

In the Matter of METRO-GOLDWYN-MAYER STUDIOS, and MOTION PICTURE PRODUCERS ASSN., *et al.* and SCREEN WRITERS' GUILD, INC.

Cases Nos. R-402 to R-420, inclusive

CERTIFICATION OF REPRESENTATIVES

SUPPLEMENTAL DECISION

AND

ORDER

August 8, 1938

On June 4, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Elections¹ in the above-entitled proceeding. The Direction of Elections provided that elections by secret ballot be held within twenty-five (25) days from the date of the Direction among all persons who are employed as screen writers on the date of issuance of such Direction by Loew's Incorporated, Selznick International Pictures, Inc., Walter Wanger Productions, Inc., Samuel Goldwyn, Inc., Ltd., Republic Productions, Inc., Columbia Pictures Corporation of California, Ltd., Paramount Pictures, Inc., RKO Radio Pictures, Inc., Universal Pictures Company, Inc., Twentieth Century-Fox Film Corporation, Warner Bros. Pictures, Inc., Grand National Films, Inc., Trem Carr Pictures, Ltd., Major Pictures Corporation, Hal Roach Studios, Inc., B. P. Schulberg, Inc., Monogram Productions, Inc., and Darmour, Inc., respectively, exclusive of executives, producers, associate producers, directors, supervisors, story editors, scenario editors, and other persons having executive or supervisory powers, and exclusive of lyricists, composers, and readers, to determine whether such employees desire, in the case of each Company, to be represented by Screen Writers' Guild, Inc., or by Screen Playwrights, Inc., for the purposes of collective bargaining, or by neither.

Pursuant to the Direction, elections by secret ballot were conducted on June 28, 1938, among persons employed as screen writers by each

¹ 7 N. L. R. B. 662.

8 N. L. R. B., No. 106.

of the above-named Companies. On July 1, 1938, Towne J. Nylander, Regional Director for the Twenty-first Region (Los Angeles, California), acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued Intermediate Reports upon Secret Ballot in each of the cases in this consolidated proceeding, copies of which were duly served upon all parties involved in the respective cases. Subsequently, the Regional Director issued Amended Intermediate Reports upon Secret Ballot in the two cases involving Walter Wanger Productions, Inc., and Paramount Pictures, Inc., wherein certain errors appearing in the original Intermediate Reports issued in these cases were corrected. Copies of such Amended Intermediate Reports were duly served upon the respective parties in these two cases. As to the balloting and its results, the Regional Director reported as follows:

LOEW'S INCORPORATED

Total number eligible.....	110
Total number of ballots counted.....	102
Total number of votes for Screen Writers' Guild, Inc.....	63
Total number of votes for Screen Playwrights, Inc.....	33
Total number of votes for neither.....	6
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	8

SELZNICK INTERNATIONAL PICTURES, INC.

Total number eligible.....	5
Total number of ballots counted.....	3
Total number of votes for Screen Writers' Guild, Inc.....	3
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	1

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WALTER WANGER PRODUCTIONS, INC.

Total number eligible.....	1
Total number of ballots counted.....	1
Total number of votes for Screen Writers' Guild, Inc.....	1
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

NATIONAL LABOR RELATIONS BOARD

SAMUEL GOLDWYN, INC., LTD.

Total number eligible.....	2
Total number of ballots counted.....	2
Total number of votes for Screen Writers' Guild, Inc.....	2
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

REPUBLIC PRODUCTIONS, INC.

Total number eligible.....	26
Total number of ballots counted.....	26
Total number of votes for Screen Writers' Guild, Inc.....	25
Total number of votes for Screen Playwrights, Inc.....	1
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

COLUMBIA PICTURES CORPORATION OF CALIFORNIA, LTD.

Total number eligible.....	20
Total number of ballots counted.....	19
Total number of votes for Screen Writers' Guild, Inc.....	17
Total number of votes for Screen Playwrights, Inc.....	1
Total number of votes for neither.....	1
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

PARAMOUNT PICTURES, INC.

