

PEPSI-COLA BOTTLING COMPANY OF HARLAN, INC., PEPSI-COLA BOTTLING COMPANY OF NORTON, INC. and CECIL BOONE, VIRGIL EPPERSON, JAMES GILPIN, OSCAR GILPIN, AND ARNOLD PHILPOT.
Case No. 9-CA-741. January 7, 1955

Decision and Order

On May 28, 1954, Trial Examiner Lee J. Best issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent, Pepsi-Cola Bottling Company of Harlan, Inc., herein called Harlan, had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action. The Trial Examiner also found that the Respondent, Pepsi-Cola Bottling Company of Norton, Inc., herein called Norton, had not engaged in the unfair labor practices alleged in the amended complaint and recommended that the amended complaint be dismissed with respect to this Respondent. Thereafter, Respondent Harlan and the General Counsel filed exceptions to the Intermediate Report and supporting briefs.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in the case and finds merit in the exceptions of Respondent Harlan to the extent noted below.

Respondent Harlan moves to dismiss the complaint herein on the ground, among others, that its operations do not fall within the Board's revised standards for asserting jurisdiction. The General Counsel, on the other hand, contends that the Board should take jurisdiction in this case, at least on the ground that Respondent Harlan and Respondent Norton constitute a single multistate employer.

The Trial Examiner recommended that the Board assume jurisdiction herein under the franchise theory prevailing at the time he issued his Intermediate Report. Since then the Board has abandoned the franchise theory as a basis for assuming jurisdiction over business enterprises.¹ As the operations of Respondent Harlan, whether considered alone or as forming a single multistate employer relationship with Respondent Norton, do not satisfy any one of the Board's revised jurisdictional standards,² we find that it will not effectuate the policies of the Act to exercise jurisdiction in this case.

¹ *William T. Wilson and Mabel J. Wilson, A Partnership, d/b/a Wilson-Oldsmobile*, 110 NLRB 534. Member Murdock, who dissented in that case, considers himself bound by the majority's decision therein.

² *Jonesboro Grain Drying Cooperative*, 110 NLRB 481. Insofar as the Board declined jurisdiction herein even were it found that Respondent Harlan and Respondent Norton

Accordingly, we grant Respondent Harlan's motion and dismiss the amended complaint in its entirety, without passing upon any other question raised by the exceptions and briefs filed herein.

[The Board dismissed the amended complaint.]

constituted a single multistate employer, Member Murdock, who concurred in part and dissented in part in *The Ransom and Randolph Co.*, 110 NLRB 2204, and Member Peterson, who expressed his disagreement in that respect in the *Jonesboro* case and *Breeding Transfer Company*, 110 NLRB 493, consider themselves bound by the majority decisions in those cases.

AMERICAN TELEVISION, INC. OF MISSOURI¹ and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL NO. 1, AFL, PETITIONER. *Case No. 14-RC-2555. January 7, 1955*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Roy V. Hayden, 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 contends that its operations do not satisfy the Board's recently adopted jurisdictional standards, either as an individual retail operation or as part of an integrated, multistate operation. We find no merit in this contention.

The Employer, a Missouri corporation, operates a single retail store, in St. Louis, Missouri, where it is engaged in the sale of television sets manufactured principally by American Television, Inc., of Illinois,² hereinafter called the Illinois Corporation. The Employer and several other corporations bearing similar names and located in several States were organized in the early part of 1954 as the sole retail outlets for the products of the Illinois Corporation.³

All shares of each of these corporations, except for some qualifying stock, are owned by a single individual, U. A. Sanabria. Sanabria is the president of each of the several corporations, including the Employer herein, and is also the chairman of the several boards of

¹ The Employer's name appears as amended at the hearing.

² The record indicates that the Employer also sells a few television sets and some special equipment purchased from one other manufacturer.

³ A California corporation of the same name is the only wholesale distributor for parts and picture tubes manufactured by the Illinois Corporation. Although the record indicates that there may be some sales made by the Illinois Corporation to other television set assemblers and manufacturers, it is apparent that almost the entire output of the Illinois Corporation is distributed either through the retail corporations or through the California distributor.