

Vincent Price Laboratories, Inc.¹ and Vincent Price Studio Incorporated² and Teamsters, Local Union No. 688, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Cases 14-AC-32 and 14-UC-52

October 21, 1975

DECISION ON REVIEW AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS FANNING
AND JENKINS

On March 6, 1972, the Regional Director for Region 14 on behalf of the Board issued a certification to Petitioner, as the collective-bargaining representative of the following unit of Vincent Price Laboratories' employees:

All laboratory personnel employed at the Employer's 3615 Olive Street,³ St. Louis, Missouri, facility, excluding office clerical and professional employees, guards and supervisors as defined in the Act.

On December 10, 1974, Petitioner filed a petition in Case 14-AC-32, requesting that the certification issued in Case 14-RC-6932 be amended by changing the name of the Employer from Vincent Price Laboratories, Inc., to Vincent Price Laboratories, Inc. and Vincent Price Studio, Incorporated, and by changing the unit to read as follows:

All laboratory personnel employed at the Employer's 5856 Christy Boulevard, St. Louis, Missouri facility, excluding office clerical and professional employees, guards and supervisors as defined in the Act.

At the same time Petitioner filed a petition in Case 14-UC-52, requesting that the bargaining unit described in the certification issued in Case 14-RC-6932 be clarified to read precisely the same as the unit described above in its petition in Case 14-AC-32. This petition and that in Case 14-AC-32 listed the name of the employer as Vincent Price Laboratories, Inc. and Vincent Price Studio, Incorporated.

On January 17, 1975, the Acting Regional Director for Region 14 issued an order consolidating Cases 14-AC-32 and 14-UC-52, and dismissed the peti-

tions filed therein as attempts to raise a question concerning representation.

On January 29, 1975, Petitioner requested review of the Regional Director's Decision and Order Dismissing Petitions in the above proceedings.

On March 13, 1975, the National Labor Relations Board granted the review requested and remanded the cases to the Regional Director for a hearing to resolve the issues of fact raised by the aforementioned petitions.

On May 6 and 8, 1975, a hearing on the consolidated petitions was held before Hearing Officer Tatjana Schwendinger in St. Louis, Missouri. All parties appeared at the hearing and were given full opportunity to participate therein. On May 14, 1975, the Regional Director for Region 14 pursuant to Section 102.67(h) of the National Labor Relations Board Rules and Regulations, Series 8, as amended, issued an order transferring the case to the Board. The right to file briefs with the Board has been waived by the parties.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record, the Board finds:

1. Each of the Employers is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. Petitioner is a labor organization claiming to represent certain employees of the Employers.

3. The record discloses the following facts. In January 1972 Studio purchased the physical assets and business of Sipple Color Lab, Inc. (then located at 5352 Neosha Street, St. Louis, Missouri), a film laboratory then owned and managed by Edward Sipple. On March 6, 1972, Petitioner was certified in Case 14-RC-6932 as the exclusive bargaining representative of the film processing employees of Laboratories, a black and white film laboratory.

The parties have stipulated that Vincent Price and his wife are the majority stockholders in both Laboratories and Studio and that they serve as officers of each of the above corporations. They have also stipulated that Laboratories and Studio maintain separate bank accounts and conduct their business affairs on separately designated invoices. Petitioner and Laboratories are parties to a collective-bargaining agreement effective March 6, 1972, to March 5, 1975,⁴ covering Laboratories' film processing employees.

⁴ Prior to the above certification there was no history of collective-bargaining pertaining to these unit employees

¹ Herein called Laboratories

² Herein called Studio

³ At the time of the certification in Case 14-RC-6932, Laboratories' principal office and film processing facility was located at 3615 Olive Street, St. Louis, Missouri. Thereafter, in May 1972, Laboratories moved its office and facility to its present address at 5856 Christy Boulevard, St. Louis, Missouri

Shortly after Petitioner was certified to represent its employees, Laboratories moved its black and white film processing laboratory and the eight unit employees to a new location, 5856 Christy Boulevard, St Louis, Missouri. On or about May 8, 1972, Laboratories moved its newly acquired color film processing laboratory, Studio, and its seven unrepresented employees to the same Christy Boulevard facility.

At this address the employees of Laboratories process and sell black and white film while those of Studio process and sell color film, all on one floor of the same building. However, each group of employees is separately supervised, and each uses its own processing equipment (suited principally to the particular process they perform) located in different and distinct work areas reached by separate outside entrances. Some limited interchange of employees occurred with two or three employees for brief periods in 1972 and 1973. This consisted principally in some retouching of color negatives and the handling of color proofs by two or three employees. In November 1973 Petitioner filed a grievance contending that Laboratories was performing unit work (photo processing) with nonunit (Studio) employees. The grievance was resolved when Laboratories agreed that its employees would not engage in the processing of color film. Since 1973 there has been no interchange of employees of Laboratories and Studio. Employees of both companies utilize common parking areas, restrooms, and eating facilities, and have the same rates of pay, fringe benefits, and similar hours of work.

At the hearing the Employers contended that Laboratories and Studio are separate and distinct companies and employers, whose film processing employees lack a sufficient community of interest to warrant the inclusion of Studio's color film processing employees in the certified unit of Laboratories' employees who process solely black and white film. Further, the Employers contended that the petitions to amend and clarify the certification are indirect attempts to raise and have the Board resolve a question concerning representation of Studio's color film laboratory employees without affording such employees a secret ballot election. On the other hand, Petitioner contended that Laboratories and Studio are joint employers of the employees of both companies who constitute a single appropriate unit, and that the skills exercised by the respective groups of color and black and white film processing employees are similar enough to warrant amending and clar-

ifying the certification originally issued to Laboratories so as to include the color laboratory employees in the same unit with the black and white film processing employees.

Under all of the facts and circumstances of the present case, we find no basis for granting the petitions filed herein to amend and clarify the Certification of Representative issued to Laboratories on March 6, 1972, in Case 14-RC-6932. Laboratories and Studio are presently functioning as they originated, as two separate corporations, performing distinctly different film processing operations, that is black and white film processing and color film processing, with (due to the unique nature of each processing operation performed) different types of specialized equipment. Further, their dissimilar processing operations are performed in well-defined and separate areas, by separately supervised employees experienced mainly in the type of processing they perform. There is no integration of the work functions of the separate groups of employees, nor has there been any interchange of the film processing employees of Laboratories and Studio in recent years. Further the number of employees Petitioner seeks to add to its certified unit approximately equals the number which that unit now contains. Petitioner has not sought an election to determine the wishes of the color film processing employees with regard to representation, and essentially the petitions filed herein attempt to raise and have the Board resolve that question without providing the secret ballot election to which the color processing employees of Studio are entitled. Under such circumstances the commonality of the officers and shareholders of Laboratories and Studio and the single location of the different film processing operations does not provide an adequate basis for granting the petitions filed herein. Accordingly, we shall dismiss the petitions filed herein in Cases 14-AC-32 and 14-UC-52 to amend or clarify the Certification of Representative issued to Vincent Price Laboratories, Inc., in Case 14-RC-6932.⁵

ORDER

It is hereby ordered that the petitions to amend and clarify the Certification of Representative issued in Case 14-RC-6932 herein be, and they hereby are, dismissed.

⁵ *Addressograph Multigraph Corporation* 207 NLRB 892 895 (1973) *Melbet Jewelry Co. Inc. and I D S* 180 NLRB 107 110 (1969)