

**Electronic Components Corporation of North Carolina  
and International Brotherhood of Electrical Workers,  
Local 495, AFL-CIO, Petitioner. Case  
11-RC-3887**

December 16, 1974

**DECISION AND CERTIFICATION OF  
REPRESENTATIVE**

BY CHAIRMAN MILLER AND MEMBERS JENKINS AND  
KENNEDY

Pursuant to authority granted it union Section 3(b) of the National Labor Relations Act, as amended, a three-member panel has considered objections to an election held May 23, 1974,<sup>1</sup> and the Regional Director's report recommending disposition of same. The Board has reviewed the record in light of the exceptions and brief, and hereby adopts the Regional Director'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 Electrical Workers, Local 495, AFL-CIO, and that, pursuant to Section 9(a) of the Act, the foregoing labor organization is the exclusive representative of all the employees in the following appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment:

All production and maintenance employees employed by Electronic Components Corporation of North Carolina at its facility located at 203 Electronics Parkway, Burgaw, N. C., including the shipping clerk, and excluding all office clerical employees, professional employees, guards, and supervisors as defined in the Act and all other employees.

MEMBER KENNEDY, dissenting in part:

In its Objection 3(a) to the election, the Employer alleged that Petitioner had "papers" available at its

<sup>1</sup> The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was 71 for, and 36 against, the Petitioner, there was 20 challenged ballots

motel headquarters which purported to show that the Employer earned \$2 million in the last calendar year, which materially misrepresented the Employer's actual earnings, and that the Employer did not become aware of this misrepresentation until after the election. In response to the Regional Director's request for evidence in support of objections, the Employer replied as to this objection:

Employee Diane Taylor reports that the Union had "papers" available at its motel headquarters and that these papers could be examined by employees if employees wanted to learn how much money the Company had made. Other employees reported that these papers showed that the Company had earned over \$2,000,000 in the last calendar year. We are informed that employee Edna Pearl Newton examined these papers.

If the Union stated, as witnesses indicate, that the Employer earned in excess of \$2,000,000 during the last calendar year, that statement is a material misrepresentation of fact. Since the Employer had no knowledge of this misrepresentation until after the election had been conducted, there was no adequate time for the Employer to respond to the misrepresentation.

The Employer concluded its response with an expression of cooperation in an investigation of the objections and an offer to make witnesses available at a time and place mutually convenient. However, the Regional Director rejected the Employer's offer to cooperate in an investigation and instead ruled without making any investigation that the objection was not meritorious and therefore overruled it. My colleagues have affirmed the Regional Director's ruling. I dissent. A material misrepresentation of an employer's profits is sufficiently serious to justify setting aside an election.<sup>2</sup> I believe that the Employer has submitted sufficient supporting evidence to justify either an investigation by the Regional Director or a hearing by a Hearing Officer. Accordingly, I would remand the case to the Regional Director initially for an investigation of the objection and for a hearing if his investigation shows it to be necessary.

<sup>2</sup> *Henderson Trumbull Supply Corp v NLRB*, 501 F 2d 1224 (C.A. 2, 1974)