

In the Matter of MID-STATES GUMMED PAPER COMPANY and INT'L
BROTHERHOOD OF PULP, SULPHIDE AND PAPER MILL WORKERS, CHI-
CAGO, LOCAL 332

Case No. R-483.—Decided February 1, 1938

Gummed Paper Manufacturing—Investigation of Representatives: controversy concerning representation of employees' rival organizations; refusal by employer to recognize petitioning union as exclusive representative; substantial doubt as to majority status—*Unit Appropriate for Collective Bargaining:* production and maintenance employees; no controversy as to—*Election. Ordered*

Mr. Stephen M. Reynolds, for the Board.

Pope & Ballard, by *Mr. Merrill Shepard*, of Chicago, Ill., for the Company.

Mr. Raymond Leon, of New York City, for the Brotherhood.

Mr. David L. Tressler, of Chicago, Ill., for the Association.

Mr. Victor A. Pascal, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

On October 4, 1937, International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Local 332,¹ herein called the Brotherhood, filed with the Regional Director for the Thirteenth Region (Chicago, Illinois) a petition, and on November 20, 1937, an amended petition, both alleging that a question affecting commerce had arisen concerning the representation of employees of Mid-States Gummed Paper Co.,² Chicago, Illinois, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On November 24, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and

¹ The title of the Brotherhood was corrected by motion made during the hearing

² The stipulation, prepared by the Company and received in evidence, recites its name as "Co." and not "Company" as stated in the petition

authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On November 26, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the Brotherhood, and upon The Mid-States Gunned Paper Company Employees Association, Inc., herein called the Association, a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on December 2, 1937, at Chicago, Illinois, before Herbert Wenzel, the Trial Examiner duly designated by the Board. The Board, the Company, and the Association were represented by counsel and the Brotherhood by its representative and all participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company is a Delaware corporation maintaining a factory and warehouse in Chicago, and sales offices in New York, Cleveland, St. Louis, and San Francisco. Its chief business is that of coating paper and fabric with glue or a similar material and the distribution of these products in the form of cloth and paper tape and paper in flat sheet form.

Its purchases of raw materials, for the period from January 1, 1937 to September 30, 1937, amounted to approximately \$1,500,000, 89 per cent of which were received by it from points outside the State of Illinois. During the same period, its sales were in excess of \$2,000,000, 72.2 per cent of which were shipped to points outside the State of Illinois.

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Local 332, is a labor organization affiliated with the American Federation of Labor, admitting to its membership all production and maintenance employees of the Company, excluding clerical and supervisory employees.

The Mid-States Gunned Paper Employees Association, Inc., is a labor organization which does not appear to be affiliated with any

other organization. It admits to its membership laborers employed by the Company at hourly wages, who have not the power to hire and discharge other employees.

III. THE QUESTION CONCERNING REPRESENTATION

On about September 27, 1937, a committee of representatives of the Brotherhood met with Ferdinand W. Humphner, vice president of the Company in charge of manufacturing, and stated to him that the Brotherhood represented employees of the Company and that they desired to negotiate an agreement with the Company. They left the proposed agreement with him, and, at Mr. Humphner's request, the meeting was adjourned until October 1, 1937. On that day, he refused to bargain with this committee, stating that another organization claimed to represent employees in the Company's factory and that he did not know which of the two organizations was the bargaining agent of a majority of these employees.

The Association does not appear to have attempted to bargain on behalf of employees of the Company.

We find that a question has arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I, above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNIT

In its petition, the Brotherhood stated that the appropriate bargaining unit is the "production employees, excluding clerical and supervisory." At the hearing, it amended this statement by alleging that it also represented the maintenance employees.

Neither the Association nor the Company presented any evidence as to the bargaining unit they deemed appropriate.

We find that the production and maintenance employees of the Company, excluding clerical and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

The evidence indicates that, on December 2, 1937, there were 192 employees of the Company in the unit which we have found to be appropriate for the purposes of collective bargaining.

The financial secretary of the Brotherhood testified that it had 141 members. However, the record does not establish either that all of these members were employed by the Company or that they were in the appropriate unit. Nor was evidence presented as to the number of employees which the Association claims to represent.

As the record does not contain satisfactory evidence that a majority of the employees in the unit which we have found to be appropriate desire to be represented by either the Brotherhood, the Association, or by neither, we find that an election by secret ballot is necessary to resolve the question concerning representation.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Mid-States Gummed Paper Co., Chicago, Illinois, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of the Company, excluding clerical and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series I, as amended, it is hereby

DIRECTED that, as part of the investigation ordered by the Board to ascertain representatives for the purposes of collective bargaining with Mid-States Gummed Paper Co., Chicago, Illinois, an election by secret ballot shall be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the Thirteenth Region, acting in this matter as agent for the National Labor Relations Board and subject to Article III, Section 9, of said Rules and Regulations, among the production and maintenance employees of the Company who were employed on October 4, 1937, excluding those who have since quit or

been discharged for cause and excluding clerical and supervisory employees, to determine whether they desire to be represented by the International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Local 332, or The Mid-States Gunned Paper Employees Association, Inc., for the purposes of collective bargaining, or by neither.

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Decision and Direction of Election.