

operations with respect to the employees involved in this proceeding, we deem it inappropriate to assert jurisdiction in the instant proceeding. We shall, accordingly, dismiss the petition.³

[The Board dismissed the petition.]

³ In view of this disposition, we find it unnecessary to consider the unit grounds on which the Employer urged that the petition be dismissed

Grand Lodge International Association of Machinists and Aerospace Workers, AFL-CIO and I.A.M. Representatives Association, Petitioner

Grand Lodge International Association of Machinists and Aerospace Workers, AFL-CIO, Employer-Petitioner, and I.A.M. Representatives Association Union. Cases 10-RC-6555 and 10-RM-432. June 10, 1966

DECISION AND DIRECTION OF ELECTION

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a consolidated hearing was held before Hearing Officer Scott P. Watson. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. Briefs were filed by I.A.M. Representatives Association and Grand Lodge International Association of Machinists and Aerospace Workers, AFL-CIO, hereinafter referred to as Petitioner and Employer respectively.

Pursuant to the provisions of Section 3(b) of the Act, the National Labor Relations Board has delegated its powers in connection with these cases to a three-member panel [Chairman McCulloch and Members Fanning and Zagoria].

Upon the entire record in these cases, the Board finds:

1. Based on a stipulation of the parties, we find that the Employer is engaged in commerce and that it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The Employer contends that the Petitioner is not a labor organization. The record shows that the Petitioner, an organization in which employees participate, was recently organized for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, and working conditions. Although the Petitioner as yet has no constitution or elected officers, meetings of those eligible for membership have been conducted, and the Petitioner has filed the petition in Case 10-RC-6555. The Petitioner sought recognition as collective-bargaining representative, and bargaining, on behalf of those who have designated it as their representative, upon

which demand the Employer's petition in Case 10-RM-432 is based. In view of the foregoing, we find that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.¹

3. The Petitioner seeks to represent a unit including Grand Lodge representatives and special representatives, hereinafter referred to as GLR's and SR's, respectively, assigned to the Employer's field staff. Even though the Employer filed the petition in Case 10-RM-432 requesting an election in a unit including these individuals, it nevertheless contends that no question of representation exists because these individuals are managerial and/or supervisory personnel and therefore are not employees within the meaning of the Act.

Field GLR's are required to be members of the IAM. The positions they hold were established by the Employer's constitution, and they were appointed by the Employer's International president; subject to the approval of its executive council. They are assigned by the International president to work under one of the vice presidents responsible for the Employer's activities in a particular industry or territory. Field GLR's are supervised by their respective vice presidents, although on occasion they are given assignments directly by the International president. They direct organizational campaigns, negotiate and sign contracts on the Employer's behalf, attend conferences and meetings, police adherence by local and district lodges to the Employer's constitution and policies, act as trustees for delinquent local and district lodges, and supervise and assist these lodges in organizing and electing officials, handling grievances and arbitration, and directing strikes approved by the Grand Lodge.

Field SR's, who are essentially apprentice GLR's, also are required to be members of the IAM. Like the GLR's they are appointed by the International president and have the same duties and responsibilities, although their salaries are lower and are not set by the Employer's constitution. All GLR's and SR's are required to submit weekly activity and expense reports to their respective supervising vice presidents and to the International president, and are paid from Grand Lodge headquarters in Washington, D.C. They have no authority to hire, discharge, layoff, recall, or assign or responsibly direct any of the Employer's personnel or effectively to recommend such action.

On the basis of the foregoing, we find that the duties and responsibilities of field GLR's and SR's are neither managerial nor supervisory.² Accordingly, we find that they are employees of the Em-

¹ Cf. *Retail Clerks International Association, AFL-CIO*, 153 NLRB 204.

