

CIBA PRODUCTS CORPORATION *and* ELEANOR G. QUINTER, PETITIONER  
*and* LOCAL No. 534, INTERNATIONAL CHEMICAL WORKERS UNION,  
AFL. *Case No. 4-RD-115. August 18, 1954*

### Decision and Direction of Election

Upon a petition for decertification duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Leonard Leventhal, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>1</sup>

Upon the entire record in the 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 representative, as defined in Section 9 (a) of the Act, of the employees designated in the petition.

The Union is a labor organization currently recognized by the Employer as the exclusive bargaining representative of employees designated in the petition.

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 Petitioner requests that a decertification election be held among laboratory employees at the Employer's Kimberton, Pennsylvania, plant. The Union contends that no election should be held because the laboratory employees have been included in a production and maintenance unit. The Employer's position is in agreement with that of the Petitioner.

The Employer is engaged in the manufacture of textile chemicals and resins. In 1953, after winning a consent election, the Union was certified as the representative for the Employer's production and maintenance employees, including laboratory employees; and for a 1-year period the overall unit of employees has been covered by a written contract between the Employer and the Union.

The five laboratory employees are engaged in analytical and research work in an area physically separated from the remaining employees. There is no interchange of employees between the laboratory and the production and maintenance departments. As the record shows that the laboratory employees are technical employees whose duties and interests are separate and distinct from those of the pro-

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<sup>1</sup> The hearing officer referred to the Board the Union's motion to dismiss the petition on the ground that the Petitioner had made no showing of interest. We hereby deny the motion as the showing of interest is an administrative matter and not subject to collateral attack. *A. O. Smith Corp.*, 100 NLRB 1379. Moreover, we have administratively determined that the Petitioner's showing of interest is adequate.

duction and maintenance employees,<sup>2</sup> and as they constitute the only technical employees in the existing unit, we find they may constitute a separate unit, notwithstanding their prior inclusion in a broader unit.<sup>3</sup> The fact that the unit issue is raised by means of a decertification petition does not affect our result, as the Board applies the same unit principles in decertification proceedings as in all other representation proceedings.<sup>4</sup>

Upon all the facts, we find that all laboratory employees at the Employer's Kimberton, Pennsylvania, plant, excluding all production and maintenance employees, executives, administrative, office, and plant clerical employees, guards, professional employees, foremen, and all other supervisors as defined in the Act, may constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act. We shall direct that an election by secret ballot be held among the employees in the above group. If the employees do not select the Union, the Union will be decertified as to them; if, on the other hand, they select the Union, they will be taken to have indicated a desire to remain in the existing production and maintenance unit.

[Text of Direction of Election omitted from publication.]

MEMBERS MURDOCK and RODGERS took no part in the consideration of the above Decision and Direction of Election.

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<sup>2</sup> See *Gerber Plastic Company*, 108 NLRB 403.

<sup>3</sup> *LaPointe Machine Tool Company*, 109 NLRB 514; *General Electric Company*, 109 NLRB 582.

<sup>4</sup> *General Electric Company*, 103 NLRB 403, 406-407.

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UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LOCAL No. 1281 and CLARENCE DOWDALL and JOHNNY H. DOCKERY. *Cases Nos. 19-CB-276 and 19-CB-276-1. August 19, 1954*

### Decision and Order

On February 18, 1954, Trial Examiner David F. Doyle issued his Intermediate Report in this proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices in violation of Section 8 (b) (1) (A) and 8 (b) (2) of the Act, and recommending that it cease and desist therefrom and take 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 brief in support thereof.

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed.