

- (c) All machinists, including blacksmiths.
- (d) All pipe fitters.
- (e) All other production and maintenance employees, including oilers, knife grinders, and auto mechanics.

Springhill, Louisiana, plant (Case No. 15-RC-473)

- (f) All millwrights.
- (g) All welders.
- (h) All boilermakers.
- (i) All steelworkers.
- (j) All toolroom employees, including machinists and blacksmiths.
- (k) All sheet metal workers.
- (l) All pipe fitters.
- (m) All other production and maintenance employees, including auto and Diesel mechanics, crane operators, knife grinders, roll grinders, well-men, and oilers.

Panama City, Florida, plant (Case No. 15-RC-475)

- (n) All millwrights.
- (o) All steelworkers.
- (p) All toolroom men, including machinists and blacksmiths.
- (q) All sheet metal workers.
- (r) All welders.
- (s) All carpenters.
- (t) All pipe fitters.
- (u) All production and maintenance employees, including metermen, auto mechanics, crane operators, mechanics, paper mill turbine operators, the molder, and firemen.

[Text of Direction of Elections omitted from publication in this volume.]

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LLOYD A. FRY ROOFING COMPANY *and* LOCAL 707, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL, PETITIONER. *Case No. 39-RC-305. July 12, 1951*

### Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Clifford W. Potter, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel. [Members Houston, Reynolds, and Styles].

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

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent employees of the Employer.
3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

The Petitioner seeks a unit of all production and maintenance employees of the Lloyd A. Fry Roofing Company, excluding professional, office and clerical employees, truck drivers, supervisors, and employees of Volney Felt Mills, Inc. The Employer contends that the requested unit is inappropriate because it does not include the employees of Volney Felt Mills, Inc. It asserts that the operations of both companies constitute a single integrated enterprise and therefore only a single unit of the employees of both companies is appropriate. There is no history of collective bargaining for any of these employees.

Volney Felt Mills, Inc., hereinafter called Volney, and the Lloyd A. Fry Roofing Company, hereinafter called Fry, are part of a multi-state enterprise.<sup>1</sup> Only the plant in Houston, Texas, is involved in this proceeding. Volney is a wholly owned subsidiary of Fry. Both companies have the same board of directors and president.

Volney and Fry occupy a single building which is divided by a fire wall which contains two large openings, protected by fire doors. The Volney operations are conducted on one side of the fire wall, and the Fry operations are conducted on the other side of the fire wall. Volney manufactures dry felt which is used by Fry as the basic product in manufacturing asphalt roofing. The dry felt which is manufactured by Volney is taken from the felt machine by Volney employees to Fry's roofing machines, where Fry's employees use it in the manufacture of the asphalt roofing. Approximately 65 percent of the felt manufactured by Volney is used in the manufacture of asphalt roofing by Fry at the Houston plant. The other 35 percent of the felt is sent to a Fry roofing plant at Stroud, Oklahoma. Volney felt mills do not sell felt to the general public, but sell only to Fry Roofing Company plants.

There is one plant manager and one assistant plant manager who have general over-all supervision over both the Volney and Fry operations. One office staff does the clerical work for both companies under the supervision of one office manager. Each company has separate superintendents who have foremen or tour bosses under them, who immediately supervise the work of the employees of their respective

<sup>1</sup> There are 11 Volney felt mills and 17 Fry roofing plants in the United States.

companies. Although separate payrolls are kept for each company, all employees are paid by checks drawn on the Fry company.

