

In addition to the objections discussed above, the Petitioners, after the time for filing objections, submitted information which they alleged had the effect of emphasizing the wage increase of March 1, 1956.¹

CONCLUSIONS AND RECOMMENDATIONS

The Regional Director concludes and finds that the Employers' conduct as hereinabove described did not raise substantial and material issues affecting the results of the election. It is, therefore, recommended that the objections be overruled in their entirety and a certification of results of election be issued.

¹ These incidents were raised by the Petitioners in support of a general 8 (a) (1) charge against the Employers (32-CA-531, filed March 29, 1956) upon which the Regional Director has refused to issue complaint.

"M" System, Inc., Mobile Home Div., Mid-States Corp. and Lodge 1243, International Association of Machinists, AFL-CIO, Petitioner. *Case No. 16-RC-1773. December 7, 1956*

SUPPLEMENTAL DECISION AND ORDER DIRECTING HEARING

Pursuant to a Decision and Direction of Election issued by the Board on May 14, 1956, an election by secret ballot was conducted on June 12, 1956, under the direction and supervision of the Regional Director for the Sixteenth Region among certain employees of the Employer. Upon the conclusion of the election, the parties were furnished with a tally of ballots which showed that of 115 eligible voters, 112 cast ballots, of which 41 were for, and 68 were against, the Petitioner. There were 2 void ballots and 1 ballot was challenged.

On June 18, 1956, the Petitioner filed five objections to conduct affecting the results of election. In objections 1 and 3, the Petitioner alleged that the Employer's general manager sent letters to the eligible employees and made a speech to them prior to the election which contained promises of economic benefit to the employees if they voted against the Petitioner and which threatened loss of existing benefits if the Petitioner was selected as their bargaining representative. In objection 2, the Petitioner alleged that the Employer's supervisors interrogated the employees as to their voting intentions and threatened them with economic reprisal if they voted for the Petitioner. In objection 4, the Petitioner alleged that supervisors were present in the voting area during the election and made campaign statements to the voters. Finally, in objection 5, the Petitioner alleged that the Employer interfered with the election by directing an employee whose eligibility was challenged to leave the voting line and report to the Employer's offices.

Pursuant to the Board's Rules and Regulations, the Regional Director investigated the objections, and, on August 16, 1956, issued and duly served upon the parties his report on objections to election.

In this report, the Regional Director recommended that objections 1, 3, and 4 be sustained and the election be set aside on these grounds. In view of this recommendation, the Regional Director did not recommend that a hearing be held on objection 2 although he intimated that this objection raised substantial and material issues of fact. Finally, the Regional Director recommended that objection 5 be overruled. As no exceptions have been taken to the Regional Director's recommendation overruling objection 5, it is hereby adopted. Thereafter, the Employer filed timely exceptions to the report on objections.¹

With respect to objection 2, the Petitioner alleged that supervisors were instructed by the Employer's general manager to interrogate the employees as to their voting intentions and to threaten employees with economic reprisal if they voted for the Petitioner. Regarding objection 4, the Petitioner alleged that supervisors were present in the voting area while the election was in progress and one supervisor cautioned a voter not to "bite the hand that's feeding you." The Regional Director found, on the basis of his investigation, that the Employer's supervisors engaged in the foregoing conduct. In its exceptions, the Employer denied that its supervisors indulged in such conduct and submitted affidavits from its supervisors which categorically contradict the Regional Director's findings of fact in this regard. The Employer therefore urges that its exceptions raise substantial and material issues of fact concerning the Regional Director's findings and recommendations on objections 2 and 4 which should be resolved by a hearing on those issues. In view of the affidavits submitted by the Employer, and the entire record before us, we find that the Employer's exceptions to the Regional Director's findings and recommendations concerning objections 2 and 4 raise substantial and material issues of fact which can best be resolved by conducting a hearing thereon. We shall accordingly direct that a hearing be held on these issues.

In objections 1 and 3, the Petitioner alleged that, shortly before the election on June 12, 1956, the Employer addressed certain letters

¹ In its exceptions, the Employer contended, *inter alia*, that the Petitioner's objections should be dismissed because they were not timely filed. In support of this contention, the Employer states that Section 102.61 of the Board's Rules and Regulations requires that objections be filed within 5 days after service of the tally of ballots upon the parties. The Employer therefore argues that, as the tally of ballots was furnished on June 12, 1956, and as the objections were not filed until June 18, 1956, the objections were untimely. Section 102.83 of the Board's Rules and Regulations provides that "In computing any period of time prescribed or allowed by these rules, the day of the act, event or default after which the designated period of time begins to run, is not to be included. . . . When the period of time prescribed or allowed is less than 7 days, intermediate Sundays and holidays shall be excluded in the computation. For the purposes of this section a Saturday on which the Board's offices are not open for business shall be considered as a holiday . . ." In the instant case, June 16 and 17 fell on a Saturday and a Sunday, respectively. Excluding these 2 days, and also excluding the date on which the tally of ballots was served (June 12), the Petitioner therefore had until June 19, 1956, on which to file its objections. The Petitioner having done so on June 18, we find no merit in the Employer's contention that the objections should not be entertained by the Board because they were not timely filed.

and a speech to its employees in which the Employer made promises of economic benefit to the employees if they refrained from selecting the Petitioner as their bargaining representative. Specifically, in its letter of June 8, 1956, and in a speech delivered on that date, the Employer stated that

Paid holidays were increased from 4 to 5 by adding New Year's Day as a paid holiday. You will be paid in 1956 for *New Year's Day*, the Fourth of July, Labor Day, Thanksgiving and Christmas—provided, of course, you work the scheduled day before and after the holiday. [Emphasis supplied.]

