

PHILADELPHIA CHEWING GUM CORPORATION *and* SAMUEL H. FETTEROLF, Petitioner *and* LOCAL UNION NO. 6, BAKERY AND CONFECTIONERY WORKERS INTERNATIONAL UNION OF AMERICA, AFL. Case No. 4-RD-100. January 28, 1954

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 Bernard Samoff, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

The Union contends that the petition should be dismissed on the grounds that the Employer (1) through its managerial hierarchy, inspired and fostered the decertification petition, and (2) permitted the petition to be circulated in the plant during working hours, although there was a verbal no-solicitation agreement between the Employer and the Union.¹

With regard to (1), the Union contends that an employee, Jewell Bowman, helped initiate and circulate the petition and that she is a supervisor. However, upon the entire record, we find that she is employed as an inspector and materials handler and that she does not have any supervisory powers within the meaning of the Act. Nor does the record otherwise sustain the contention that any of the Employer's supervisors instigated or aided in the circulation of the petition.

With regard to (2), the Union contends that even if the Employer did not instigate or actively assist in the circulation of the petition, the Employer knowingly acquiesced in the circulation of the petition during working hours, while the Union was bound by an agreement with the Employer to refrain from soliciting during working hours. We find (a) that the Employer did not know of the circulation of the petition, and (b) that even if it did, that fact alone, while possibly relevant in an unfair labor practice proceeding, would have no bearing on the validity of the instant petition.²

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 Union is no longer the bargaining representative of

¹ The Union also contends that the Petitioner is not the real party in interest but is acting on behalf of an unaffiliated labor organization, Philadelphia Chewing Gum Independent Union, which was established on October 27, 1953, after the petition herein was filed. Assuming this to be true, we find, nevertheless, no merit in the Union's contention. The Act permits a labor organization to file a decertification petition, provided that it is in compliance with Section 9 (f), (g), and (h), and the Philadelphia Chewing Gum Independent Union has effected such compliance. We therefore find that this contention is immaterial. Ketchum & Company, Inc., 95 NLRB 43.

² The Curtiss Way Corporation, 105 NLRB 642; Morganton Full Fashioned Hosiery Mills, Inc., 102 NLRB 134.

certain employees of the Employer as defined in Section 9 (a) of the Act. The Union is currently recognized by the Employer as the exclusive representative of such employees.

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.

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 employees, excluding maintenance employees, office or clerical, professional, shipping, and sales employees, laboratory and administrative employees, truckdrivers, guards, foremen, and supervisors as defined in the Act.³

[Text of Direction of Election omitted from publication.]

³The unit conforms to the stipulation of the parties and also to the contract unit.

GUSDORF & SON *and* UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL, LOCAL 795, and FURNITURE AND FINISHERS LOCAL UNION NO. 980, AFL, affiliated with BROTHERHOOD OF PAINTERS, DECORATORS, AND PAPERHANGERS OF AMERICA, AFL, Jointly,¹ Petitioners. Case No. 14-RC-2427. January 28, 1954

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 Harold B. Norman, 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. The labor organizations involved claim to represent employees of the Employer.

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.

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 at the Employer's plant at St. Louis, Missouri, excluding office,

¹ The names of the Petitioners appear as corrected at the hearing.