

In the Matter of WHITING CORPORATION, EMPLOYER and UNITED CONSTRUCTION WORKERS, U. M. W. A., A. F. OF L.,<sup>1</sup> PETITIONER

*Case No. 13-R-4049.—Decided April 2, 1947*

*Messrs. McDermott, Will and Emery, by Messrs. Fletcher Lewis and John C. Cavanaugh, of Chicago, Ill., for the Employer.*

*Messrs. Floyd T. Higgins and Robert L. Meyers, of Harvey, Ill., for the Petitioner.*

*Mr. Bernard L. Balicer, of counsel to the Board.*

## DECISION

AND

## DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Chicago, Illinois, on December 30, 1946, before Karl W. Filter, 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 the case, the National Labor Relations Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE EMPLOYER

The Employer is an Illinois corporation engaged in the manufacture of heavy industrial equipment. Its plant and principal offices are located at Harvey, Illinois. During the year 1946 the Employer purchased raw materials consisting principally of steel and electrical machinery and equipment amounting in value to approximately \$4,500,000, of which approximately 80 percent was obtained from points outside the State of Illinois. During the same period the Employer's finished products amounted to \$12,000,000 in value, of which approximately 85 percent was shipped to points outside the State of Illinois.

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

<sup>1</sup> Title as amended at the hearing.

## II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization affiliated with United Mine Workers, 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.<sup>2</sup>

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 substantial accord with the agreement of the parties, that all production and maintenance employees of the Employer at its Harvey, Illinois, plant, including non-supervisory inspectors, but excluding watchmen, laboratory technicians, office clerical employees, shop clerical employees (including shop clerks employed in production control, traffic, yards, stockroom and stores), foremen and assistant foremen, group leaders, 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.<sup>3</sup>

## DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Whiting Corporation, Harvey, Illinois, 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 Thirteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Sections 203.55 and 203.56, of National Labor Relations Board Rules and Regulations—Series 4, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period

<sup>2</sup> At the hearing, and in its brief, the Employer moved to dismiss the petition on the ground that the Petitioner had not made an adequate showing of representation. The hearing officer reserved for the Board ruling on the motion. The motion is hereby denied. See *Matter of O. D. Jennings & Company*, 68 N. L. R. B. 516.

<sup>3</sup> There are approximately 650 employees in the appropriate unit.

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 or not they desire to be represented by United Construction Workers, U. M. W. A., A. F. of L.,<sup>4</sup> for the purposes of collective bargaining.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.

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<sup>4</sup> On February 21, 1947, subsequent to the hearing, the United Steelworkers of America, affiliated with the Congress of Industrial Organizations, filed a motion with the Board to intervene in the proceedings for the purpose of having its name placed on the ballot. Thereafter, on March 11, 1947, the Steelworkers advised the Board that it had no further interest in this proceeding and requested permission to withdraw its motion to intervene. The request is hereby granted.