

course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials or commodities, or to perform any services for their employer, where an object thereof is to force or require Selby-Battersby & Company, or any other employer, to cease doing business with open-shop general contractors.

WE WILL NOT induce or encourage employees of Selby-Battersby & Company, or any other employer, to cease working or performing services for their employer, for the purpose of requiring open-shop general contractors to engage in discriminatory employment of members of building crafts unions.

WE WILL NOT attempt to cause open-shop general contractors to discriminate in regard to terms or conditions of employment, except in the manner permitted by Section 8 (a) (3) of the National Labor Relations Act.

WE WILL NOT restrain or coerce employees of Selby-Battersby & Company, in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized by Section 8 (a) (3) of the National Labor Relations Act.

Signed copies of this notice have been mailed to the National Labor Relations Board Regional Director for the Fifth Region (Baltimore, Maryland) for posting by Selby-Battersby & Company, that company willing, in all locations where notices to employees of Selby-Battersby & Company are customarily posted.

BALTIMORE BUILDING AND CONSTRUCTION  
TRADES COUNCIL,

*Labor Organization.*

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.

**Indegro, Inc., t/a Eddie's Super Markets, Petitioner and Retail Clerks International Union, Retail Clerks Union, Local #692, AFL-CIO<sup>1</sup> and Amalgamated Meatcutters & Butcher Workmen of N. A., Local #162, AFL-CIO.<sup>2</sup> Cases Nos. 5-RM-332 and 5-RM-333. February 19, 1957**

## DECISION AND DIRECTION OF ELECTIONS

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before Robert W. Knadler, 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 these cases, the Board finds:

1. The Petitioner, Indegro, Inc., is an association representing 17 independently owned grocery stores which use the trade name of Eddie's Super Markets and are located in and around Baltimore, Maryland.<sup>3</sup> Purchases on behalf of the member stores in 1955 totaled \$13,345,000, of which goods amounting to about \$10,000,000 originated outside the State. The record also contains separate commerce data

<sup>1</sup> The name of this Union, herein called the Clerks, appears as amended at the hearing.

<sup>2</sup> Herein called the Meatcutters.

<sup>3</sup> Indegro, Inc., in March 1956, became the successor organization of Eddie's Super Markets, Inc.

concerning four stores in the association. The store at 7900 Dundalk Avenue, which is owned and operated by Irving Edlow and Leonard Kabik, purchased in 1955 more than \$3,000,000 worth of goods originating outside the State. Two other stores located at 1000 and 20 Dundalk Avenue are owned and operated by two corporations the principal stockholder of which is Irvin Levy who also controls and operates a store at 4516 Erdman Avenue.<sup>4</sup> During 1955, out-of-State purchases for this group of stores were in excess of \$2,000,000.

As the annual purchases by the 3 stores controlled by Irvin Levy and the 7900 Dundalk Avenue store were respectively in excess of \$2,000,000, we find, regardless of whether the inflow was direct or indirect, that the Irvin Levy stores as well as the 7900 Dundalk Avenue store meet the Board's standards and are engaged in commerce within the meaning of the Act, and that it would effectuate the policies of the Act to assert jurisdiction.<sup>5</sup>

2. The labor organizations involved claim to represent employees of certain employer-members of the Petitioner.

3. The Petitioner asserts that current picketing, which is confined to the three Dundalk Avenue stores, is inconsistent with the Unions' disclaimers of interest, and therefore seeks a determination of bargaining representatives for employees in the meat departments and the grocery, produce, and dairy departments on a multistore basis. In the event the Board decides such associationwide units are inappropriate, the Petitioner desires the board to direct separate elections for the individual stores. The Clerks and the Meatcutters contend that the multistore units requested by the Petitioner should be dismissed on the ground that they are inappropriate. However, both the Meatcutters, which concedes in its brief that the picketing is equivalent to a demand for recognition upon the individual owners of the picketed premises, and the Clerks, which insists that the picketing is solely for organizational purposes, stated at the hearing that if the Board does order elections, they should be for the individual stores.