Final authority as to hiring, discharge, and discipline is vested in the plant manager. Although the superintendents of each company, for the most part, hire their own employees, they do so subject to definite hiring policies laid down by the plant manager. The policies governing discharge and discipline are also centrally determined. Personnel policies and employee benefits, such as insurance, hospitalization, and vacations, are the same for employees of both companies.<sup>2</sup>

There are 70 employees on the Fry payroll and 49 on the Volney payroll. All, except the truck drivers, are hourly paid, and receive substantially the same wages. Although the processes required for each plant's operations are different, the work of both is similar as far as operating the machines is concerned.<sup>3</sup> There is one warehouse which serves both companies, and the truck drivers who are on the Fry payroll do work for both companies. The watchmen on both payrolls have the same duties, and when only one watchman is on duty, he has the responsibility of watching the entire building which houses both plants.<sup>4</sup> The mechanics for both companies all work out of the same machine shop and use the same equipment.<sup>5</sup> When necessary, the mechanics of one plant help the mechanics of the other plant. The rate of pay for all mechanics is substantially the same, except that some of the Volney mechanics get about 5 cents more an hour.<sup>6</sup>

Under all the circumstances, including the substantial identity of control, the integrated operations, and the common determination of personnel and labor policies, we are of the opinion that Fry and Volney together constitute a single Employer within the meaning of Section 2 (2) of the Act, and that their employees at Houston, Texas, comprise a single unit appropriate for the purposes of collective bargaining.<sup>7</sup> The only basis for establishment of the unit sought by the Petitioner, that we can perceive, is the extent of the Petitioner's organization among only the Fry employees. The Act, however, precludes a finding on this basis alone.<sup>8</sup>

As the Petitioner has not made an adequate showing of interest in the unit found appropriate, we shall dismiss the petition herein.

<sup>2</sup> These policies are determined by the executive office in Chicago, and are followed in all plants throughout the United States.

<sup>3</sup> Fry has 11 and Volney has about 10 skilled operators. The remainder of the workers, with the exception of the truck drivers, are unskilled laborers.

<sup>4</sup> There are three watchmen on the Fry payroll, and one on the Volney payroll.

<sup>5</sup> There are five mechanics on the Volney payroll, and two on the Fry payroll.

<sup>6</sup> The mechanical work in the Volney plant is more intricate than that in the Fry plant, and requires mechanics of a little higher skill.

<sup>7</sup> *Lloyd A. Fry Roofing Company and Volney Felt Mills, Inc.*, 92 NLRB 1170.

<sup>8</sup> *Peterzell & Gelles, Inc.*, 94 NLRB 346; *Pacific Gas & Electric Company*, 91 NLRB 615.

### Order

Upon the entire record in this case, the National Labor Relations Board hereby orders that the petition herein be, and it hereby is, dismissed.

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LACONIA MALLEABLE IRON COMPANY, INC. *and* UNITED STEELWORKERS OF AMERICA, CIO, PETITIONER. *Case No. 1-RC-2057. July 12, 1951*

### Supplemental Decision and Certification of Representatives

Pursuant to a Decision and Direction of Election issued on May 2, 1951, in the above proceeding, an election by secret ballot was held on May 17, 1951, under the direction of the Regional Director for the First Region, among production and maintenance employees at the Employer's Laconia, New Hampshire, plant, in the unit heretofore found appropriate.

Upon the conclusion of the election, a tally of ballots was furnished the parties in accordance with the Rules and Regulations of the Board. The tally showed that, of approximately 115 eligible voters, 55 cast ballots for the Petitioner, 54 cast ballots against the Petitioner, and the ballot of 1 voter was challenged. The challenged ballot is determinative of the outcome of the election.

### The Challenged Ballot

During the counting of ballots, on May 17, 1951, the Board agent in charge declared void a ballot marked as follows: The "Yes" box is untouched; slightly to the left of the "No" box, and running through the top left-hand corner thereof, is a line which the parties agree is a checkmark; entirely within the "No" box are several pencil marks of irregular shape and intensity. The Employer disagreed with the determination of the Board agent and challenged the ballot.

On May 22, 1951, the Employer duly filed its objections to the conduct of the election and conduct affecting the results of the election, in which it contended that the Board agent in charge of the election erroneously refused to count as valid the ballot of the challenged voter and requested that the Board declare the challenged ballot valid and dismiss the petition or, in the alternative, direct a new election in the afore-mentioned unit.

On May 29, 1951, the Regional Director, having duly investigated the matter, issued and duly served on the parties his report on objections, in which he concluded that the challenged ballot was valid and recommended that an amended tally of ballots be issued, showing