labor organizations affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

III. THE ALLEGED APPROPRIATE UNIT

The Petitioner seeks a multi-employer unit of all refrigeration fitters and apprentices employed by the 50 Employers (consisting of the 31 members of the Association, the 2 former members and the 17 non-member Employers). The Intervenors oppose the 50-employer unit upon the ground that there is no history of bargaining in a multi-employer unit by the 17 non-members of the Association. The Association takes a neutral position with respect to the requested unit. The 17 non-member Employers were not represented at the hearings; therefore, their position with respect to the unit is not indicated. Neel Refrigeration Company and Thompson Refrigeration Service, who were former members of the Association, but who resigned after the

petition was filed in this proceeding, appeared at the hearing and requested that they be excluded from any multi-employer unit that might be found appropriate.

The petitioner relies solely upon the history of collective bargaining to support its request for a multi-employer unit of 50 Employers. On January 1, 1947, the Association, for and on behalf of its members, negotiated a master collective bargaining agreement with the Petitioner. There is no evidence, however, that the 17 non-members of the Association participated in these negotiations. Without any semblance of bargaining, the 17 non-members signed agreements identical to the master agreement executed by the Association. This course of conduct cannot be considered as true collective bargaining on a multi-employer basis covering employees of both the members of the Association and the 17 non-members, particularly as the latter were in no way obligated to follow the Association's lead.[2] We find, therefore, the unit sought by the Petitioner is inappropriate.

As we have held that the bargaining unit sought by the Petitioner is inappropriate for collective bargaining purposes, we find that no question affecting commerce exists concerning the representation of employees of the Employers, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the National Labor Relations Act. The petition, therefore, will be dismissed.[3]

ORDER

Upon the basis of the entire record in this case, the National Labor Relations Board hereby orders that the petition herein be, and it hereby is, dismissed.

MEMBER REYNOLDS took no part in the consideration of the above Decision and Order.

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[2] *Matter of Advance Tanning Company et al.*, 60 N. L. R. B. 923.

[3] In view of our dismissal of the petition on the ground that the unit sought by the Petitioner is inappropriate, we find it unnecessary to resolve other issues raised by the Intervenors.