The record shows that the Meatcutters attempted without success in 1952 and 1954 to convince association representatives, who then favored negotiations for the individual stores, that the association should agree to a multistore contract. The Unions assert that thereafter they abandoned their earlier broad unit position and carried on their organizational efforts on an individual store basis. Thus, the Unions' representatives testified that at a meeting held in May 1956, with Solomon Liss, attorney for 2 stores owned by Theodore Edlow who had withdrawn from the association, the Unions were chiefly concerned with discussing at that time the organization of those 2 stores alone.

<sup>4</sup> In view of this common operation and control, we find that these three stores, herein called the Irvin Levy stores, constitute a single Employer.

<sup>5</sup> *J. R. Knott and Hugh H. Hogue, d/b/a Hogue and Knott Supermarkets*, 110 NLRB 543, 544

However, Liss, who also represented the association, testified that the Unions made demands for recognition for all the association stores as a group. In June 1956, the Unions' representatives called upon Jack Bloom and I. M. Bloom, owners of an association store located at 923 Patapsco Avenue, to demand recognition for the employees therein. Thereafter, at the invitation of Earle K. Shawe, counsel for the Blooms, the Unions' representatives met with Shawe. When Shawe asked if the Unions desired recognition for the entire group of stores in the association, the Unions' representatives replied that they were concerned only with the Blooms' store. Early in July 1956, the Blooms granted recognition for their store and signed agreements to that effect with the Unions.<sup>6</sup>

The Petitioner filed its petitions for multistore units on July 20, 1956. The Unions commenced to picket the three Dundalk Avenue stores; those at 7900 and 1000 Dundalk Avenue on July 26, 1956, and the one at 20 Dundalk Avenue on August 29, 1956, soon after that new store was opened. The pickets displayed signs reading: "AFL-CIO PICKET The employees of this store are not members of MEAT CUTTERS UNION #162 RETAIL CLERKS UNION #693." The Unions were still conducting their picketing of the three stores as of the close of the hearing on September 24, 1956.

On July 26 and July 29, 1956, respectively, the Clerks and the Meatcutters formally notified the Board that they did not claim to represent the employees in the associationwide units sought by the Petitioner. Although, as above noted, there is conflicting testimony as to whether or not the Unions as recently as the meeting of May 1956, made demands for recognition for multistore units, we need not resolve this issue as the Unions' subsequent disclaimers filed with the Board and their conduct thereafter were consistent with their unequivocal denial that they claimed to represent the employees of all 17 stores on an associationwide basis.

However, after the filing of these disclaimers in late July 1956, representatives of the Unions on two occasions advised Irving Edlow, one of the owners of the 7900 Dundalk Avenue store, that the pickets would be withdrawn therefrom if he negotiated a contract with the Unions. Similarly, representatives of the Clerks indicated to Irvin Levy, who operated the other two picketed stores, that they "would like to sit down and talk to . . . [Levy] about negotiations." As late as September 4, 1956, an officer of the Clerks sent a letter to the Teamsters Joint Council #62 asking for assistance for both the Clerks and the Meatcutters in bringing the store at 20 Dundalk Avenue "under Union contract."<sup>7</sup> On the basis of the foregoing evidence, we

<sup>6</sup> On July 17, 1956, the Blooms were expelled from the association for negotiating separately with the Unions in violation of Indegro's policy.

<sup>7</sup> While the letter gives the store's address as 2000 Dundalk Avenue, it appears from the record that the store referred to is the one at 20 Dundalk Avenue.

find that the current picketing of the three Dundalk Avenue stores is not solely for the purpose of organizing the employees therein, but is tantamount to a present demand for recognition of the Unions as the majority representatives of the employees in the Irvin Levy stores and the 7900 Dundalk Avenue store.<sup>8</sup> It is therefore clear that the Unions claim to represent only those 4 stores and do not request recognition for the remaining 13 stores in the association. In the absence of claims by the Unions to represent the employees in the associationwide units requested by the Petitioner, we find that questions concerning representation do not exist for the aforesaid multistore units.<sup>9</sup> We ordinarily would dismiss the petitions herein without prejudice to the right of the owners of the picketed stores to file petitions for their stores. However, as already noted, the Petitioner has indicated that if the Board decides against holding elections for the multistore units, it desires that elections be directed for individual stores. Accordingly, in view of the Unions' demands for recognition for the employees in the Irvin Levy stores and the 7900 Dundalk Avenue store, we find that questions affecting commerce exist concerning the representation of the employees of Irvin Levy as well as Irving Edlow and Leonard Kabik within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.<sup>10</sup>

