

As we have overruled the Petitioner's objections and as it appears from the tally of ballots that the Intervenor has secured a majority of the valid votes cast in the election, we shall certify the Intervenor as the collective bargaining representative of the employees in the appropriate unit.

### **Certification of Representatives**

IT IS HEREBY CERTIFIED that Pencil Material Workers' Union No. 20298, AFL, has been designated and selected by a majority of the employees of the Employer in the unit found appropriate in the Decision and Direction of Election herein, 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 the employees in such unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

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VALENCIA SERVICE COMPANY *and* UNIDAD GENERAL DE TRABAJADORES DE PUERTO RICO, PETITIONER. *Case No. 24-RC-252. May 27, 1952*

### **Supplemental Decision and Certification of Representatives**

On February 9, 1952, pursuant to a Decision and Direction of Election issued herein on January 10, 1952,<sup>1</sup> an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Twenty-fourth Region among the employees of the Employer in the unit found appropriate in the Decision. Thereafter, the parties were furnished with a tally of ballots, which shows that of approximately 16 eligible voters, 5 cast ballots, of which 3 were for and 2 against the Petitioner.

On February 13, 1952, the Employer filed objections to the conduct of the election and requested that the election be set aside. Thereafter, on April 15, 1952, the Regional Director, pursuant to the Board's Rules and Regulations, issued and duly served on the parties a report on objections, in which he found the objections to be without merit and recommended that the Petitioner be certified as the exclusive bargaining representative of the employees in the appropriate unit. The Employer timely filed exceptions to the Regional Director's report.

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-member panel. [Members Houston, Styles, and Peterson].

<sup>1</sup> Not reported in printed volumes of Board decisions.

The Employer objected to the election on the ground that the Petitioner failed to show that it had the interest and support of at least 30 percent of the employees in the appropriate unit. The Regional Director, in his report, found the objections without merit because a petitioning union's showing of interest is not a litigable issue and, in this case, the Board had administratively determined that the Petitioner's interest showing was adequate.

The Employer, in its exceptions, asserts that the Regional Director erred in finding that the Board had administratively determined the adequacy of the Petitioner's showing of interest and, in support of its contention that the Petitioner's showing was inadequate, points to the fact that only 3 of the 16 eligible employees voted for the Petitioner. The Employer also argues, inferentially, that the vote cast was not representative. We find no merit in these contentions.

As to the adequacy of the Petitioner's interest showing, it is well established, as indicated by the Regional Director, that a petitioner's interest showing is an administrative matter, not subject to direct or collateral attack by the parties, and the Board administratively determined that the Petitioner's showing was adequate.<sup>2</sup> As to the representative nature of the vote cast, there is no evidence that any of the eligible employees was denied ample opportunity to participate in the balloting and the failure of the majority of such employees to exercise their franchise cannot invalidate the election.<sup>3</sup> We find, therefore, that the Employer's objections raise no substantial and material issues with respect to the election and we adopt the Regional Director's recommendation that the objections be overruled.

As we have overruled the Employer's objections and as it appears from the tally of ballots that the Petitioner has secured a majority of the valid votes cast in the election, 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 Unidad General de Trabajadores de Puerto Rico has been designated and selected by a majority of the employees of the Employer in the unit found appropriate in the Decision and Direction of Election herein, 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 the employees in such unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

<sup>2</sup> *Liberty Cork Co., Inc.*, 96 NLRB 372, and cases cited therein.

<sup>3</sup> *S. W. Evans & Son*, 75 NLRB 811, 813, and cases cited in footnote 4 therein.