

In the Matter of HILLARY YOUNG, DOING BUSINESS AS YOUNG PATROL SERVICE, EMPLOYER and SHIP CLERKS' ASSOCIATION, LOCAL 34, GATEMEN'S & WATCHMEN'S UNIT, ILWU, CIO, PETITIONER

*Case No. 20-R-1768.—Decided August 12, 1946*

*Messrs. Dreher, McClellan & McCarthy*, by *Mr. J. Ed McClellan*, of San Francisco, Calif., for the Employer.

*Messrs. Gladstein, Anderson, Resner, Sawyer & Edises*, by *Mr. Norman Leonard*, of Oakland, Calif., for the Petitioner.

*Miss Kathleen Griffin* and *Mr. H. C. Banks*, of San Francisco, Calif., for the Intervenor.

*Mr. Benj. E. Cook*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at San Francisco, California, on June 13, 1946, before Thomas J. Davis, Jr., Trial Examiner. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Hillary Young, doing business as Young Patrol Service, has his office and place of business in San Francisco, California, where he is engaged in supplying civilian watchmen and guards for ships, terminals, docks, piers, warehouses and other shipping installations located in San Francisco Bay and its tributaries. The Employer also furnishes similar services for office buildings, stores, residences, hotels, public gatherings, railroad companies, manufacturing plants, and other establishments located in the San Francisco area. At the time of the hearing, there were approximately 305 guards and watchmen in the Employer's employ, approximately 240 of whom rendered patrol service to several steamship companies, all of which are engaged in interstate commerce. The Employer's annual receipts for such services rendered are substantial.

We find that the Employer is engaged in commerce within the meaning of the National Labor Relations Act.<sup>1</sup>

## II. THE ORGANIZATIONS INVOLVED

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer. Seafarers' International Union of North America, herein called Intervenor, is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

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

## IV. THE APPROPRIATE UNIT

The Employer and the Petitioner are in agreement that a unit composed of all waterfront guards and watchmen, exclusive of supervisory and office employees is appropriate. The Intervenor would also include uptown guards and watchmen.

The Company divides its protection services into two general classifications, namely, "waterfront" and "uptown." Waterfront guards work on ships, piers, and docks, and at warehouses and other installations identified with the shipping industry in the San Francisco Bay area, whereas, the uptown guards work in stores, hotels, and similar establishments. The duties of the waterfront guards entail considerably greater exertion and risk of injury than do those of the uptown guards. For many years the Employer has maintained a rule against the assignment of uptown guards to waterfront duty, although on occasions waterfront guards may be assigned to uptown duty. There has been no collective bargaining history covering the guards of the Employer, and the Petitioner has not sought to organize the uptown guards because of its limited jurisdiction. We are of the opinion that waterfront guards have sufficiently similar duties and interests to warrant their segregation in a separate unit for the purposes of collective bargaining.

We find that all guards and watchmen of the Employer assigned to waterfront operations, but excluding office employees, sergeants<sup>2</sup>

<sup>1</sup> The Employer admits that with respect to his waterfront operations, he is engaged in commerce.

<sup>2</sup> The parties agreed and we find that sergeants possess supervisory authority within the Board's customary definition.

and all or any other 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

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot, subject to the limitations and additions set forth in the Direction.

The Petitioner requests that the election be conducted by mail. The Employer offered no objection to the request, but the Intervenor urges a manual ballot. Inasmuch as the Regional Director is authorized to conduct elections in such manner as he deems advisable and expedient under the circumstances presented, we shall leave the determination of the methods to be employed in the conduct of the instant election to the Regional Director's discretion.<sup>3</sup>

#### DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Hillary Young, doing business as Young Patrol Service, San Francisco, California, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Twentieth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Series 10 and 11, of National Labor Relations Board Rules and Regulations—Series 3, as amended, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, 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, to determine whether they desire to be represented by Ship Clerk's Association, Local 34, Gatemen's & Watchmen's Unit, ILWU, CIO, or by Seafarers' International Union of North America, AFL, for the purposes of collective bargaining, or by neither.

<sup>3</sup> See *Matter of Tamiami Trail Tours, Inc.*, 64 N. L. R. B. 100.