

CARIBE PLASTICS CORP. *and* UNITED PACKINGHOUSE WORKERS OF AMERICA, CIO, Petitioner. Case No. 24-RC-607. November 10, 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 Vincent M. Rotolo, 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 this case, the Board finds:

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

2. United Packinghouse Workers of America, CIO, the Petitioner, and its Local 912, Union de Trabajadores de Plasticos de San Lorenzo; and Confederacion General de Trabajadores de Puerto Rico, also known as Organizacion Obrera Insular, the Intervenor, and its Local, La Union Local de Trabajadores de la Industria de Plasticos de San Lorenzo, Puerto Rico, also known as, and hereinafter referred to as, Local GGT-001, are labor organizations, claiming to represent certain employees of the Employer.

3. On April 2, 1952, the Employer and the Intervenor negotiated a union-shop contract covering employees at the Employer's manufacturing plant at San Lorenzo, Puerto Rico. The contract, effective from January 30, 1952, to January 30, 1954, was signed by representatives of the International and of Local GGT-001. We are administratively advised that, at the time the contract was executed and for more than a year prior thereto, Local GGT-001 was not in compliance with the filing requirements of Section 9 of the Act; and that Local CGT-001 did not achieve compliance until July 31, 1953, more than a year after the contract was executed and more than 3 weeks after the instant petition was filed.

Section 8 (a) (3) of the Act, as amended in October 1951, requires, with respect to union-shop contracts, that a labor organization must have "at the time the agreement was made or within the preceding 12 months received from the Board notice of compliance with section 9 (f), (g), and (h)" The Intervenor's Local CGT-001, which was a party to the contract, was not in compliance during the period required by the statute, nor at the time the petition was filed.¹ The contract is therefore not a bar.²

¹The Board's recent decision in *New Idea*, Division Avco Manufacturing Corporation, 106 NLRB 1104, is not applicable to the facts in the instant case. In *New Idea*, the Board in its discretion held that a temporary lapse of compliance with Section 9 (f), (g), and (h) of the Act at the time of the contract was made because of administrative delays, followed by subsequent compliance before the representation petition was filed, did not vitiate the contract as a bar to an immediate determination of representatives. In the instant case, Local CGT-001 was not in compliance during any significant period prior to the filing of the instant petition.

²Ward Baking Company, 101 NLRB 419

Accordingly, we find that a question affecting commerce exists concerning the representation of employees of the Employers, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.³

4. The parties agree, and we find, that all production and maintenance employees at the Employer's plastic jewelry and novelties manufacturing plant, San Lorenzo, Puerto Rico, including direct jewelry operators and direct factory workers, but excluding indirect jewelry operators and office employees, watchmen, guards, doll and toy supervisors, direct supervisors, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

[Text of Direction of Election omitted from publication.]

³Because we find the contract no bar for the reason stated, it is not necessary for us to consider other evidence introduced with respect to this issue.

CONTINENTAL CAN COMPANY, INC., BETNER DIVISION
and UNITED STEELWORKERS OF AMERICA, CIO, Petitioner. Case No. 16-RC-1283. November 10, 1953

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, hearings were held on May 6 and on July 30, 1953, before Marvin L. Smith, hearing officer. The hearing officer's rulings made at the respective 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 labor organizations involved claim to represent certain employees of the Employer.
3. The Intervenor contends that its notice to renew its contract with the Employer was not timely served on the Employer and that the contract was therefore automatically renewed and is a bar to this proceeding. The Petitioner asserts that the Employer and the Intervenor by their conduct waived any defect that there may have been in the service of the notice, and

¹ The hearing officer correctly denied the Petitioner's motion, made at the first hearing, that Paris Printing Specialties and Paper Products Union 574, International Printing Pressmen and Assistants' Union of North America, AFL, hereinafter called the Intervenor, be denied a place on the ballot in the election hereinafter directed, on the ground, in substance, that the latter was not currently in compliance with the filing requirements of Section 9 of the Act. The fact of compliance by a labor organization which is required to comply is a matter for administrative determination and is not litigable by the parties. Moreover, we are administratively satisfied that the Intervenor is in compliance. Swift & Company, 94 NLRB 917.

The Intervenor's motion to dismiss the petition on the ground of contract bar is denied for reasons stated below.