

In the Matter of SCHWARTZ-BERNARD CIGAR COMPANY and UNITED
CIGAR WORKERS OF AMERICA, LOCAL No. 1

Case No. R-432

CERTIFICATION OF REPRESENTATIVES

May 27, 1938

On March 18, 1938, the National Labor Relations Board issued a Decision and Direction of Elections in the above-entitled case and four related cases.¹ The Direction of Elections directed that certain elections by secret ballot be held, one of them among all the employees employed by Bernard Schwartz Cigar Corporation, herein called the Company, during the pay-roll period next preceding November 18, 1937, excluding foremen, supervisory personnel, board members, superintendents, maintenance employees, clerical employees, those engaged in the office, and those quitting or discharged for cause before the election, to determine whether or not they desired to be represented by United Cigar Workers Local Industrial Union No. 24 for the purposes of collective bargaining. On or about April 2, 1938, the Company moved to amend the Decision and Direction of Elections so as to provide that the employees eligible to vote be those on the pay roll next preceding the election, instead of those employed during the pay-roll period referred to in the Direction. The motion was denied by order of the Board dated April 5, 1938.

Pursuant to the Direction, an election by secret ballot was conducted on April 7, 1938, between 1:30 p. m. and 5:00 p. m., at Detroit, Michigan, under the direction and supervision of the Regional Director for the Seventh Region (Detroit, Michigan). On April 12, 1938, the Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued an Intermediate Report on the ballot, which was duly served upon the parties on April 14, 1938.

On April 19, 1938, the Company filed objections and exceptions to the ballot, the notice of election, the Intermediate Report, and the Board's said order dated April 5, 1938, on the following grounds:

¹ 6 N. L. R. B. 71.

That 52 persons employed within the appropriate unit during the pay-roll period next preceding the election, but not during the pay-roll period referred to in the Direction of Election, were prevented from voting; that the notice of election posted in the factory by direction of the Board's agent, and the caption used on the ballot, each indicated, and led at least some employees to believe, that the Board preferred them to be represented by a union, and that the law required them to select an exclusive representative in order to bargain with their employer; and, finally, that a streetcar strike in Detroit the morning of the day of the election prevented 33 employees eligible to vote from reporting for work on that day and from voting.

The Board has examined the ballot and notice of election and finds that the objections and exceptions relative thereto are without merit. The Board has also carefully considered the facts alleged in the objections and exceptions relative to the alleged exclusion from voting of 52 employees and relative to the streetcar strike. It is of the opinion that the eligibility date selected was appropriate, and that even if the allegations relative to the streetcar strike are true, they constitute insufficient reason for setting aside the election. The objections and exceptions are hereby overruled.

On May 16, 1938, the Company requested an opportunity for oral argument on the objections and exceptions and on the entire record in the case. The request is hereby denied.

As to the results of the secret ballot, the Regional Director reported as follows:

Total number eligible to vote.....	346
Total number of votes cast.....	313
Total number of votes cast for the United Cigar Workers	
Local Industrial Union No. 24.....	168
Total number of votes cast against the United Cigar Workers	
Local Industrial Union No. 24.....	145
Total number of challenged ballots.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	One

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, 49 Stat. 449, and pursuant to Article III, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that United Cigar Workers Local Industrial Union No. 24 has been designated and selected by a majority of the employees of Bernard Schwartz Cigar Corporation, Detroit, Michigan, excluding foremen, supervisory personnel, board members,

superintendents, maintenance employees, clerical employees, and those engaged in the office, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, United Cigar Workers Local Industrial Union No. 24 is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.