ganization selected by the employees in such groups, which the Board in such circumstances finds to be separate units appropriate for the purposes of collective bargaining.

[Text of Direction of Election omitted from publication in this volume.]

MORGANTON FULL FASHIONED HOSIERY COMPANY, HUFFMAN FULL FASHIONED HOSIERY MILLS, INC.[1] *and* THOMAS EDGAR PARKS, PETITIONER, *and* LOCAL UNION NO. 161, UNITED TEXTILE WORKERS, AFL. *Case No. 11–RD–36 (formerly 34–RD–36). January 12, 1953*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Robert Cohn, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.[2]

The Union contends that the petition should be dismissed on the ground that it was inspired and fostered by the Employer, through its supervision, alleging that the petition was circulated by supervisors, with the assistance, knowledge, and acquiesence of the Employer.

Although the Board normally excludes from representation proceedings evidence relating to unfair labor practices, the Board believes that this rule should not be applied to preclude an investigation as to the relationship of a decertification petitioner to the employer. The precise language of Section 9 (c) (1) (A) of the Act indicates clearly that decertification proceedings provide a remedy exclusively for and on behalf of employees, and not of employers.[3] With this principle in mind, the Board cannot, as a matter of policy, permit an employer to do indirectly, through instigating and fostering a decertification petition, that which we would not permit him to do directly.[4] Accordingly, we agree with the hearing officer's ruling excluding

[1] Huffman Full Fashioned Hosiery Mills, Inc, is a wholly owned subsidiary of Morganton Full Fashioned Hosiery Company, the two of which constitute a single Employer within the meaning of Section 2 (2) of the Act.

[2] The Union excepted to the hearing officer's ruling revoking a *subpoena duces tecum* issued by the hearing officer, by means of which the Union sought to introduce into evidence the form of the petition circulated among the Employer's employees in order to attack the validity of the instant showing of interest. We have repeatedly held that a petitioner's *prima facie* showing of interest is an administrative matter, not subject to direct or collateral attack, and we therefore sustain the hearing officer's ruling. See *Stokely Foods, Inc.*, 81 NLRB 1103.

[3] *Clyde J. Merris*, 77 NLRB 1375.

[4] See *Knife River Coal Mining Company*, 91 NLRB 176; *Wood Parts, Inc.*, 101 NLRB 445.

evidence of alleged general unfair labor practices on the part of the Employer, but admitting evidence of alleged participation in the instigation and circulation of the decertification petition by supervisors and by employees in the presence of supervisors.[5]

The Union here has shown, at most, the Employer's knowledge of the petition, through its supervisors. Such knowledge by itself will not dictate a finding that the Employer had inspired or fostered the instant petition. The Union has not shown that any supervisors participated in the instigation or circulation of the petition. Neither Dorothy Roper[6] nor Verdie Moore, both of whom took active roles in support of the Petitioner, appear from the record to be supervisors. Because the record discloses no substantial evidence that the Employer has fostered or inspired the decertification petition, we reject the Union's contentions and find that the Petitioner's status[7] and his relation to the Employer present no obstacle to his maintaining the present proceeding.

Upon the entire record in this case, the Board finds:[8]

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

2. The Petitioner asserts that the Union is no longer the bargaining representative of the employees of the Employer as defined in Section 9 (a) of the Act. The Union, a labor organization, was certified by the Board as such representative on September 5, 1946, pursuant to a consent election.[9]

3. 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.[10]

[5] See *Kraft Foods Company*, 97 NLRB 1097; *Weyerhaeuser Timber Company*, 93 NLRB 842. The cases of *Worden-Allen Company*, 99 NLRB 410, *Jell-Well Dessert Company*, 81 NLRB 101, and *C & M Lumber Co., Inc.*, 83 NLRB 1258, insofar as they are inconsistent with our present policy, are hereby overruled.

[6] See footnote 11, *infra*.

[7] We find, contrary to the contention of the Union, that the Petitioner is an individual qualified to file the petition in this matter. There is no requirement in the Act that an individual petitioner, seeking the decertification of a labor organization, be an employee of the employer. *Standard Oil Company (Indiana)*, 80 NLRB 1022.

[8] As the record and the Union's brief adequately present the issues and position of the Union, we deny the Union's request for oral argument.

[9] Case No 5–R–2556.

[10] The contract between the Employer and the Union terminated on December 9, 1952. As the contract has expired, we find, contrary to the Union's contentions, that it is not a bar to a present determination of representatives. *Shenango Pottery Co.*, 85 NLRB 490. The Union further contends that the Petitioner's showing of interest was stale and that the employee signatures in support of the instant petition were obtained through fraud and deceit. We reject these contentions. The currency of a petitioner's showing of interest is an administrative matter. *Newport News Children's Dress Co.*, 89 NLRB 442. Furthermore, evidence showing that employee signatures were obtained by fraud and deceit is inadmissible, since a showing of interest is an administrative matter not subject to attack at a hearing. *Radio Corporation of America (Victor Division)*, 89 NLRB 699; *American Suppliers, Inc.*, 98 NLRB 692. Accordingly, we have not considered any evidence in the record bearing on the alleged fraudulent securing of employees' signatures.

4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production and maintenance employees employed by the Morganton Full Fashioned Hosiery Company, Huffman Full Fashioned Hosiery Mills, Inc., at their Morganton, North Carolina, plants, including the collector,[11] but excluding office and clerical employees, fixers, timekeepers, guards, professional employees, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication in this volume.]

MEMBER HOUSTON took no part in the consideration of the above Decision and Direction of Election.

[11] The Union contends that Dorothy Roper, the collector, is a supervisor. She is considered to be a production employee by the Employer, and she is paid on an hourly basis. She keeps the production employees (preboarders) supplied with work and returns the work to bins as particular operations are completed. She does not check the work of the preboarders and all instructions which she gives are routine in nature. Nor can she effectively recommend the hire, discharge, or discipline of employees. We find therefore that she has no supervisory authority and, accordingly, include her in the unit. See *Standard Romper Co., Inc.*, 77 NLRB 421.

CHENEY FOREST PRODUCTS, INC. *and* LUMBER AND SAWMILL WORKERS, LOCAL UNION NO. 3009, AFL.[1] *Case No. 36-CA-276. January 13, 1953*

Decision and Order

On August 5, 1952, Trial Examiner Howard Myers issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief. The charging party filed a brief.

The Board [2] has reviewed the rulings made by the Trial Examiner

[1] Subsequent to the hearing, the charging party, Klamath Basin District Council, Lumber and Sawmill Workers, AFL, herein called the Council, and Lumber and Sawmill Workers, Local Union No. 3009, AFL, herein called Sawmill Workers, jointly moved the Board to substitute in place of the Council the name of the Sawmill Workers wherever the former appears in the record. The affidavit of the attorney for both organizations reveals that the Council was disbanded on June 20, 1952, and that all rights, title, and interest which the Council had in this case have been transferred to and received by the Sawmill Workers. No objections have been filed to this motion. We find that Sawmill Workers is, in effect, the successor to the Council. Accordingly, the motion is granted.

[2] 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, Murdock, and Styles].