

In the Matter of ALBRECHT LIQUOR COMPANY, EMPLOYER and DISTILLERY, RECTIFYING AND WINE WORKERS' INTERNATIONAL UNION OF AMERICA, AFL, PETITIONER

*Case No. 14-RC-225*

SUPPLEMENTAL DECISION

ORDER

AND

DIRECTION OF ELECTION

*November 22, 1948*

On October 1, 1948, the Board<sup>1</sup> issued a Decision and Order<sup>2</sup> dismissing the petition in the above-entitled case. Thereafter the Petitioner filed a Motion to Set Aside Order and the Employer filed suggestions in Opposition to Petitioner's Motion to Set Aside Order.

The petition was dismissed in the original Decision on the basis of *Matter of Advance Pattern Company*, 79 N. L. R. B. 209, in which the Board held that failure to answer properly question 12<sup>3</sup> on a petition rendered the petition fatally defective. In a Supplemental Decision, however, in *Matter of Advance Pattern Company*, 80 N. L. R. B. 29, the Board reconsidered and reversed its original Decision. Accordingly, for the reasons set forth in that Supplemental Decision, and as the parties stipulated at the hearing that the Employer refused to recognize the Petitioner absent a Board certification, our ruling upon the Employer's motion to dismiss this proceeding for failure to answer question 12 is hereby reversed and the motion is denied.

The Employer's motion to dismiss was based also upon the ground that the petition did not show that the Petitioner had complied with

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<sup>1</sup> 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 [Houston, Murdock, and Gray].

<sup>2</sup> 79 N. L. R. B. 1249.

<sup>3</sup> This question reads as follows: "Has the Petitioner notified the Employer of claim that a question concerning representation has arisen?" and "Has the Employer failed to recognize the Petitioner?"

the filing requirements of Section 9 (f), (g), and (h) of the Act. Compliance with these filing requirements is, however, a matter for administrative determination not subject to collateral attack by the parties.<sup>4</sup> Furthermore, we are administratively satisfied that the Petitioner has complied with Section 9 (f), (g), and (h).

Accordingly, we find that a question affecting commerce 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, which can best be resolved by holding an election. We shall, therefore, grant the Petitioner's motion to set aside our original Decision and Order, and shall direct that an election be held.

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 wine and liquor salesmen at the Employer's place of business in St. Louis, Missouri, excluding guards, clerical and professional employees, and all supervisors.

### ORDER

IT IS HEREBY ORDERED that the Decision and Order in the above-entitled matter, issued by the Board on October 1, 1948, be, and it hereby is, vacated and set aside.

### 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, as amended, among the employees in the unit found appropriate above, 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 Distillery, Rectifying and Wine Workers' International Union of America, AFL.

<sup>4</sup> *Matter of Lion Oil Company*, 76 N. L. R. B. 656.