

A. M. MAXWELL, D/B/A MAXWELL WALLPAPER COMPANY and WILLIAM P. SALZMAN, PETITIONER and UNITED WALLPAPER CRAFTSMEN AND WORKERS OF NORTH AMERICA, AFL. *Case No. 13-RD-85. March 26, 1951*

### Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Irving M. Friedman, 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 Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Houston, Murdock, and Styles].

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

1. The Employer is engaged in commerce within the meaning of the Act.<sup>1</sup>

2. The Petitioner, an employee of the Employer, asserts that the Union is no longer the bargaining representative of the Employer's employees involved herein.

The Union is a labor organization currently recognized by the Employer as the exclusive bargaining representative of the Employer's employees.

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.

3. The appropriate unit:

The Union contends that the single-employer unit of the Employer's employees in which decertification is sought is not appropriate because, it alleges, the Employer has participated in multiemployer bargaining, and because, in any event, the Employer has customarily adopted the collective bargaining contracts resulting from multiemployer bargaining. The Employer asserts that it has not participated and does not desire to participate in multiemployer bargaining.

For approximately 13 years, approximately 22 employers in the wallpaper industry have bargained collectively with the Union on a multiple-employer basis through the Employers' Committee on Labor Relations of the Wallpaper Institute of America, hereinafter called the Committee and the Institute, respectively. The standard agreement resulting from such negotiations has been individually signed and separately executed by the participating employers and by approxi-

<sup>1</sup> *Stanslaus Implement and Hardware Company, Limited*, 91 NLRB 618.

93 NLRB No. 151.

mately 10 independent employers. Although the Employer herein has, since 1946, signed the standard agreement, at no time has it been a member of the Committee or the Institute, participated directly or through its authorized representatives in the joint negotiations, or delegated its bargaining authority to the Committee or the Institute. However, in 1948 the Employer signed a consent agreement to an industry-wide union authorization election, including employees of the Employer.<sup>2</sup> The last contract between the Union and the Employer expired, along with the contracts the Union had with other employers in the industry, in August 1950. Thereafter, all employees represented by the Union in the industry went on strike. The Employer herein negotiated individually with the Union for the return of its employees to work, but the negotiations were not successful. The strike was subsequently settled by negotiations between the Union and the Committee, and all employees, including those of the Employer herein, returned to work.

The Board has held that although an employer, as in the instant case, has customarily adopted a standard industry contract, this does not itself provide a sufficient basis for the inclusion of its employees in a unit with those of other employers.<sup>3</sup> The only indication that the Employer herein bargained jointly is its participation in 1948 in the union-authorization election in a multiple-employer unit. However, the Employer thereafter negotiated individually with the Union for an agreement to succeed the 1950 contract. Moreover, there is no existing bargaining agreement between the Union and the Employer, and at the hearing the Employer indicated its desire not to participate in multiemployer bargaining.

Under the foregoing circumstances, we find that a unit confined to the employees of the Employer is appropriate.<sup>4</sup> We therefore find that all craftsmen and workers of the Employer at its Hartland, Illinois, plant, excluding office and clerical employees, guards, professional employees, and supervisors, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.<sup>5</sup>

[Text of Direction of Election omitted from publication in this volume.]

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<sup>2</sup> Case No. 13-UA-1276

<sup>3</sup> *Pacific Metals Company, Ltd., et al.*, 91 NLRB 696

<sup>4</sup> *Pacific Metals Company, Ltd., et al., supra*; *Morand Brothers Beverage Co., et al.*, 91 NLRB 409. Also cf. *Engineering Metal Products Corporation*, 92 NLRB 823.

<sup>5</sup> The parties are in agreement as to the composition of the unit.