strike or concerted refusal in the course of their employment to perform any services for their respective employer, where an object thereof is to force or require said employers to cease doing business with Campbell Coal Company.

SALES DRIVERS, HELPERS & BUILDING CONSTRUCTION DRIVERS, LOCAL UNION 859, OF INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, AFL,

Union.

Dated_____ By_____
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

Appendix B

George A. Fuller Construction Company
Southeastern Construction Company
The Flagler Company, Inc.
Barge-Thompson Company
Ira H. Hardin Company
Wesley & Company, Inc.
Thompson and Street Company

A. D. JUILLIARD AND CO. *and* RICHARD ROSINSKI, PETITIONER, *and* LOCAL 1308, TEXTILE WORKERS UNION OF AMERICA, CIO. *Case No. 3–UD–4. December 30, 1954*

Decision and Order

On August 17, 1954, the Petitioner filed a petition for referendum with the Regional Director for the Third Region, seeking withdrawal of the union-shop authority of Local 1308, Textile Workers Union of America, CIO. On September 15, 1954, the Regional Director conducted a secret ballot election among the employees involved herein. Upon the conclusion of the election, a tally of ballots was furnished the parties in accordance with the Rules and Regulations of the Board.

The tally shows the following results:

Number of eligible voters	370
Void ballots	3
Votes cast in favor of withdrawing the authority of the bargaining representative to require, under its agreement with the Employer, that membership in such union be a condition of employment	172
Votes cast against the above proposition	99
Valid ballots counted	271
Challenged ballots	0

On September 19, 1954, the Petitioner filed objections to the conduct of the election alleging: (1) (a) and 1 (b) the Employer suspended certain employees who were active on Petitioner's behalf; 1 (c) the Employer, in violation of the agreement between the parties, notified the employees the day before the election that they were to vote on their own time, rather than on the Company's time; 1 (d) the Employer examined the voting eligibility list during the voting time; and 2 (a) and 2 (b) the Administrator of the Union coerced the employees by direct threats and innuendo. On October 18, 1954, the Petitioner withdrew objections numbered 1 (a) and 1 (b).

After an investigation, the Regional Director, on October 29, 1954, issued his report on objections to election, in which he found that objections numbered 2 (a) and 2 (b) were without merit, but that objections numbered 1 (c) and 1 (d) raised substantial and material issues with respect to the conduct of the election. Accordingly, the Regional Director recommended that the Board sustain objections numbered 1 (c) and 1 (d), and that the election be set aside and a new election be directed at a time to be selected by the Regional Director. On November 6, 1954, the Petitioner filed his exceptions to the findings of the Regional Director,[1] in which he requested the Board to direct a hearing. On November 22, 1954, the Union filed its Exceptions to the Report of Regional Director, and the Petitioner filed a telegram in which he protested the grant of extension of time for the filing of briefs to the Union.[2] On November 24, 1954, the Employer filed its Statement on Regional Director's report on objections. On November 27, 1954, the Union withdrew its exceptions to the report of the Regional Director and requested that a new election be directed.

As regards the objection numbered 1 (d), it appears from the report on the objections to the election that the plant superintendent and foreman in the packing department were allowed to inspect the official voting list for several minutes, but did not take a record of the names or the clock numbers of those who had or had not voted. On these facts, the Regional Director found that it was reasonable to infer,

[1] In the exceptions to the findings of the Regional Director, the Petitioner urges that the recommendations of the Regional Director be set aside and a hearing be directed because, *inter alia*, the investigator was prejudiced and because all the evidence was not developed by said investigator Sec. 203.61 (b) of the Board's Rules and Regulations provides that the Board "may" direct a hearing if the exceptions appear to raise substantial and material issues In the instant proceeding, as the report of the Regional Director adequately presents all the evidence necessary for this decision and issues involved, we do not deem a hearing to be necessary. Because of the lack of substantiating evidence, we find the contention that the investigation was not adequate to be without merit. (*Pacific Gas & Electric Company*, 89 NLRB 938, at footnote 10, 941) Likewise, due to the absence of valid allegations of misconduct we find no merit in Petitioner's claim that the investigation of the objections was biased because it was conducted by the same Board agent who conducted the election. (*Huntsville Manufacturing Company*, 96 NLRB 891, at 892)

[2] The extension of time for the filing of briefs is within the administrative discretion of the Board, and we find no abuse of that discretion in this case.

based upon the foreman's knowledge of the people working under his supervision, that the foreman could determine who had not voted.