² *Air Line Pilots Association, International*, 97 NLRB 929; *American Federation of Labor and Congress of Industrial Organizations*, 120 NLRB 969; *International Ladies' Garment Workers' Union*, 131 NLRB 111; *Textile Workers Union of America*, 138 NLRB 269; *Retail Clerks International Association, AFL-CIO*, *supra*; *Retail Store Employees Union, Local 444, Retail Clerks International Association, AFL-CIO*, 153 NLRB 252; *Retail Store Employees Union, Local 880, Retail Clerks International Association, AFL-CIO*, 153 NLRB 255.

ployer, and that a question affecting commerce exists concerning the representation of employees within the meaning of Sections 9(c) (1) and 2(6) and (7) of the Act.³

4. The unit.

A. The positions of the parties

The Petitioner would include in the unit all GLR's, SR's, and press representatives, hereinafter referred to as PR's, comprising the Employer's field staff in the United States, excluding GLR's and SR's, assigned as assistants to vice presidents, those assigned to headquarters staff in Washington, D.C., and to the transportation department in Chicago; Grand Lodge auditors; office clerical employees, and professional and technical employees of the headquarters staff; guards, and supervisors as defined in the Act. In the alternative, the Petitioner is willing to represent any lesser unit or units found appropriate by the Board.

The Employer contends that if GLR's and SR's are found to be employees, then all GLR's and SR's, as well as all Grand Lodge auditors, in the United States and Canada, should be included in the unit. The Employer also contends that PR's are professional employees and should be excluded. There is no bargaining history.

B. The unit found appropriate

On the basis of the facts set forth in paragraph 3 above, and as neither party contends primarily that a unit narrower in scope than nationwide is appropriate, we find that all field GLR's and SR's in the United States constitute an appropriate unit.⁴

(1) *Canadian representatives*: Contrary to the Employer we shall, in accordance with Board practice, exclude GLR's and SR's who work exclusively in Canada under the direction of a Canadian regional vice president.⁵

(2) *GLR assistants to vice presidents*: Vice presidents designate one or more of the GLR's assigned to them as assistants. There are no special qualifications for such designation, and these GLR's receive the same pay and benefits as others. They spend a substantial amount of their time performing duties similar or related to the duties of other GLR's, such as organizing and other field activities. In addition, the assistants handle National Labor Relations Board cases, and act as conduits in relaying messages and other information between the vice president and other GLR's. Although the assistants occasionally assign work to other GLR's and SR's, and direct

³ We find no merit in the Employer's contention at the hearing that its constitution is a bar to the instant petitions, as among other reasons, it is not a collective-bargaining agreement between a labor organization and an employer.

⁴ *Textile Workers Union of America, supra.*

⁵ *Retail Clerks International Association, AFL-CIO, supra*, at footnote 52; *Textile Workers Union of America, supra.*

activities in their region when their vice president is absent, in doing so they follow previous instructions or obtain instructions by telephone from their vice president or from International headquarters in Washington. They may on occasion, when requested, give opinions regarding the terms or conditions of employment of GLR's and SR's to their vice president who in turn makes recommendations to the International president.

In all the circumstances, we find, contrary to the Petitioner, that the GLR assistants to vice presidents are not supervisors, or office clerical,⁶ confidential, or professional employees. As their qualifications, duties, pay, benefits, and supervision are similar to those of other GLR's in the unit, we shall include them.

(3) *GLR's and SR's assigned to International headquarters*: Ten GLR's and three SR's are assigned to the Employer's headquarters in Washington, D.C., where their activities are supervised by the headquarters vice president or the International president. They have no authority to hire, discharge, or transfer any of the Employer's employees, or effectively recommend such action. With the exception of GLR Jirikowic, discussed below, they do not responsibly direct other headquarters or field personnel, although some on occasion assign other representatives at the direction and over the signature of the International president or the headquarters vice president.

Six of these individuals, headquarters GLR's Burnsky, Wimpisinger, Tremontozzi, Burns, and Heisler and SR Holly, in addition to performing specialized assignments, spend a substantial portion of their time coordinating and participating in organizational activities and negotiations, and attending field conferences and meetings, like other GLR's and SR's included in the unit. In these circumstances, we find that these six headquarters GLR's and SR's possess no supervisory authority and are not office clerical, confidential, or professional employees. As they share substantial interests and duties in common with the employees in the unit, we shall include them.

