

customarily posted. Reasonable steps shall be taken to insure that said notices are not altered, defaced, or covered by any other material.

(b) Notify the Regional Director for Region 26, in writing, within 20 days from the receipt of this Decision, what steps Respondent has taken to comply herewith.<sup>12</sup>

It is further recommended that the election conducted in the appropriate unit of Respondent's employees on January 21, 1964, be set aside and a new election directed at an appropriate time.

It is further recommended that the complaint be dismissed insofar as it alleges violations of the Act not specifically found herein.

<sup>12</sup> In the event that this Recommended Order be adopted by the Board, this provision shall be modified to read: "Notify said Regional Director, in writing, within 10 days from the date of this Order, what steps the Respondent has taken to comply herewith."

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to the Recommended Order of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, you are notified that:

WE WILL NOT create an impression among employees that their union activities are under surveillance; threaten employees that the job performance of union employees will be more strictly evaluated than nonunion employees; threaten employees with discharge or other reprisals if they support or assist the union; threaten employees that the plant will be closed and their jobs will be lost if they vote for or assist the union; interrogate employees in a manner constituting interference, restraint, or coercion; or promulgate and maintain any unlawful rule concerning solicitation.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights guaranteed in Section 7 of the Act.

CRIBBEN AND SEXTON COMPANY, D/B/A WASTE  
KING-UNIVERSAL PRODUCTS,

*Employer.*

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

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

Employees may communicate directly with the Board's Regional Office, 746 Federal Office Building, 167 North Main Street, Memphis, Tennessee, Telephone No. 534-3161, if they have any question concerning this notice or compliance with its provisions.

**Budget Ranch Market, Petitioner and Dalmar Ranch Market,  
Petitioner and Retail Clerks Union Local #1428, AFL-CIO.**  
*Cases Nos. 21-RM-1021 and 21-RM-1022. September 29, 1964*

DECISION, DIRECTION OF ELECTION, AND ORDER

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Hearing Officer Max Steinfeld. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

Upon the entire record in these cases, the Board finds:

1. It is conceded, and we find, that Budget Ranch Market is engaged in commerce within the meaning of the Act and that it will effectuate the purposes of the Act to assert jurisdiction with respect to its operations.

The Union contends however, that the operations of Dalmar Ranch Market do not meet the Board's discretionary jurisdictional requirement for the retail industry of gross volume of \$500,000 per year. The Employers contend that they constitute a partnership whose total receipts should be considered as an entity, but that in any event Dalmar's gross receipts are sufficient. We agree with the Union that there is no partnership here but only a loose arrangement for co-operation in certain aspects of business. We note particularly that no partnership income tax returns were filed, nor do any other required tax forms reflect the existence of the alleged partnership. We agree with the Union that the operations of Dalmar, considered alone, are insufficient to warrant the assertion of jurisdiction. The Union would exclude from Dalmar's gross receipts which would, on the basis of Dalmar's contentions, amount to \$504,343.41, the amount of \$219,244.10, which is not derived from the retail sale of goods owned by Dalmar, but rather represents the face value of money orders issued on behalf of a bank. We agree. See *James A. Deveney, d/b/a Devco Diamond Rings*, 146 NLRB 556. The Union would also exclude the gross income of a leased meat department, totalling \$88,854.21, from which Dalmar received \$6,219.79. Whether or not the meat department revenue is to be included and added to Dalmar's other sales of \$278,879.52, it is clear that the total is insufficient to meet our retail standard. Accordingly we shall dismiss the petition filed by Dalmar.

2. The labor organization involved has presented to Budget Ranch Market a claim to represent certain employees.

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

4. The following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:<sup>1</sup>

All employees of Budget Ranch Market, Fifth Avenue, Pomona, California, excluding office clerical employees, meat department employees, bakery employees, restaurant employees, cafe employees, store managers, guards, professional employees, and supervisors, as defined in the Act.

<sup>1</sup> This unit, the Union agrees, is appropriate.

[Text of Direction of Election omitted from publication.]

[The Board dismissed the petition filed by Dalmar Ranch Market.]

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**Metropolitan Life Insurance Company and Insurance Workers International Union, AFL-CIO.** *Case No. 13-CA-6367. September 30, 1964*

### DECISION AND ORDER

On July 21, 1964, Trial Examiner William F. Scharnikow issued his Trial Examiner's Decision in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Trial Examiner's Decision. Thereafter, the Respondent filed exceptions to the Trial Examiner's Decision.

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 McCulloch and Members Leedom and Brown].

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 and the entire record in the case, including the Respondent's exceptions, and hereby adopts the Trial Examiner's findings, conclusions, and recommendations.

### ORDER

Pursuant to Section 10(c) of the National Labor Relations Act the Board adopts as its order the Recommended Order of the Trial Examiner, with the following modifications:

1. Add the following paragraph 1(b) to the Recommended Order:  
"1(b) Interfering with the efforts of the Insurance Workers International Union, AFL-CIO, to negotiate for or represent the employees in the said appropriate unit as the exclusive bargaining agent."
2. Add the following as the third indented paragraph of the notice in the Appendix to the Trial Examiner's Decision.

WE WILL NOT interfere with the efforts of the Insurance Workers International Union, AFL-CIO, to negotiate for or represent as exclusive bargaining agent the employees in the bargaining unit described above.