Total number eligible.....	36
Total number of ballots counted.....	36
Total number of votes for Screen Writers' Guild, Inc.....	20
Total number of votes for Screen Playwrights, Inc.....	14
Total number of votes for neither.....	2
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	2

RKO RADIO PICTURES, INC.

Total number eligible.....	32
Total number of ballots counted.....	30
Total number of votes for Screen Writers' Guild, Inc.....	30
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	1

UNIVERSAL PICTURES COMPANY, INC.

Total number eligible.....	25
Total number of ballots counted.....	25
Total number of votes for Screen Writers' Guild, Inc.....	22
Total number of votes for Screen Playwrights, Inc.....	2
Total number of votes for neither.....	1
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

TWENTIETH CENTURY-FOX FILM CORPORATION

Total number eligible.....	47
Total number of ballots counted.....	44
Total number of votes for Screen Writers' Guild, Inc.....	38
Total number of votes for Screen Playwrights, Inc.....	5
Total number of votes for neither.....	1
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

WARNER BROS. PICTURES, INC.

Total number eligible.....	43
Total number of ballots counted.....	42
Total number of votes for Screen Writers' Guild, Inc.....	38
Total number of votes for Screen Playwrights, Inc.....	1
Total number of votes for neither.....	3
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

GRAND NATIONAL FILMS, INC.

Total number eligible.....	Unknown
Total number of ballots counted.....	None
Total number of votes for Screen Writers' Guild, Inc.....	None
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

TREM CARR PICTURES LTD.

Total number eligible.....	1
Total number of ballots counted.....	None
Total number of votes for Screen Writers' Guild, Inc.....	None
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

MAJOR PICTURES CORPORATION

Total number eligible.....	Unknown
Total number of ballots counted.....	None
Total number of votes for Screen Writers' Guild, Inc.....	None
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

HAL ROACH STUDIOS, INC.

Total number eligible.....	7
Total number of ballots counted.....	5
Total number of votes for Screen Writers' Guild, Inc.....	5
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

B. P. SCHULBERG, INC.

Total number eligible.....	Unknown
Total number of ballots counted.....	None
Total number of votes for Screen Writers' Guild, Inc.....	None
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

MONOGRAM PRODUCTIONS, INC.

Total number eligible.....	4
Total number of ballots counted.....	4
Total number of votes for Screen Writers' Guild, Inc.....	4
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

DARMOUR, INC.

Total number eligible.....	3
Total number of ballots counted.....	3
Total number of votes for Screen Writers' Guild, Inc.....	3
Total number of votes for Screen Playwrights, Inc.....	None
Total number of votes for neither.....	None
Total number of blank ballots.....	None
Total number of void ballots.....	None
Total number of challenged votes.....	None

Subsequently, most of the Companies² filed objections to the balloting and to the Intermediate Reports. The objections alleged in substance that no evidence was introduced to show that persons voting were employed by the Companies as screen writers on the date of the issuance of the Direction of Election; that no opportunity was afforded the Companies to check and verify the records to determine whether the findings in the Intermediate Reports were correct; and that by order of the Regional Director the Companies had been excluded from participating in the secret ballot and from making challenges.

Prior to the elections, the Regional Director requested each Company to furnish him with the names of persons employed by it as screen writers and eligible to vote pursuant to the Direction of Elections, but each Company refused to do so and to avail itself of the opportunity to participate in the elections to this extent. Accordingly, the Regional Director gave due notice that persons voting in the election with respect to a particular Company must prior to the election register with the Regional Director and by affidavit state that they were employed on the date of the issuance of the Direction of Elections as screen writers by the said Company. In view of the refusals of the Companies to submit names of screen writers employed by them in accordance with the request of the Regional Director, they are clearly not in a position to object to the procedure which was followed. Furthermore, with respect to the objection that the Companies had been excluded from participating in the secret ballot and making challenges, the Regional Director reports that no request was made by any of the Companies to have observers during the balloting or otherwise to participate in the conduct of the elections. We find that the objections filed by the Companies are without merit, and the objections are accordingly hereby overruled.

