

In the Matter of ACME BOOT MANUFACTURING COMPANY, INC.;  
EMPLOYER and UNITED RUBBER, CORK, LINOLEUM & PLASTIC WORKERS  
OF AMERICA, C. I. O., PETITIONER

*Case No. 10-R-1861.—Decided September 5, 1946*

*Mr. Joseph Martin*, of Nashville, Tenn., for the Employer.  
*Mr. Edward L. Wertz*, of Louisville, Ky., for the Petitioner.  
*Mr. Arthur Christopher, Jr.*, of counsel to the Board.

DECISION  
AND  
CERTIFICATION OF REPRESENTATIVES

Upon a petition duly filed, the National Labor Relations Board on June 25, 1946, conducted a prehearing election among employees of the Employer, in the alleged appropriate unit, to determine whether or not they desire to be represented by the Petitioner for the purposes of collective bargaining.

At the close of the election a Tally of Ballots was furnished the parties. The Tally shows that there were approximately 262 eligible voters and that 207 of these eligible voters cast ballots, of which 129 were for the Petitioner, 66 were against the Petitioner, and 12 were challenged.<sup>1</sup>

Thereafter, a hearing was held at Clarksville, Tennessee, on July 8, 1946, before Albert D. Maynard, 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

Acme Boot Manufacturing Company, Inc., a Tennessee corporation, operates a plant at Clarksville, Tennessee, where it is engaged in the

<sup>1</sup> Of the 12 challenged ballots, only that of Armond T. Ford was placed in issue at the hearing. We shall, accordingly, make no determination as to the remaining 11 challenged ballots. In any event, however, it is clear that these ballots are insufficient in number to affect the election results

manufacture, sale, and distribution of leather cowboy boots. During 1945, the Employer purchased raw materials valued in excess of \$100,000, of which amount 90 percent represented shipments to its plant from sources outside the State of Tennessee. During the same year, the Employer sold in excess of \$125,000 worth of finished products manufactured at this plant, of which 95 percent represented shipments to points outside the State.

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

#### II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.<sup>2</sup>

#### III. THE QUESTION CONCERNING REPRESENTATION

The Employer has refused to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer in the alleged 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

We find, in accordance with the agreement of the parties at the hearing, that all production and maintenance employees of the Employer excluding office and clerical employees, and all supervisory employees<sup>3</sup> 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.<sup>4</sup>

#### V. THE DETERMINATION OF REPRESENTATIVES

The results of the election held previous to the hearing show that the Petitioner has secured a majority of the valid votes cast, irrespec-

<sup>2</sup> The Employer, relying on the fact that it is engaged in an industry different from any of the industries covered by the jurisdictional clause of Petitioner's constitution, contends, in effect, that its employees are ineligible to membership in the Petitioner and that consequently the Petitioner is incompetent to represent them. We find no merit in the contention of the Employer. We have uniformly held that the constitutional right of a petitioning labor organization to accept certain employees as members is immaterial in the absence of any proof that the labor organization will not adequately represent such employees. See *Matter of A S Campbell Co, Inc*, 69 N L R B 1285, and cases cited therein.

<sup>3</sup> This includes Armond T. Ford, the maintenance man, whose ballot was challenged at the prehearing election by the Employer on the ground that he was a supervisor. At the hearing, however, the parties agreed and we find that he is a supervisory employee within the Board's customary definition of that term.

<sup>4</sup> The election was held among employees in this unit.

tive of the counting of the 12 challenged ballots. Under these circumstances, we shall certify the Petitioner as the collective bargaining representative of the employees in the appropriate unit.

### CERTIFICATION OF REPRESENTATIVES

IT IS HEREBY CERTIFIED that United Rubber, Cork, Linoleum & Plastic Workers of America, C. I. O., has been designated and selected by a majority of all production and maintenance employees of Acme Boot Manufacturing Company, Inc., Clarksville, Tennessee, excluding office and clerical 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.

MR. JAMES J. REYNOLDS, JR., took no part in the consideration of the above Decision and Certification of Representatives.