

CHISHOLM-RYDER COMPANY, INC. and JOHN CAVICCHIA

UNITED GAS, COKE AND CHEMICAL WORKERS OF AMERICA, CIO, LOCAL 235 AND ITS LOCAL PRESIDENT DAVID GOODWIN, CHIEF STEWARD HARRY FULLER AND INTERNATIONAL REPRESENTATIVE SAMUEL OLFANO and JOHN CAVICCHIA. *Cases Nos. 3-CA-84 and 3-CB-20. October 30, 1951*

Supplemental Decision and Order

On May 16, 1951, the Board issued a Decision and Order in the above-entitled proceeding,¹ finding that the Respondent Union did not violate Section 8 (b) (2) and (1) of the Act in causing, and that the Respondent Company did not violate Section 8 (a) (3) and (1) of the Act in effecting, the discharge of employee John Cavicchia for failing to maintain his membership in the Respondent Union as required by the Respondents' union-shop agreement. Accordingly, the Board dismissed the complaints herein.

On August 10, 1951, John Cavicchia, the charging party, filed a petition with the Board, requesting the Board to revoke its Decision and Order and to grant the relief sought in the complaints. The Respondent Company thereafter filed papers in opposition to the petition.

In support of his petition, the Petitioner contends that the union-shop agreement relied upon to justify the discharge was invalid.² He argues that, under the Supreme Court's decision in the *Highland Park* case,³ the Board was without authority to issue to the Union the union-security authorization certificate provided for in Section 9 (e) of the Act, because the Congress of Industrial Organizations, the parent federation of the Union's International, was not in compliance with the filing requirements of Section 9 (f), (g), and (h) of the Act at the time of the 1948 election and the issuance of the certificate.

Since the Supreme Court's decision in the *Highland Park* case, the Congress amended the National Labor Relations Act, as amended, by adding Section 18 which, in pertinent part, provides:⁴

Sec. 18. No petition entertained, no investigation made, no election held, and no certification issued by the National Labor Relations Board, under any of the provisions of section 9 of the National Labor Relations Act, as amended, shall be invalid by

¹ 94 NLRB 508.

² The validity of this agreement was not heretofore questioned.

³ *N. L. R. B. v. Highland Park Manufacturing Co.*, 341 U. S. 322.

⁴ Public Law 189, 82d Cong., Chapt 534, 1st Sess., approved October 22, 1951.

reason of the failure of the Congress of Industrial Organizations to have complied with the requirements of section 9 (f), (g), or (h) of the aforesaid Act prior to December 22, 1949, or by reason of the failure of the American Federation of Labor to have complied with the provisions of section 9 (f), (g), or (h) of the aforesaid Act prior to November 7, 1947: . . .

This amendment, as the Committee Reports expressly state,⁵ was designed in part to protect, against charges of unfair labor practice, parties who acted in reliance upon certificates issued by the Board under circumstances such as those present here.

In view of the foregoing amendment, we find no merit in the petition herein and shall accordingly deny it.

Order

IT IS ORDERED that the petition of John Caviechia be, and it hereby is, denied.

MEMBERS REYNOLDS and MURDOCK took no part in the consideration of the above Supplemental Decision and Order.

⁵ Sen. Rep. No. 646 on S. 1959, 82d Cong., 1st Sess. (1951), p. 2; H. Rep. No. 1082 on S. 1959, 82d Cong., 1st Sess. (1951), pp. 1-2.

COAST DRUM AND BOX COMPANY *and* T. F. MARTIN, PETITIONER, *and* BOX MAKERS, NOVELTY AND SPECIALTY, WOODWORKERS UNION, LOCAL 3036, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL. *Case No. 20-RD 53. October 30, 1951*

Decision and Order

Upon a petition for decertification duly filed, a hearing was held before Nathan R. Berke, hearing officer. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Reynolds and Murdock].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The Petitioner asserts that the Union is no longer the representative of certain employees of the Employer, as defined in Section 9 (a) of the Act. The Union is a labor organization recognized by the 96 NLRB No. 178.