Upon the basis of the foregoing findings of fact and upon the entire record in the case, I make the following

CONCLUSIONS OF LAW

1 Warner Brothers, Incorporated, Loew's Incorporated, UPA Pictures, Inc, Walter Lantz Productions, Inc, and Walt Disney Productions are employers within the meaning of Section 2 (2) of the Act and each is engaged in commerce within the meaning of Section 2 (6) and (7) of the Act

2 Animated Film Producers Association is an employer within the meaning of Section 2 (2) of the Act.

3 Motion Picture Screen Cartoonists, Local 839, I A T S E, is a labor organization within the meaning of Section 2 (5) of the Act.

4 By requiring a fee for initiation of $250 on and after July 1, 1956, Motion Picture Screen Cartoonists, Local 839, I A T S E, has required a fee excessive or discriminatory in all the circumstances and has thereby violated and is thereby violating Section 8 (b) (5) of the Act

The aforesaid unfair labor practice is an unfair labor practice affecting commerce within the meaning of Section 2 (6) and (7) of the Act

[Recommendations omitted from publication]

$250 is or is not excessive or discriminatory within the meaning of the Act and have not done so The fee charged on and after July 1, 1956, was and is excessive and discriminatory I am concerned only with it Hence the recommendation that all initiation fees collected after July 1, 1956, in payment toward the $250 fee be returned to the individual employees affected

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San Francisco Bakery Employers Association, Petitioner *and* Bakery and Confectionery Workers International Union of America, Local No. 24[1] *and* American Bakery and Confectionery Workers International Union, AFL-CIO, Local No. 24.[2]

Case No 20-RM-257 October 8, 1958

SUPPLEMENTAL DECISION AND CERTIFICATION OF REPRESENTATIVES

Pursuant to a Decision and Direction of Election dated June 23, 1958,[3] an election by secret ballot was conducted on July 15, 16, 17, and 18, 1958, by the Regional Director for the Twentieth Region among the employees in the unit found appropriate by the Board Following the election, the parties were furnished a tally of ballots which showed that of approximately 410 voters, 375 cast ballots, of which 281 were for ABC, 35 were for Bakery Workers, 2 were against both labor organizations, 56 were challenged, and 1 was void

The Bakery Workers filed timely objections and supplemental objections to conduct affecting the results of the election and to conduct of the election On August 18, 1958, following an investigation, the Regional Director issued and served upon the parties his report on

[1] Herein called Bakery Workers

[2] Herein called ABC

[3] Unpublished

objections, in which he recommended that the objections be overruled and a certification of ABC be issued. The Bakery Workers filed timely exceptions to the Regional Director's report which repeat the substance of its objections.

The Board [4] has considered the objections, the exceptions, and the entire record in the case and finds as follows:

Objections to Conduct Affecting the Results of the Election

The Bakery Workers makes the following allegations in its objections:

(a) That the disaffiliation of Local No. 24 from Bakery Workers and its subsequent affiliation with ABC in December 1957 and January 1958 were improperly carried out.

(b) That following the disaffiliation and affiliation actions the Employer accorded *de facto* recognition to ABC as successor to the Union party to the contract with the Employer, until the termination of the contract on May 1, 1958.

(c) That ABC officials led employees in the bargaining unit to believe that membership in ABC was mandatory under the contract and that ABC attempted to cause the discharge of employees for refusing to pay dues to ABC.

(d) That the Employer was guilty of uneven treatment of the rival organizations, allowing ABC officials access to the plants while denying such access to Bakery and Confectionery Workers officials.

(e) That the assets of Local No. 24 were and are wrongfully held by ABC "and that these assets have been used by the ABC to strengthen their position and weaken that of the Bakery and Confectionery Workers"; citing *Kearney & Trecker Corp.* v. *N. L. R. B.*, 210 F. 2d 852 (C. A. 7).

(f) That an official of ABC was quoted in a local newspaper as stating shortly before the election that his organization "has received assurance that any negotiated wage increase will be retroactive to May 1."

