

In the Matter of CENTRAL CALIFORNIA PACKING COMPANY and DRIED  
FRUIT, NUT PACKERS, DEHYDRATORS AND WAREHOUSEMEN'S LOCAL  
UNION #616

*Case No. 20-R-1655.—Decided April 30, 1946*

*Mr. Iener W. Nielsen*, of Fresno, Calif., for the Company.

*Mr. Pat. A. Renna*, of Fresno, Calif., for the Union.

*Mr. James Zett*, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

Upon a petition duly filed by Dried Fruit, Nut Packers, Dehydrators and Warehousemen's Local Union #616, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Central California Packing Company, Del Rey, California, herein called the Company, the National Labor Relations Board on February 13, 1946, conducted a pre-hearing election pursuant to Article III, Section 3,<sup>1</sup> of the Board's Rules and Regulations among employees of the Company in the alleged appropriate unit, to determine whether or not they desired to be represented by the Union for the purposes of collective bargaining.

At the close of the election a Tally of Ballots was furnished the parties. The Tally showed that there were approximately 35 eligible voters and that 26 of these eligible voters cast ballots, of which 23 were for the Union, and 3 were challenged.

Thereafter pursuant to Article III, Section 10,<sup>2</sup> of the Rules and Regulations, the Board provided for an appropriate hearing upon due notice before David Aaron, Trial Examiner. The hearing was held at Fresno, California, on March 15, 1946. The Company and the Union

<sup>1</sup> By amendment of November 27, 1945, this Section of the Rules now permits the conduct of a secret ballot of employees prior to hearing in cases which present no substantial issue.

<sup>2</sup> As amended November 27, 1945, this Section provides that where the initial hearing is held after the election all issues, including issues with respect to the conduct of the election or conduct affecting the election results and issues raised by challenged ballots, shall be heard at such hearing

appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

Central Packing Company is a co-partnership consisting of Nerces Azadian and Melvin Azadian. The Company's principal place of business is located at Del Rey, California, where it is engaged in the processing and packaging of dried raisins. The Company also maintains a ranch with which we are not concerned in this proceeding.

During the calendar year 1945, the Company processed dried raisins valued in excess of \$50,000, approximately 90 percent of which was sold and shipped to points outside the State of California.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

##### II. THE ORGANIZATION INVOLVED

Dried Fruit, Nut Packers, Dehydrators and Warehousemen's Union, Local #616, is a labor organization, affiliated through the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, with the American Federation of Labor, admitting to membership employees of the Company.

##### III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the bargaining representative of its employees in the alleged appropriate unit.

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

##### IV. THE APPROPRIATE UNIT

Both parties agree that all production and maintenance employees at the Company's plant, excluding office employees and supervisors, constitute an appropriate unit. The election was held among these employees. By challenging the vote of Marcel Adams, the Company

raised an issue concerning the propriety of including this individual in the unit. Marcel Adams is a bonded warehouseman who works on the premises of the Company, but is employed and paid by the Haslett Warehouse Company. Since he is not an employee of the instant company, we shall exclude him from the appropriate unit, and sustain the challenge.

We find, substantially in accordance with the agreement of the parties, that all production and maintenance employees at the Company's plant, excluding the bonded warehouseman, office employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

The Company seeks to set aside the election on the ground that a group of its employees "were improperly importuned to vote" and were "coerced" into voting. The basis of this charge is that toward the close of the polls a union representative accosted a group of hesitant employees "in front,"<sup>3</sup> shamed them for not joining the rest of the "gang," and successfully urged them to vote. Verbal persuasion is not coercion where, as here, there is a total absence of intimidation and violence. Moreover the Company's observer testified that no irregularity and no electioneering transpired at the polls. We conclude that the charge of coercion is without the slightest foundation, and that no electioneering took place "at or near the polls."<sup>4</sup>

The results of the election held previous to the hearing show that the Union has secured a majority of the valid votes cast and that the challenged ballots<sup>5</sup> are insufficient in number to affect the results of the election. Under these circumstances, we shall not direct that the challenged ballots be opened and counted but instead we shall certify the Union as the collective bargaining representative of the employees in the appropriate unit.

<sup>3</sup>The record does not indicate whether "in front" refers to the Company's plant or to the American Legion Hall inside of which the polls were located.

<sup>4</sup>See *Matter of Rowe Manufacturing Company*, 51 N L R B 63; *Matter of Gutnam and Company*, 46 N. L. R. B. 1184, and *Matter of National Sugar Refining Company*, 4 N L R B 276

<sup>5</sup>The Union challenged the votes of two employees on the ground that they were on the ranch pay roll on the day of the election. It is pertinent to note that the Company maintains a ranch with a pay roll separate and distinct from that of the plant. Several employees of the Company alternate between the Company's plant and ranch, but whenever a change occurs, they are immediately transferred to the proper pay roll. Except for the two challenges by the Union, admittedly all votes were cast by employees who were on the plant pay roll on the eligibility date.

## CERTIFICATION OF REPRESENTATIVES

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended,

IT IS HEREBY CERTIFIED that Dried Fruit, Nut Packers, Dehydrators and Warehousemen's Local Union #616, A. F. of L., has been designated and selected by a majority of all production and maintenance employees of Central California Packing Company, Del Rey, California, excluding the bonded warehouseman office employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.