

**Dyna-Fab, Corp. and International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW, Petitioner.**  
Case 25-RC-7958

30 April 1984

**SUPPLEMENTAL DECISION AND  
CERTIFICATION OF  
REPRESENTATIVE**

**BY CHAIRMAN DOTSON AND MEMBERS  
ZIMMERMAN AND DENNIS**

The National Labor Relations Board, by a three-member panel, has considered objections to an election held 13 October 1983 and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows seven for and six against the Petitioner, with no challenged ballots.

The Board has reviewed the record in light of the exceptions and brief, has adopted the hearing officer's findings<sup>1</sup> and recommendations as modified below, and finds that a certification of representative should be issued.

About 3 October 1983 the Petitioner sent a letter to the Employer's employees reading in part:

*INITIATION FEES:* It is the policy in Region 3 (Indiana and Kentucky) that at the time of an NLRB election, to extend to *ALL* workers in the plant, the opportunity of joining the *UAW WITHOUT* paying an Initiation Fee. The employees in your plant will have this opportunity.

The hearing officer found that the Petitioner's statement was ambiguous and arguably contravened the principle enunciated in *NLRB v. Savair Mfg. Co.*, 414 U.S. 270 (1973), that a union promise to waive membership initiation fees only for employees who sign dual purpose authorization cards before an election constitutes grounds for setting aside the election. She found that employees might reasonably construe the words "at the time of the election" to mean "until" or "prior to" the election, implying that fees would be waived only for employees who applied for membership before the election.

The hearing officer further found, however, that the Petitioner's actual policy regarding waiver of initiation fees was lawful and the Petitioner's representative clearly explained it to 9 of 13 eligible

<sup>1</sup> We note that *King Wholesale*, 264 NLRB No. 118 (Sept. 20, 1982), which the hearing officer cited on pp. 2 and 3 of her report, was subsequently reconsidered and vacated by the Board at 266 NLRB 1163 (1983).

voters at a meeting 17 August 1983.<sup>2</sup> The hearing officer concluded that it was unlikely that employees who attended the meeting would misinterpret the 3 October letter and that it was reasonable to conclude that those present conveyed the Petitioner's explanation to those who did not attend. The hearing officer also found that all 10 authorization cards<sup>3</sup> were signed by employees at the 17 August meeting and that no additional cards or membership applications were subsequently received by the Petitioner. She therefore concluded that no employees signed cards or membership applications relying on the representations in the 3 October letter. Accordingly, the hearing officer recommended that the Employer's objection be overruled.

Although agreeing with the hearing officer that the objection should be overruled, we rely solely on her finding that all authorization cards were signed before the 3 October letter was distributed, and that no additional authorization cards or membership applications were signed after 3 October. We find the *Savair* rationale inapplicable under such circumstances. The *Savair* Court was concerned that a waiver of initiation fees only for those employees who apply for membership or sign authorization cards before an election constitutes the buying of endorsements by the union, paints a false portrait of the extent of employee support during an election campaign, and may cause some employees who sign up as a result of the waiver to vote for the union out of a sense of moral obligation. In the case where, as here, an arguably ambiguous waiver of initiation fees did not result in the execution of any authorization cards or membership applications, no endorsements were purchased and no false portrait of employee support could have been painted. Nor would any employees have felt morally impelled to vote for the Petitioner based on a benefit extended by the Union in connection with signing a card or joining. Finally, the cards the employees executed did not constitute applications for membership.

<sup>2</sup> The Petitioner's policy provides for waiver of initiation fees for all employees who apply for union membership both before and after an election, and before a specific postelection "cutoff" date the employees establish after the election. Fees are waived for all employees who join the Union before the "cutoff" date, regardless of whether they were employed by the Employer at the time of the election.

Ten employees attended the meeting, nine of whom were eligible to vote at the time of the election.

<sup>3</sup> The hearing officer noted that the signed cards were single purpose cards, which authorized the Petitioner to represent the signer for collective-bargaining purposes, but did not constitute an application for membership.

**CERTIFICATION OF  
REPRESENTATIVE**

**IT IS CERTIFIED** that a majority of the valid ballots have been cast for International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, UAW and that it is

the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All production and maintenance employees of the Employer at its West Lebanon, Indiana, facility; **BUT EXCLUDING** all office clerical employees, and all guards, professional employees and supervisors as defined in the Act.