The Regional Director properly found that the objections, with the exception of paragraph (f), are in essence a restatement of the position which the Bakery Workers urged in the representation hearing and in the unfair labor practice charges (Cases Nos. 20–CA–1408 and 20–CB–1614), which were dismissed by the Regional Director on May 29, 1958. The Regional Director also found that, except for

[4] Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom and Members Rodgers and Jenkins].

paragraph (f), no evidence was submitted and no facts alleged which were not considered and found lacking in merit by the Board in its decision or by the Regional Director in dismissing the unfair labor practice charges. As for paragraph (f), we agree with the Regional Director that the newspaper article does not corroborate the Bakery Workers' contention that prior to the election ABC received election cooperation and assistance from the Employer. We therefore agree with the Regional Director that paragraphs (a), (b), (c), (d), (e), and (f) raise no material or substantial issues with respect to the election, and we hereby overrule these objections.

Objections to Conduct of Election

The Bakery Workers in its supplemental objections alleged the following:

(a) That one of the employees designated by the Bakery Workers was prevented from serving as an observer by the Employer, who denied the employee permission to leave his work during the election.

(b) That the same employee was not paid by the Employer for the time he acted as observer during another voting session, the implication being that ABC observers may have been compensated while acting as observers.

(c) That one of the ABC observers was not an employee of any of the employer member plants.

As to (a) the Regional Director found that the employee in question was erroneously advised by a Bakery Workers official that elections would be held at the polling places on July 17 rather than July 16, as announced in the official notice of election. The employee, who had made no arrangements with the Employer to allow for his release from work at 9 a. m. of the earlier day, was refused permission to serve at that time but was allowed to act as an observer at another polling period scheduled for noon of that same day. The Regional Director found further that in a majority of the 19 polling periods neither ABC nor the Bakery Workers provided observers. As to (b) the Regional Director's investigation disclosed that in no case was an observer for either Union compensated by the Employer for the time spent as an observer. As to (c), the Regional Director found that although one ABC observer was an individual who was not employed by the Employer, there is no allegation that this observer was guilty of misconduct of any nature or that the Bakery Workers was prejudiced in any way by his designation as an observer. In view of the foregoing and the fact that the parties are not entitled to observers as a matter of right,[5] we find in agreement with the Regional Director that the supplemental objections are without merit and they are hereby overruled.

[5] *J R. Simplot Company, d/b/a Simplot Fertilizer Company,* 107 NLRB 1211, 1221.

As the ABC has secured a majority of the valid votes cast, we shall, as recommended by the Regional Director, certify the ABC as the exclusive representative of the employees in the unit heretofore found appropriate in this proceeding.

[The Board certified that a majority of the valid ballots was cast for American Bakery and Confectionery Workers International Union, AFL–CIO, Local No. 24, and that the said Union is the exclusive representative for the employees in the unit found by the Board to be appropriate.]

Radio & Television Broadcast Engineers Union, Local 1212, International Brotherhood of Electrical Workers, AFL–CIO *and* Columbia Broadcasting System, Inc. *Case No. 2–CD–146. October 9, 1958*

DECISION AND ORDER

On April 29, 1958, Trial Examiner Alba B. Martin issued his Intermediate Report in this case, finding that the Respondent Union had engaged in and was engaging in certain unfair labor practices within the meaning of Section 8 (b) (4) (D) of the Act, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Union filed exceptions to the Intermediate Report and a brief.[1]

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Rodgers, Bean, and Fanning].

The Board has reviewed the rulings made by the Trial Examiner 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 brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.[2]

ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Radio & Television Broadcast Engineers Union, Local 1212, International Broth-

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[1] The Union also requested oral argument In our opinion, the record, exceptions, and brief fully present the issues and the positions of the parties. Accordingly, the request for oral argument is hereby denied

[2] For the reasons set forth in *Local 173, Wood, Wire and Metal Lathers' International Union, AFL-CIO et al. (Newark & Essex Plastering Co.)*, 121 NLRB 1094, we respect-