Our dissenting colleague argues that the individual store owners together constitute a single employer because through the corporation, Indegro, of which each is a shareholder, they have centralized their purchasing, merchandising, and advertising, a technique widely used by independent groceries to compete with national chain stores. From this, despite the absence of a collective-bargaining history, the dissent concludes that only a single overall unit is appropriate. The record is clear, however, that the formation of Indegro by these independent grocers did not constitute a merger of their respective businesses. No right or title in the respective stores is vested in Indegro. A member can at any time surrender his franchise right to the use of the name "Eddie's Super Markets" and withdraw from Indegro. Similarly, expulsion from membership is the extreme penalty for a violation of Indegro's bylaws. Participation as a member of Indegro is a matter which each individual store owner determines on the basis of his own self interest. The distinction between the instant cases and those cited by the dissent is that here the store owners control Indegro rather than Indegro the stores.<sup>11</sup> This is typical of associations formed by employers for their mutual aid and advancement.

<sup>8</sup> See *Andrew Brown Company*, 115 NLRB 886; *Francis Plating Co.*, 109 NLRB 35.

<sup>9</sup> See *Busch & Sons, Inc.*, 98 NLRB 809; *Wm Wolf Bakery*, 97 NLRB 122; *Coeur d'Alene Grocers Association*, 88 NLRB 44

<sup>10</sup> As stated in paragraph 1 *supra*, these stores meet the Board's jurisdictional standards.

<sup>11</sup> *The Stineway Drug Company, Inc.*, 102 NLRB 1630; and *The Taubman Corporation*, 77 NLRB 846, on which the dissent relies, are clearly distinguishable from the instant cases. Although the stores in *Stineway* were technically under the individual ownership

Accordingly, as there is a complete absence of a history of collective bargaining on an associationwide basis and the Indegro stores are independently owned and operated, we have found, in accordance with settled doctrine,<sup>12</sup> that the separately owned store at 7900 Dundalk Avenue and the group of three Irvin Levy stores constitute appropriate units. Under these circumstances, the Unions may properly disclaim interest in associationwide units and their disclaimers are not invalidated by engaging in conduct that demonstrates an interest in representing employees in the 4 stores which constitute 2 separate appropriate units. As we have already pointed out, it is clear from the evidence that at no time since the filing of the disclaimers by the Unions did they seek to represent any employees other than those in the Irvin Levy stores and the 7900 Dundalk Avenue store.

4. The parties stipulated at the hearing to departmental units in the event the Board directed elections herein. Accordingly, we find appropriate the following units:

Case No. 5-RM-332

(A) All full-time and regular part-time grocery, produce, and dairy department employees of the Irvin Levy stores located at 1000 Dundalk Avenue, 20 Dundalk Avenue, and 4516 Erdman Avenue, Baltimore, Maryland, excluding office clerical employees, guards, watchmen, warehousemen, all other employees, and supervisors as defined in the Act.

(B) All full-time and regular part-time grocery, produce, and dairy department employees of Irving Edlow and Leonard Kabik at their 7900 Dundalk Avenue store, Baltimore, Maryland, excluding office clerical employees, guards, watchmen, warehousemen, all other employees, and supervisors as defined in the Act.

Case No. 5-RM-333

(C) All full-time and regular part-time meat department employees of the Irvin Levy stores located at 1000 Dundalk Avenue, 20 Dundalk Avenue, and 4516 Erdman Avenue, Baltimore, Maryland, excluding office clerical employees, guards, watchmen, warehousemen, all other employees, and supervisors as defined in the Act.

