

## 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, we hereby notify our employees that:

WE WILL NOT restrain, put into effect, or incorporate in any contract with any labor organization a requirement that as a continued condition of employment an employee must pay general and uniform assessments of such union.

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

TOM'S MONARCH LAUNDRY & CLEANING COMPANY, INC.,  
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.

If employees have any question concerning this notice or compliance with its provisions, they may communicate directly with the Board's Regional Office, 614 ISTA Center, 150 West Market Street, Indianapolis, Indiana 46204, Telephone 633-8921.

**Welsh Farms Ice Cream, Inc. and Milk Drivers and Dairy Employees Local No. 680, of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner.** *Case 22-RC-3172. November 3, 1966*

## DECISION AND DIRECTION

Pursuant to an order directing hearing in the above-entitled proceeding, issued by the National Labor Relations Board on May 16, 1966,<sup>1</sup> the Regional Director for Region 22 issued a notice of hearing on challenged ballots, which hearing was held on June 14, 15, and 24, 1966, before Hearing Officer Bernard Wray, duly designated for that purpose.<sup>2</sup> The Employer and the Petitioner were represented by counsel, and each was given full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence relevant to the issues.<sup>3</sup>

On August 4, 1966, the Hearing Officer issued his report and recommendations on the challenged ballots, in which he recommended

<sup>1</sup> Not published in NLRB volumes.

<sup>2</sup> The tally of ballots for the election showed that there were 13 eligible voters, and that 13 ballots were cast, of which 6 were for, and 5 against, the Petitioner, and 2 were challenged. In the absence of exceptions, the Board adopted the recommendation of the Regional Director, and ordered that a hearing be held for the purpose of receiving evidence to resolve the credibility questions involved in the challenges to the ballots of Donald Griswold and Frank Hood.

<sup>3</sup> A representative of the Regional Director also appeared at the hearing, examined witnesses, and introduced evidence relevant to the issues.

that both the challenges be sustained. The Employer filed timely exceptions to the Hearing Officer's report.

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

Upon the entire record in this case, the Board finds:

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 Sections 9(c) (1) and 2(6) and (7) of the Act.

4. The parties stipulated, and we find, that all drivers, boxmen, and production employees employed at the Employer's plant in West Caldwell, New Jersey, excluding office clerical employees, professional employees, guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

5. The Board has reviewed the rulings of the Hearing Officer made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Hearing Officer's report, the Employer's exceptions and brief, and the entire record in this case, and hereby adopts the findings and recommendations of the Hearing Officer only to the extent consistent herewith.

The Hearing Officer, finding Donald Griswold and Frank Hood to be supervisors within the meaning of the Act, recommended that the challenges to their ballots be sustained. For the reasons set forth below, we find merit in the Employer's exceptions.

The Employer's operation consists of a production department and a sales and delivery department. The parties agreed that Employer's president (Cleary) should be excluded, and that its executive vice president (Baas), vice president and sales manager (Ritter), and plant manager and production superintendent (Young) are supervisors within the meaning of the Act and should therefore be excluded. The production department consists of Hood, called a "production leader," four production employees, and a night watchman. The sales and delivery department consists of Griswold, called a "lead driver," and four regular drivers (route men). There are also two "box men" (loaders and stockers) in the plant; it is not clear to which department they are assigned. Each of the admitted supervisors, Baas, Ritter, and Young, spends some time in the plant each day; Young spends a substantial part of each day in the production department, often assisting on the production line.

With regard to the two individuals in dispute, the record shows that each evening *Hood* makes up a production schedule for the following day (i.e., by subtracting inventory from customer orders, he determines the quantity of each flavor of ice cream needed). He reports earlier than the others who work in the production department, sterilizes the ice cream equipment, prepares the mixes, tests the flavors, sets up the production line, and then works with the production employees throughout their shift, seeing to it that production schedule is completed. He then directs the cleanup operation. Production employees punch a clock, are hourly paid, and earn something less than \$6,500 per year.

*Griswold* reports earlier than the route drivers in the morning, helps load the trucks, and sees to it that all route drivers report in, or are replaced with a spare driver (sometimes himself). The remainder (about 80 percent) of his time is spent repairing and refinishing ice cream cabinets, delivering them to customers, and installing them, a job which he does alone. When a truck breaks down on the road, the driver calls either *Griswold* or the "office." The driver is told what to do, or which of two garages to call for road service. Twice a year, *Griswold* recommends to *Ritter* what changes he feels should be made in the order in which deliveries are made by each driver. He is generally "in charge" of bimonthly driver-safety meetings, though the format is determined by *Ritter*, who is usually present, and who sometimes conducts the meetings. Regular route drivers punch a clock, are paid a salary plus commission, and average about \$7,000 per year.

Neither *Hood* nor *Griswold* punches a clock. Both are salaried, and on a payroll separate from the payroll of the production employees and drivers. *Hood* is paid \$7,000 per year; *Griswold* \$8,000. Both receive a special \$300 bonus yearly, which is not paid to production employees or drivers. As to all other fringe benefits, *Hood* and *Griswold* are compensated exactly as are the production employees and drivers.

It is undisputed that neither *Hood* nor *Griswold* can hire, discharge, suspend, transfer, lay off, recall, promote, reward, discipline, settle grievances (even minor ones), or effectively recommend action as to any of these matters. Although each is responsible for seeing that his department's "schedule" is completed, the procedures followed are not discretionary, but rather are set forth in detail in the "Employer's Operating Manual," which each of them is bound to follow. Because of the smallness of the operation, situations not covered by the manual are rare. Although each is paid more than others in his department, each is specially skilled as a result of long experience or specialized education, and each works approximately 10 hours.

per week longer than others in his department. If Hood and Griswold were found to be supervisors, there would be 5 supervisors for 11 employees.

On the basis of the foregoing considerations and the record as a whole, we cannot agree with the Hearing Officer's conclusions. While Hood and Griswold possess and exercise special skills and perform some special duties, they do not, in our opinion, exercise independent judgment or responsibly direct employees in a manner or to a degree sufficient to find them supervisors within the meaning of the Act. Accordingly, we hereby overrule the challenges to the ballots of Frank Hood and Donald Griswold, and shall direct that those ballots be opened and counted.

#### DIRECTION

IT IS HEREBY DIRECTED that the Regional Director for Region 22 open and count the ballots of Frank Hood and Donald Griswold, and thereafter prepare and cause to be served upon the parties a revised tally of ballots, including therein the count of the above ballots. If, according to the revised tally of ballots, the Petitioner has received a majority of the valid ballots cast in the election, the Regional Director is directed to certify Milk Drivers and Dairy Employees Local No. 680, of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, as the exclusive bargaining agent for the employees in the appropriate unit. If, according to the revised tally of ballots, the Petitioner has not received a majority of the valid ballots cast in the election, the Regional Director is directed to certify the results of said election.

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**South Central Telephone Association, Inc. and Communications Workers of America, AFL-CIO.** *Case 17-CA-2816. November 4, 1966*

#### DECISION AND ORDER

On June 30, 1966, Trial Examiner George Christensen issued his Decision in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices within the meaning of the National Labor Relations Act, as amended, 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 and supporting brief to the Trial Examiner's Decision and the Charging Party filed cross-exceptions thereto and a supporting brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has  
161 NLRB No. 68.