Screen Writers' Guild, Inc., having been selected by a majority of the screen writers, respectively, employed by Loew's Incorporated, Selznick International Pictures, Inc., Samuel Goldwyn, Inc., Ltd., Republic Productions, Inc., Columbia Pictures Corporation of California, Ltd., Paramount Pictures, Inc., RKO Radio Pictures, Inc., Universal Pictures Company, Inc., Twentieth Century-Fox Film Corporation, Warner Bros. Pictures, Inc., Hal Roach Studios, Inc., Monogram Productions, Inc., and Darmour, Inc., as their representative for the purposes of collective bargaining, is, by virtue of Section 9 (a) of the Act, the exclusive representative for the purposes of

² The following Companies filed objections: Loew's Incorporated, Selznick International Pictures, Inc., Walter Wanger Productions, Inc., Samuel Goldwyn, Inc., Ltd., Republic Productions, Inc., Columbia Pictures Corporation of California, Ltd., Paramount Pictures, Inc., RKO Radio Pictures, Inc., Universal Pictures Company, Inc., Twentieth Century-Fox Film Corporation, Warner Bros. Pictures, Inc., and Hal Roach Studios, Inc.

collective bargaining of all of such employees, and we will so certify it.

The results of the elections among screen writers employed by Grand National Films, Inc., Trem Carr Pictures, Ltd., Major Pictures Corporation, and B. P. Schulberg, Inc., show that no collective bargaining representatives have been selected by a majority of the screen writers employed by these four Companies. The petitions for investigation and certification of representatives of persons employed as screen writers by Grand National Films, Inc., Trem Carr Pictures, Ltd., Major Pictures Corporation, and B. P. Schulberg, Inc., will therefore be dismissed.

In the case of Walter Wanger Productions, Inc. it appears that only one person was eligible to vote. As we stated in *Matter of Luckenbach Steamship Company, Inc., et al.*³

"The National Labor Relations Act creates the duty of employers to bargain collectively. But the principle of collective bargaining presupposes that there is more than one eligible person who desires to bargain. The Act therefore does not empower the Board to certify where only one employee is involved. This conclusion does not mean that a single employee may not designate a representative to act for him; he had such a right without the Act, and the Act in no way limits the right. By the same token, the conclusion in no way limits the protection which the Act otherwise gives such an employee."

The petition for investigation and certification of representatives of persons employed as screen writers by Walter Wanger Productions, Inc. will therefore also be dismissed.

CERTIFICATION OF REPRESENTATIVES

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 the Screen Writers' Guild, Inc. has been selected by a majority of persons employed as screen writers by Loew's Incorporated, Selznick International Pictures, Inc., Samuel Goldwyn, Inc., Ltd., Republic Productions, Inc., Columbia Pictures Corporation of California, Ltd., Paramount Pictures, Inc., RKO Radio Pictures, Inc., Universal Pictures Company, Inc., Twentieth Century-Fox Film Corporation, Warner Bros. Pictures, Inc., Hal Roach Studios, Inc., Monogram Productions, Inc., and Darmour, Inc.,

³ 2 N. L. R. B. 181, 193.

respectively, exclusive of executives, producers, associate producers, directors, supervisors, story editors, scenario editors, and other persons having executive or supervisory powers, and exclusive of lyricists, composers, and readers, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, Screen Writers' Guild, Inc. is the exclusive representative, in the case of each Company, of all such persons for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

ORDER

By virtue of 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 ORDERED that the petitions for investigation and certification of representatives of persons employed as screen writers by Grand National Films, Inc., Trem Carr Pictures, Ltd., Major Pictures Corporation, B. P. Schulberg, Inc., and Walter Wanger Productions, Inc. filed by Screen Writers' Guild, Inc., be, and they hereby are, dismissed.

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Certification of Representatives Supplemental Decision and Order.