In the Matter of COEUR D'ALENE GROCERS ASSOCIATION, EMPLOYER AND PETITIONER *and* RETAIL CLERKS, INTERNATIONAL ASSOCIATION, AFL, UNION

Case No. 19-RM-37.—Decided January 11, 1950

DECISION

AND

ORDER

Upon a petition duly filed, a hearing was held before Howard A. McIntyre, hearing officer. 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 Board finds:

1. The Petitioner is an association representing 9 independently owned grocery stores, located in Coeur d'Alene, Idaho. Coeur d'Alene is a city of approximately 12,000 persons located about 15 miles from the State of Washington boundary line. It is a resort community situated on a main highway going into Spokane, Washington. The Petitioner testified that its employer-members purchase wholesale products valued in excess of $1,500,000 annually from the State of Washington, and that this amount constitutes about 95 percent of the total wholesale purchases. In addition to supplying 90 percent of the groceries and meats sold to citizens of Coeur d'Alene, the employer-members sell merchandise to transients and to residents of neighboring areas, including residents of the State of Washington. Further, they sell a considerable volume of goods to a United States Government agency, namely, the Forest Service. It was estimated that approximately 10 percent of the retail products sold by the Petitioner's members goes into interstate commerce.

The totality of the operations of the Petitioner's members clearly has an impact on interstate commerce. Without determining whether or not the Board would assert jurisdiction as to each member-employer were it before the Board individually, we find, and the Petitioner admits, that for the purposes of this proceeding, the employers are engaged in commerce within the meaning of the Act.

2. The labor organization involved claims to represent employees of employer-members of the Petitioner.

3. No question affecting commerce exists concerning the representation of the employees involved within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

The Employer-Petitioner asserts that a multiple-employer unit, composed of employees of its nine member employers, is appropriate. The Union contends that a multiple-employer unit is inappropriate, inasmuch as the Union does not request recognition for but five of the nine stores, and that, for this reason, no question of representation exists.

Although formerly the Petitioner and the Union have negotiated upon a multiple-employer basis, at the hearing the Union flatly stated that it "has never claimed to represent" the employees of four of the nine employer-members of the Petitioner, and does not now request recognition as their bargaining agent. Thus the Union has abandoned any claim to represent such employees, and no labor organization is seeking to represent employees in the unit alleged in the petition. As we pointed out in the *Ny-Lint* case,[1] in a similar situation:

> The Union has thereby abandoned its right to represent these employees, and has waived any obligation the Employer may have had to recognize it as the bargaining representative of such employees. In the absence of a claim by the Union to represent the employees in the aforesaid unit, a question concerning representation does not exist, and the Board is, under these circumstances, without jurisdiction to proceed with its investigation under Section 9 (c) (1) of the Act, as amended.

We shall, therefore, dismiss the petition.

ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

[1] 77 NLRB 642.