

**Sam Andy Foods, A Division of United Commodities International and International Brotherhood of Pottery and Allied Workers, AFL-CIO, CLC, Petitioner. Case 31-RC-2578**

January 15, 1975

**SUPPLEMENTAL DECISION AND  
CERTIFICATION OF REPRESENTATIVE**

**BY ACTING CHAIRMAN FANNING AND  
MEMBERS KENNEDY AND PENELLO**

Pursuant to authority granted the Board under Section 3(b) of the National Labor Relations Act, as amended, a three-member panel has considered objections to an election held on December 7 and 8, 1973,<sup>1</sup> and the Hearing Officer's report recommending disposition of same. The Board has reviewed the record in light of the exceptions and briefs and hereby adopts the Hearing Officer's findings and recommendations.

**CERTIFICATION OF REPRESENTATIVE**

It is hereby certified that a majority of the valid ballots have been cast for International Brotherhood of Pottery and Allied Workers, AFL-CIO, CLC, and

<sup>1</sup> The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was 45 for, and 37 against, the Petitioner; there were 10 challenged ballots, a sufficient number to affect the results. On April 25, 1974, the Board issued a Decision and Order Directing

that, pursuant to Section 9(a) of the National Labor Relations Act, the said labor organization is the exclusive representative of all the employees in the following appropriate unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment:

All full-time and regular part-time production and maintenance employees, including warehousemen and truck drivers; but excluding office clerical, technical and sales employees, guards and supervisors as defined in the Act, as amended.

**MEMBER KENNEDY, dissenting:**

I believe the Hearing Officer committed prejudicial error when he refused to make available the statement of witness Duncan to the Employer's counsel during his redirect examination of Duncan. In my view, Duncan's hostility to the Employer was clearly evident, and the Employer's counsel was entitled to Duncan's affidavit before concluding his redirect examination. I would order the Region to make a copy of Duncan's affidavit available to the Employer's counsel and reopen the hearing for further questioning of Duncan.

Hearing in the above-entitled matter in which the Board adopted the Regional Director's recommendation to sustain the challenges to seven ballots, leaving challenges to three ballots unresolved and insufficient to affect the results.