

In the Matter of LUNKENHEIMER COMPANY and STEEL WORKERS  
ORGANIZING COMMITTEE

*Case No. R-471.—Decided January 24, 1938*

*Valve Manufacturing Industry—Investigation of Representatives:* controversy concerning representation of employees: refusal by employer to recognize petitioner as exclusive bargaining representative of its employees—*Unit Appropriate for Collective Bargaining:* stipulation; production employees—*Representatives:* no controversy as to petitioner's majority in appropriate unit—*Certification of Representatives:* upon proof of majority representation.

*Miss Mary Telker, Mr. W. J. Perricelli, and Mr. Philip G. Phillips,* for the Board.

*Frost & Jacobs, by Mr. Carl M. Jacobs, of Cincinnati, O., and Mr. Cornelius J. Petzhold, of Cincinnati, O.,* for the Company.

*Mr. Julius Holzberg, of Cincinnati, O.,* for the S. W. O. C.

*Mr. Melvin S. Frazier, of counsel to the Board.*

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On September 10, 1937, Steel Workers Organizing Committee, herein called the S. W. O. C., filed with the Regional Director for the Ninth Region (Cincinnati, Ohio) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Lunkenheimer Company, Cincinnati, Ohio, 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 October 4, 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 authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On October 15, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon the S. W. O. C. Pursuant to the notice, a hearing was held on Novem-

ber 2, 1937, at Cincinnati, Ohio, before Robert M. Gates, the Trial Examiner duly designated by the Board. The Board, the Company, and the S. W. O. C. were represented by counsel and 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

Lunkenheimer Company is an Ohio corporation with its principal office and two manufacturing plants in Cincinnati, Ohio. Branches of the Company are located in New York, Boston, Chicago, and Philadelphia. Only the two manufacturing plants at Cincinnati are here involved.

The Company is engaged in the manufacture of bronze, iron and steel valves and fittings, lubricators, grease and oil cups, and other engineering devices. During the calendar year 1936 the Company manufactured and shipped approximately 9,161,000 tons of goods to jobbers and wholesalers. Approximately 80 per cent of the raw materials used by the Company in the manufacture of its products, consisting principally of pig iron, copper, brass, and steel, are purchased without the State of Ohio. Approximately 75 per cent of the Company's finished products are normally shipped to points outside the State of Ohio.

The Company employs approximately 1,212 production workers exclusive of foremen, assistant foremen, watchmen, supervisors, and salaried employees.

#### II. THE ORGANIZATION INVOLVED

Steel Workers Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization. Its affiliated local, Lunkenheimer Local 1728, admits to membership all production employees of the Company, except foremen, supervisors, and salaried employees.

#### III. THE QUESTION CONCERNING REPRESENTATION

During the month of July 1937, representatives of the S. W. O. C. conferred frequently with officials of the Company and repeatedly re-

requested that the Company enter into a written agreement recognizing the S. W. O. C. as the exclusive bargaining representative of the production employees of the Company. The S. W. O. C. claimed to represent a majority of the production workers and the Company did not deny this claim. On August 2, 1937, the Company issued a Statement of Policy setting forth rates of pay and conditions of employment which the S. W. O. C. had stated to be satisfactory, but failing to name the S. W. O. C. as the exclusive bargaining representative of the production employees. The Statement of Policy declares that it shall be in effect until February 28, 1938, and thereafter until further notice. Before the Statement of Policy was issued a rough draft was presented to representatives of the S. W. O. C. The Company claims that the S. W. O. C. unconditionally accepted the Statement of Policy. The S. W. O. C. states the terms thereof were accepted subject to the reservation that the S. W. O. C. would petition the Board to designate it as the exclusive bargaining representative of the Company's production employees. In view of the insistence of the representatives of the S. W. O. C. throughout all negotiations that the S. W. O. C. be recognized as the exclusive bargaining representative, it is highly improbable that the S. W. O. C. agreed to the Statement of Policy without some such reservation.

We find that a question has arisen concerning the 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 S. W. O. C. named as the appropriate unit all production workers of the Company. At the hearing the Company stated that it would stipulate as the appropriate unit all production employees of the Company, exclusive of foremen, assistant foremen, watchmen, supervisors, and salaried employees. No objection was raised to such unit by any party at the hearing.

We find that all production employees of the Company, excluding foremen, assistant foremen, watchmen, supervisors, and salaried 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 collective bargaining and otherwise effectuate the policies of the Act.

#### VI. THE DETERMINATION OF REPRESENTATIVES

The record in the case shows that the Company employs approximately 1,212 production workers. The S. W. O. C. claims that it represents a vast majority of such workers. At the hearing, the Company agreed that on August 2, 1937, and on the date of the hearing, the S. W. O. C. represented a majority of the employees of the Company. Since only production workers of the Company are members of the S. W. O. C. and since such workers constitute only a part of all the employees of the Company, the Company thereby obviously conceded that the S. W. O. C. represented a majority in the appropriate unit.

We find, therefore, that the S. W. O. C. has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purpose of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

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 Lunkenheimer Company, Cincinnati, Ohio, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All production employees of the Company, exclusive of foremen, assistant foremen, watchmen, supervisors, and salaried employees constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. Steel Workers Organizing Committee is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

#### 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, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that Steel Workers Organizing Committee has been designated and selected by a majority of the production employees of Lunkenheimer Company, Cincinnati, Ohio, exclusive of foremen, assistant foremen, watchmen, supervisors, and salaried employees, as their representative for the purpose of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, Steel Workers Organizing Committee 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.