

Acme Wire Products Corporation and Dura-Coat, Inc and Miscellaneous Warehousemen, Drivers & Helpers Local 986, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Petitioner. Case 21-RC-14359

June 11, 1976

DECISION AND CERTIFICATION OF REPRESENTATIVE

BY MEMBERS FANNING, PENELLO, AND WALTHER

Pursuant to a Stipulation for Certification Upon Consent Election, an election by secret ballot was conducted on January 8 and 9, 1976, among the employees in the stipulated unit described below. The tally of ballots furnished the parties showed that of approximately 102 eligible voters, 100 cast ballots, of which 65 were for and 32 against the Union, and 3 were challenged. The challenged ballots were not sufficient in number to affect the results of the election. Thereafter, the Employer filed objections asserting that the Union's leaflets prevented a free and untrammelled choice of the bargaining representative.

In accordance with the National Labor Relations Board Rules and Regulations, the Regional Director conducted an investigation and, on February 24, 1976, issued and duly served on the parties his Report on Objections wherein he found as follows:

In support of its objections, the Employer presented only one leaflet which was distributed to the employees by the Union on or about October 14, 1975. In that leaflet, it stated that "having representation by the [Union] mean[s] having a written contract" which provides for elimination of merit reviews and a diversity of benefits, including job security, wage increases, a variety of health, welfare, and pension benefits, sick leave, and more holidays.

The principal thrust of the Employer's objections to the statements made by the Union is that such representations are false, fraudulent, materially deceptive, and otherwise illegal.

With respect to the benefits which the Union is alleged to have promised, it is clear that the statements made by the Union do not exceed the bounds of privileged campaign propaganda. Employees are generally able to understand that a union cannot obtain benefits automatically by winning an election, but must seek to achieve them through collective bargaining. However, assuming *arguendo* that there were misrepresentations made by the Union in the leaflet,

the Employer had almost 3 months before the election to reply thereto.

With respect to other material mailed or otherwise conveyed to the employees by the Union, the latter furnished copies thereof to the Regional Director who found nothing therein which would be in conflict with the Board's guidelines in *Hollywood Ceramics Company, Inc.*, 140 NLRB 221 (1962), *Modine Manufacturing Company*, 203 NLRB 527 (1973), and subsequent cases.

The Employer filed exceptions which were limited to the Regional Director's disposition of its objections with respect to the leaflet discussed above.

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.

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

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

2 The Union is a labor organization claiming to represent certain employees of the Employer.

3 A question affecting commerce exists concerning the representation of the employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4 The parties stipulated, and we find, that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 8(b) of the Act:

All production and maintenance employees, coaters, packers and finishers, shipping and receiving employees, warehousemen, and truck-drivers employed by the Employer at its facility located at 12822 Monarch Street, Garden Grove, California, but excluding all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

5 The Board has considered the objections, the Regional Director's report, and the exceptions, and hereby adopts the Regional Director's findings, conclusions, and recommendations.¹

Accordingly, as the tally shows that the Union obtained a majority of the valid ballots cast, we shall certify it as the exclusive bargaining representative of the employees in the unit found appropriate.

¹ As noted above, the Employer excepted to the Regional Director's disposition of the objections concerning the leaflet but not as to his findings concerning other campaign material of the Union.

CERTIFICATION OF REPRESENTATIVE

It is hereby certified that a majority of the valid ballots have been cast for Miscellaneous Warehousemen, Drivers & Helpers Local 986, International Brotherhood of Teamsters, Chauffeurs, Warehouse-

men & Helpers of America, and that, pursuant to Section 9(a) of the National Labor Relations Act, as amended, the said labor organization is the exclusive representative of all the employees in the unit found appropriate herein for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment