3 The owner-drivers with whom the Respondent, Malone Freight Lines, Inc., had contractual relations were at all times material independent contractors within the meaning of Section 2 (3) of the Act.

4. The Respondent, Malone Freight Lines, Inc., has not engaged in unfair labor practices as alleged in the complaint, within the meaning of Section 8 (a) (1), (3), and (5) of the Act.

[Recommendations omitted from publication.]

INDUSTRIAL LUGGAGE, INC. *and* ALBERTA MOCEIKA, Petitioner *and* UNITED STEELWORKERS OF AMERICA, CIO, AND ITS LOCAL 4467. Case No. 6-RD-90. September 16, 1953

DECISION AND ORDER

Upon a petition for decertification duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Sidney Lawrence, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Unions' motion to dismiss the petition as premature, decision on which was reserved by the hearing officer for the Board, is granted for the reasons stated in paragraph 3, below.

Upon the entire record in this case the Board finds:

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

2. The Petitioner, an employee of the Employer, asserts that the Unions are no longer the representative, as defined in Section 9 (a) of the Act, of the employees designated in the petition.

The Steelworkers was certified by the Board on November 13, 1950, and is currently recognized, jointly with its Local 4467, as the bargaining representative of such employees.

3. No question affecting commerce exists concerning the representation of the employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

The Unions assert that their current agreement with the Employer is a bar to this proceeding.[1] The agreement was made and became effective July 15, 1952, and will terminate January 15, 1954. It contains a union-security clause which conforms to the requirements of Section 8 (a) (3) of the Act, as amended, except that Local 4467 was not in compliance on the date the clause became effective. It had been in compliance for a 3-month period ending in June 1952, but was thereafter in a noncompliance status until January 27, 1953, when it again achieved compliance, this time for a 2-month period. The decertification petition was filed May 18, 1953, at a time when Local

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[1] The Petitioner introduced evidence as to the recent inactivity of Local 4467, occasioned partly by the layoff of all its officers. We are satisfied, particularly in view of the wage increase recently negotiated by the Unions under the agreement, that the Local is not defunct

4467 was in the process of renewing its compliance, and it did so on May 29, 1953. Thus, the Local again achieved compliance after the agreement was made and before the petition was filed. We find that the circumstances are like those in New Idea, Division of Avco Mfg. Co., 106 NLRB 1104, and that the agreement is now a bar to this proceeding for the reasons stated in that case.

[The Board dismissed the petition.]

Member Rodgers took no part in the consideration of the above Decision and Order.

COTE BROTHERS, INCORPORATED *and* BAKERY AND SALES DRIVERS AND HELPERS, LOCAL 686, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, AFL, Petitioner. Case No. 1-RC-3199. September 16, 1953

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held on April 23, 1953, before Leo J. Halloran, hearing officer. A further hearing was held on remand on June 3, 1953, and June 12, 1953, for the purpose of taking additional testimony with respect to the scope of baking company units represented by the Petitioner. Contrary to the Employer's contention, the hearing officer's rulings made at the hearings are free from prejudicial error and are hereby affirmed.[1]

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

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

2. The Petitioner claims to represent certain employees of the Employer. Although it is not conceded by the Employer, the Petitioner is a labor organization as defined in the Act because it exists for the purpose of engaging in collective bargaining with employers regarding wages, hours, and other conditions of employment.[2]

3. No 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:

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[1] The Employer contends that it did not receive the Petitioner's request for recognition. The Employer also challenges the adequacy of the Petitioner's showing of interest. It is well established that the filing of the petition constitutes a sufficient demand for recognition and that showing of interest is an administrative matter. American Fruit Growers, Incorporated, 101 NLRB 740.

[2] Balboa Pacific Corporation, 88 NLRB 1505.