

In the Matter of WINE GROWERS GUILD, CENTRAL CELLARS LODI, EMPLOYER and COOPERATIVE WINERY AND BOTTLING PLANT WORKERS UNION (UNAFFILIATED), PETITIONER

Case No. 20-RC-10.—Decided March 11, 1948

Sacramento Valley Associated Industries, by Mr. J. S. Norman, of Sacramento, Calif., for the Employer.

Litts, Mullen & Perovich, by Messrs. Robert H. Mullen and Anthony N. Perovich, of Sacramento, Calif., for the Petitioner.

Messrs. Wallace D. Henderson and Norman W. Smith, of Fresno, Calif., for the Intervenor.

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Lodi, California, on December 16, 1947, before Leslie Lubliner, 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 Board¹ makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Wine Growers Guild, a California corporation, is engaged at Lodi, California, in the blending, bottling, and marketing of wines and other distilled products. During 1947, the Employer's purchases exceeded \$2,000,000, of which approximately 20 percent represented shipments from points outside the State of California. During the same period the Employer's sales exceeded \$1,000,000, of which about 85 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.

¹ 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-man panel consisting of the undersigned Board Members [Houston, Murdock, and Gray].

II. THE ORGANIZATIONS INVOLVED

The Petitioner is an unaffiliated labor organization claiming to represent employees of the Employer.

Distillery, Rectifying and Wine Workers Union, Local No. 45, herein called the 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 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.

IV. THE APPROPRIATE UNIT

We find, substantially in agreement with the parties, that all production and maintenance employees at the Lodi, California, operations of the Employer, excluding watchmen,² office and clerical employees, professional employees, wine makers, champagne makers,³ and all supervisors constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

DIRECTION OF ELECTION ⁴

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Wine Growers Guild, Central Cellars Lodi, of Lodi, 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, and subject to Sections 203.61 and 203.62, of National Labor Relations Board Rules and Regulations—Series 5, among the employees in the unit found appropriate in Section IV, above, who were employed during the payroll period immediately preceding the date of this Direction, includ-

² Although the parties agreed to exclude guards and to include watchmen in the bargaining unit, the record discloses that the Employer has only watchmen in its employ and that they perform plant-protection duties. In view of the foregoing and for the reasons set forth in *Matter of C. V. Hill & Company, Inc*, 76 N. L. R. B., 158, we shall, contrary to the agreement of the parties, exclude watchmen from the unit.

³ The Employer does not currently employ anyone in this category.

⁴ Any participant in the election may, upon its prompt request to, and approval thereof by, the Regional Director, have its name removed from the ballot.

ing employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether they desire to be represented by Cooperative Winery and Bottling Plant Workers Union (Unaffiliated) or by Distillery, Rectifying and Wine Workers Union, Local No. 45, A. F. L., for the purposes of collective bargaining, or by neither.