

In the Matter of **MACKENZIE AWNING COMPANY, AWNING MANUFACTURING COMPANY, EMPLOYER AND PETITIONER and UPHOLSTERERS' INTERNATIONAL UNION, A. F. L. and LOCAL 877, AWNING, TENT, CANVAS AND DISPLAY DECORATORS UNION, UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, A. F. L.**

Case No. 7-RM-18.—Decided December 16, 1949

**DECISION
AND
DIRECTION OF ELECTION**

Upon a petition duly filed, a hearing was held before George A. Sweeney, hearing officer. 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 power in connection with this case to a three-member panel [Chairman Herzog and Members Reynolds and Gray].

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

1. MacKenzie Awning Company manufactures and sells canvas products, other than awnings, principally for use by the United States Government. It also sells awnings made for it by Awning Manufacturing Company. Both companies are partnerships, the former being composed of four members of the MacKenzie family, and the latter of the same four persons and one Peter Ruff. Awning Manufacturing Company itself makes no purchases or sales, both being made for it by MacKenzie. Financial adjustments are made through intercompany bookkeeping accounts. The parties agree that for all purposes material herein, the two partnerships are one. They are therefore referred to herein as the Employer.

The Employer annually purchases goods to the value of about \$250,000, of which approximately 95 percent is received from sources outside the State of Michigan. Total annual sales amount to about \$400,000, of which 95 percent represents sales to the United States Government. About 80 percent of the Employer's products are shipped to points outside Michigan.

The Employer concedes, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.¹

2. Upholsterers' International Union A. F. L., herein called the Upholsterers, and Local 877, Awning, Tent, Canvas and Display Decorators Union, United Brotherhood of Carpenters & Joiners of America, A. F. L., herein called the Display Decorators, are labor organizations claiming to represent certain employees of the Employer.

3. 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.

4. The Employer and the Upholsterers agree that the appropriate unit should include all employees of the Employer, excluding office clerical and professional employees, salesmen, guards, and supervisors. The Display Decorators contends that the unit should also include the employees of C & Z Erection Company, formerly Canvas Manufacturers Erection Company.

The record shows that Canvas Manufacturers Erection Company was owned and operated by the Employer until May 1, 1949, when it sold the business to two former employees who formed the partnership known as C & Z Erection Company. Although the greater part of C & Z's business during the first 6 months of its existence has been erection work for the Employer, C & Z functions as an independent company, paying its own employees by checks drawn by it on a bank account held in its own name. Returns and reports required by law to be submitted to government authorities by associations and corporations have been filed in the name of C & Z Erection Company. There is no evidence that the sale was other than bona fide. In view of the fact that the employees of C & Z are not employees of the Employer, we shall exclude them from the unit.

Accordingly, we find that all employees of MacKenzie Awning Company and Awning Manufacturing Company, Detroit, Michigan, excluding office clerical and professional employees, salesmen, guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

¹ *MacKenzie Awning Company*, 57 NLRB 489. In *Detroit Canvas Manufacturers Association*, 80 NLRB 267, the Board refused to assert jurisdiction over a group of canvas products manufacturers, including the Employer, upon the ground that their business was essentially local in nature. However, in that case the record was silent as to the customers of the employers. That deficiency has been corrected in this case. Moreover, the volume of the Employer's business has increased considerably since the hearing in the *Detroit Canvas Manufacturers* case.

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, among the employees in the unit found appropriate in paragraph numbered 4, 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 they desire to be represented, for purposes of collective bargaining, by Upholsterers' International Union, A. F. L., or by Local 877, Awning, Tent, Canvas and Display Decorators Union, United Brotherhood of Carpenters & Joiners of America, A. F. L., or by neither.