Although it is the policy of the Board to prohibit the keeping of any list, apart from the official voting list, of persons who have voted in a Board-directed election,[3] in the cases in which this prohibition was enunciated it was either affirmatively shown or could be inferred from the circumstances, that the employees knew that their names were being recorded by the Employer. In the instant proceeding, there is no such affirmative evidence; nor may any such be inferred from the circumstances in the case. In the absence of evidence that the employees knew their names were being recorded at the time of the election,[4] we find no grounds for setting aside an election.

As regards the objection numbered 1 (c), the Regional Director found that the employees were told on the day of the election that they were to vote on their own time. The Regional Director alleges that this action violated an agreement as to election procedures between the parties which stipulated the employees were to vote on company time. The Employer contends that there was no such stipulation in the agreement. This allegedly late change in the election agreement was found by the Regional Director to have tended to create confusion.[5] There is no evidence that this alleged alteration in the election procedure did in fact cause confusion among the voters. The Board has determined that an election should be set aside where the working hours were unilaterally altered by the Employer on the day of the election with the result that the employees either had to wait after work or come in early in order to vote.[6] The same conclusion was reached in cases where the voting polls were closed prior to the agreed time.[7] Disfranchisement of some eligible voters as a result of the change was affirmatively shown in each of these cases. However, in the present proceeding, assuming *arguendo* the Employer did violate the election agreement as to whose time was to be utilized by the employees for purposes of voting, there is no proof of actual prejudice; nor was it affirmatively shown that any disfranchisement of eligible voters may have resulted from the asserted withdrawal of the Company's offer to permit voting at the Employer's expense. Accordingly, as a representative number

[3] *International Stamping Co., Inc.*, 97 NLRB 921, at 922; *Belk's Department Store of Savannah, Ga., Inc.*, 98 NLRB 280, at 281

[4] Although in his exceptions, the Petitioner does offer to prove by the testimony of two witnesses that the Employer did take a record at time of inspecting the voting lists, there is no offer of proof as to whether the employees knew of this alleged recording of their names. In fact, the Employer contends that there were no employees in the voting area at the time the list was inspected.

[5] It is to be noted that the alleged change in the election agreement did not affect the hours during which the polls were to remain open. Nor does it appear that the employees were prohibited from taking advantage on their own time of the opportunity to vote at their convenience.

[6] *Haskett Tool & Manufacturing Co.*, 77 NLRB 572, at 573

[7] *Bonita Ribbon Mills and Brewton Weaving Company*, 87 NLRB 1115, at 1117; *Repcal Brass Manufacturing Company*, 109 NLRB 4.

of eligible employees voted in the election conducted in the present proceeding and it does not appear that any nonvoter failed to vote because of the Employer's alleged withdrawal of its permission to vote during working time, we find no ground for setting aside the election.[8]

The results of the election held on September 15, 1954, show that the required majority of eligible voters have not cast ballots in favor of the union-shop deauthorization. We shall therefore dismiss the petition.

[The Board dismissed the petition.]

[8] The Board has repeatedly ruled that, absent unusual circumstances, the failure of eligible voters to cast ballots in Section 9 (c) representation elections was not cause for setting aside the results of such elections where a representative number of employees have voted. Despite the strict statutory requirement in Section 9 (e) (1) elections, that a majority of those eligible to vote is necessary to support union-shop deauthorizations, we do not believe the rule should be different in Section 9 (e) (1) elections. See *Shell Oil Company (Bulk Plant)*, 79 NLRB 1255, at 1256.

BEAUMONT FORGING COMPANY *and* INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS AND HELPERS, LOCAL 587, AFL, PETITIONER. *Case No. 39–RC–855. December 30, 1954*

Decision and Direction of Election

Under a petition duly filed, a hearing was held before Clifford W. Potter, 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 Act.

2. The labor organization involved claims to represent certain employees of the Employer. The Employer refused to stipulate that the Petitioner is a labor organization within the meaning of the Act. We find that the Petitioner is a labor organization, as it exists for the purpose of engaging in collective bargaining with the Employer with respect to wages, hours, and other conditions of employment.

3. The Employer contends that the petition should be dismissed upon the ground that the Petitioner is not qualified to represent employees of the Employer due to the participation of W. R. Dennis, an alleged supervisor, in the Petitioner's affairs.

As regards the supervisory status of Dennis, the record reveals that Dennis is foreman of the forge shop in the Employer's plant, and is in complete charge of its operation when both the president and superintendent of the plant are absent. As foreman, Dennis assigns the specific operation each man in the department is to perform. The