(D) All full-time and regular part-time meat department employees of Irving Edlow and Leonard Kabik at their 7900 Dundalk Avenue

---

of their former managers, the Stineway Company, which gave them financial assistance and took back chattel mortgages, exercised minute control over these stores to the point of requiring the owners themselves to work a designated number of hours per week. As for the *Taubman* decision, the stores in that case, unlike the Indegro stores, operated under substantially common ownership and family control.

<sup>12</sup> See *Miron Building Products Co., Inc.*, *Miron Rapid Mix Concrete Corp.*, 116 NLRB 1406; *Seattle Wholesale Florists Association*, 92 NLRB 1186, 1188.

store, Baltimore, Maryland, excluding office clerical employees, guards, watchmen, warehousemen, all other employees, and supervisors as defined in the Act.

[Text of Direction of Elections omitted from publication.]

MEMBER BEAN, dissenting:

I dissent from the majority holding in its refusal to direct an election in the multistore unit alleged to be appropriate by the Employer.

Indegro, Inc., a Maryland corporation owned solely by its 17 stockholder members, is engaged in the operation of 17 retail food markets within the metropolitan Baltimore area under the trade name "Eddie's Super Markets." Apart from their common ownership and control, the stockholders of Indegro, Inc., have established uniform management, operational personnel, and labor relations policies for all stores. Management is vested in a board of directors which, in turn, exercises direct supervision over the stores through a general manager and his subordinate buyers or department heads. Thus, all purchasing, merchandising, and advertising is centralized. All stores utilize the same style or trade name and distribute uniform trading stamps to their customers. All records pertaining to sales, income, meat and grocery consignments, etc., are centralized. The overall management likewise maintains proper standards of cleanliness and display of merchandise and, if the necessity arises, transfers merchandise from one store to another.

All personnel and labor relations policies are unified and administered on a centralized basis through the stockholders labor relations committee which, pursuant to the bylaws of Indegro, Inc., functions as the bargaining agency for all stores. This committee, subject to the approval of the board of directors, has the authority to establish minimum standards relating to wages, hours, and working conditions of employees which is binding upon all stockholders-store operators. Working conditions, job classifications, and employee benefits are uniform throughout. Employees frequently are transferred from one store to another retaining their seniority on an employerwide basis. Recruitment of all new employees except grocery clerks is handled on an overall basis. Department heads or central buyers have the authority to transfer or discharge store employees within their respective departments. The latter, in connection with their supervisory duties, regularly visit each store. The foregoing clearly demonstrates that the operations of Indegro, Inc., are conducted as a highly integrated enterprise quite similar to those of the customary retail chain stores that operate in most large cities, concerning which the Board has found that employees of all the stores within a distinct

geographical area, as here, may constitute an appropriate unit.<sup>13</sup> It is therefore evident that Indegro, Inc., and its component stockholder members constitute a single employer for the purposes of Section 2 (2) and 9 (b) of the Act.<sup>14</sup> It is thus apparent that, as we are not here dealing with a multiemployer "association" but rather with a single employer, the absence of bargaining history on the employer-wide basis is immaterial. Such a unit is presumptively appropriate.<sup>15</sup> Moreover, in these cases the employerwide unit meets the Board's requirement for retail store units mentioned above as all the stores are located within a single, distinct geographical area.

Contrary to the opinion of my colleagues in the majority, I believe that the Unions have demanded and are continuing to demand recognition in the multistore or employerwide units. The record shows that the Unions requested recognition on an employerwide basis at the May 1956 meeting with Employer's counsel.<sup>16</sup> The disclaimer filed by the Unions 6 and 9 days, respectively, after the filing of the petitions were rendered ineffectual by the picketing which commenced on the same date as the first disclaimer. The subsequent attendant conduct demonstrates clearly that the picketing was for recognition and not for organizational purposes. Notwithstanding the fact that the pickets carried signs indicating that the picketing was for the purpose of organizing the employees, the pickets patrolled both the customer as well as the delivery entrances of several of the stores picketed. Suppliers were thus stopped from making deliveries to the Employer in an apparent attempt to exert direct economic pressure upon the Employer for recognition. After the picketing had succeeded in preventing most deliveries by suppliers, the pickets in several instances confined their efforts to stopping the few deliveries by unionized drivers by making photographs of the trucks involved and their license numbers or by making written notations of the latter apparently for the purpose of turning the same over to the Teamsters, the union representing such drivers. In this connection, prior to the picketing, the Unions wrote the local Teamsters Joint Council requesting its assistance in bringing the stores under union contract. After the filing of the petitions and the disclaimers, the Retail Clerks, 1 of the 2 Unions involved, in a leaflet stated that it was that Union's intention that "Eddie's stores" was next in the "line of our advance." Prior to the demand for recognition, the Federationist, a union newspaper, on April 13, 1956, in a news item stated that organizational campaigns were