The Employer further stated that

"M" System has already entered an expansion program which will result in more "line" jobs; more supervisory jobs which will be filled by promotions from our employees; more opportunities for advancement; and, more benefits for all.

In addition, the Employer set forth various other programs on which it was working. The letter and speech then conclude:

The gains you have made at "M" System in the past 18 months have been great. They will continue to grow *IF* we are *left alone to work together*. For this reason, plus the other reasons I have mentioned, I sincerely feel that a union is not needed here and *YOU* can help keep *trouble, ill will* and *distrust* out of our plant by voting NO in the election next Tuesday.

The Regional Director found that the language immediately quoted above interfered with the employees' free choice of a bargaining representative because the Employer did not indicate at the same time that the "gains" would "continue to grow" even if the employees selected the Petitioner, and recommended that the election be set aside on this ground. We are persuaded that the other statements made in the letter and the speech which are set above, when read together with the language upon which the Regional Director relied, raise issues as to whether the benefits promised were made contingent upon the outcome of the election or were made retroactive (as in the case of the additional holiday payment for New Year's Day in 1956) solely because of the pendency of the election. Under the circumstances, we believe that a hearing should also be held on objections 1 and 3 to determine whether the benefits promised in the Employer's letter and speech had already been made known to the employees well in advance of the election and pursuant to an established company policy, or whether these benefits were first made known to the employees at the time of or just before the election.

While the investigation of the Petitioner's objections was being conducted, the Petitioner filed a charge against the Employer in Case

No. 16-CA-906. This charge has reference to matters on which the Petitioner's objections herein are bottomed. The Regional Director advises that a complaint based upon this charge will issue. In view of these circumstances, we shall direct that a hearing be held before a Trial Examiner to be designated by the Chief Trial Examiner to resolve the issues raised by the Employer's exceptions to the Regional Director's findings and recommendations regarding the Petitioner's objections 1 through 4, and that such hearing may be consolidated with a hearing in Case No. 16-CA-906. In the event the hearing in Case No. 16-RC-1773 is consolidated with the hearing in Case No. 16-CA-906, the duly designated Trial Examiner is hereby directed to include in his Intermediate Report and Recommended Order recommendations with respect to the issues raised by the Employer's exceptions to the Regional Director's report concerning objections 1 through 4. In the event that such consolidation of cases is not made, the Board then directs that the Trial Examiner designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of the issues raised by the Employer's exceptions to the Regional Director's report concerning objections 1 through 4.

ORDER

IT IS HEREBY ORDERED that a hearing be held before a Trial Examiner to be designated by the Chief Trial Examiner to resolve the issues raised by the Employer's exceptions to the Regional Director's findings and conclusions respecting Petitioner's objections 1 through 4, and that such hearing may be consolidated with the hearing in Case No. 16-CA-906; and, in the event the hearing in Case No. 16-RC-1773 is consolidated with the hearing in Case No. 16-CA-906, the duly designated Trial Examiner is hereby directed to include in his Intermediate Report and Recommended Order recommendations with respect to the issues raised by the Employer's exception to the Regional Director's findings and recommendations concerning Petitioner's objections 1 through 4. However, in the event such consolidation is not made, then

IT IS ORDERED that the Trial Examiner designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of said issues raised by the Employer's exceptions to the Regional Director's findings and recommendations on objections 1 through 4. Within the period provided for in the Board's Rules and Regulations, any party may file with the Board in Washington,

D. Cf., an original and six copies of exceptions thereto. Immediately upon filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties; and shall file a copy with the Regional Director. If no exceptions are filed thereto, the Board will adopt the recommendations of the Trial Examiner.

IT IS FURTHER ORDERED that the above-entitled matter be, and it hereby is, referred to the Regional Director for the Sixteenth Region for the purpose of arranging such hearing, and that said Regional Director be, and he hereby is, authorized to issue early notice thereof.

Avon Products, Inc., Petitioner and Local 781, Warehouse Employees Union, IBT, AFL-CIO. *Case No. 13-RM-290. December 7, 1956*

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Pursuant to a stipulation for certification upon consent election, entered into by the parties on August 20, 1956, an election by secret ballot was conducted on August 24, 1956, among the employees at the Employer's Morton Grove, Illinois, plant, under the direction and supervision of the Regional Director for the Thirteenth Region. At the conclusion of the election, the parties were furnished with a tally of ballots which showed that of approximately 201 eligible voters, 169 cast ballots, of which 56 were cast for the Union, 113 against the Union, 10 ballots were challenged and 1 was declared void. A majority of the valid votes was cast against the Union.

On August 31, 1956, the Union filed objections to conduct affecting the results of the election, copies of which were served upon the Employer. The Regional Director investigated the objections and on October 30, 1956, issued his report on objections, in which he found that the objections were without merit and recommended that the objections be overruled. On November 9, 1956, the Union filed exceptions to the Regional Director's report.

Upon the basis of the entire record in this case, the Board makes the following findings of fact:

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.
3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.