<sup>13</sup> *Jackson Jitney Jungle Stores, Inc.*, 115 NLRB 374 and cases cited therein. See also *Food Fair Stores, Inc.*, 114 NLRB 521.

<sup>14</sup> *Stineway Drug Co., Inc.*, 102 NLRB 1630; *The Taubman Corporation*, 77 NLRB 846.

<sup>15</sup> *Western Electric Company, Inc.*, 98 NLRB 1018, 1032. Cf. *Hazel-Atlas Glass Co.*, 110 NLRB 40, 42-43.

<sup>16</sup> Although the testimony on this point is conflicting, I rely upon testimony of counsel for the Meatcutters, one of the unions involved, which corroborates the testimony of counsel for the Employer that recognition was requested on an employerwide basis.

planned for the immediate future for several retail food chains including "Eddie's Markets." It is significant that the Meatcutters, the other Union involved, in 1954 demanded recognition of Indegro, Inc.'s, predecessor on a multistore basis, although the picketing later instituted was conducted on the basis of several individual stores. As shown in the majority opinion, the Unions, after the instant picketing had started and the filing of their disclaimers, advised representatives of the Employer at the several picketed stores, that either the commencement of negotiations or the execution of a contract would result in the cessation of picketing.

In view of all the foregoing and upon the record as a whole, it is evident that the current picketing is not solely for the purpose of organizing the employees nor for the purpose of recognition on the more limited unit basis as found by the majority but is tantamount to a present demand for recognition of both Unions by the Employer on the basis of employerwide units, without regard to their majority status.<sup>17</sup> In this respect, it is immaterial that the picketing as of the time of the hearing had not been extended to all 17 stores of the Employer. Accordingly, I would direct that elections be held in the employerwide, multistore units sought herein.

MEMBER RODGERS took no part part in the consideration of the above Decision and Direction of Elections.

---

<sup>17</sup> *Andrew Brown Company*, 115 NLRB 886; *V. & D. Machine Embroidery Co.*, 107 NLRB 1567; *Curtis Brothers, Inc.*, 114 NLRB 116; and *Swee-T-Shirts, Inc.*, 111 NLRB 377.

---

**Meyer Hammerman and Sol Hammerman, Partners d/b/a Jolly Kids Togs and International Ladies' Garment Workers' Union, AFL-CIO, Petitioner.** *Case No. 7-RC-3261. February 19, 1957*

### 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 Myron K. Scott, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>1</sup>

---

<sup>1</sup> The hearing officer, over the objection of the Employer, permitted the Petitioner to amend its petition by which it originally sought a unit of production and maintenance employees at the Employer's Belding, Michigan, plant. The effect of the amendment was to include in such unit the production and maintenance employees at the Employer's plants in Kalamazoo, and South Haven, Michigan, thereby conforming to the position taken by the Employer, to the effect that only a unit of production and maintenance employees at all three plants was appropriate. As it is clear that the Employer was not prejudiced by the amendment, and as we are administratively satisfied that the Petitioner's showing of interest in the enlarged unit is proper and adequate, we find that the Employer's contentions are without merit. See *Carbide & Carbon Chemicals Corporation*, 88 NLRB 437, footnote 8; *Cohn Goldwater Manufacturing Company*, 103 NLRB 399, footnote 7; *Central Soya Company, Inc.*, 115 NLRB 1525. See also *Melrose Hosiery Mills, Inc.*, 115 NLRB 250. Accordingly, we deny the Employer's motion to dismiss the petition herein.