With regard to the remaining GLR's and SR's on the Employer's headquarters staff, Bauer, Flinn, Kourpias (also referred to in the record as Corpias), McClure, Nelson, and Faupl, the record indicates that their specialized assignments respectively include review of correspondence to the International president, liaison with governmental agencies, handling of internal union appeals to the International president, review of bylaws adopted by subordinate lodges, and acting as legislative representative, and International representative; they rarely engage in organizational activities or negotiations.

⁶ We find no merit in the Petitioner's contention that these GLR's should be excluded from the unit as office clerical employees as the record indicates that these individuals are not merely "messengers" of the vice presidents, as the Petitioner contends, and they are not included in the office clerical unit currently represented by another labor organization.

Accordingly, we find that these employees have duties, responsibilities, and interests which differ substantially from those of employees in the unit, and we shall, therefore, exclude them. Jirikowic, director of the research department, responsibly directs a research staff of 12 to 14 individuals. We therefore find that he is a supervisor, and we shall also exclude him.

(4) *GLR's and SR's assigned to the air transport and railroad industries*: These employees are on the staff of Vice President Ramsey in Chicago. Their duties involve organization and negotiations in the air transport and railroad industries and carry them across the boundaries of territorial vice presidents, and much of their work relates to representation of individuals covered by the provisions of the Railway Labor Act. The record indicates, however, that the working conditions, duties and responsibilities, supervision, and interests of these employees are similar to those of other GLR's and SR's included in the unit, and we shall include them.

We shall also include SR Muldanado, who was recently assigned to work under the supervision of either the International president, or one of the Employer's vice presidents in the United States, in connection with organizational activities in Puerto Rico, some of which involve the air transport industry.

(5) *Press representatives*: The three PR's are public relations and news media specialists hired on the basis of training and press relations experience; they spend most of their time in the field assisting GLR's and SR's under the immediate supervision of their respective vice presidents. They assist in organizing, draft handbills and press releases, assist in negotiations and strike activities, and attend meetings and conferences. Although their salaries are not set by the Employer's constitution as are those of GLR's, their minimum salaries are the same. The other terms of their employment are similar to those of GLR's and SR's, including the requirement of filing weekly activity and expense reports, except that PR's are not required to be members of the Employer's organization. PR's temporarily substitute for members of the Employer's newspaper staff at headquarters, and occasionally prepare articles for this publication; unlike the regular members of that staff, however, who spend only 5 to 7 percent of their time away from Washington headquarters and whom the parties agreed to exclude, these three representatives spend most of their time in the field.

In view of the similarity of duties, interests, and conditions of employment between these three PR's and the GLR's and SR's in the unit, we find, contrary to the Employer's contention, that these PR's are nonprofessional employees properly a part of the unit and we shall, therefore, include them.

(6) *Grand Lodge auditors*: Although the auditors receive the same pay as GLR's, their primary function is that of auditing the books of local and district lodges, and they only incidentally participate in field organizational activities, and assist in strike situations only when substantial strike funds are distributed. Unlike the employees in the unit, Grand Lodge auditors are appointed and supervised by the Employer's general secretary-treasurer and their assignments are not coextensive with the zones or regions which are supervised by vice presidents. As Grand Lodge auditors are separately supervised and have primary duties and responsibilities which differ substantially from those of the Grand Lodge, special, and press representatives in the unit, we shall exclude them.

Accordingly, we find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All Grand Lodge, special, and press representatives employed by the Employer in the United States and Puerto Rico; but excluding all similarly classified employees employed exclusively in Canada, those employed chiefly in unrelated special assignments at headquarters, Grand Lodge auditors, office clerical employees, professional and technical employees, guards, and supervisors as defined in the Act.⁷

5. Laid-off employees. The record shows that a number of Grand Lodge, special, and press representatives were terminated during 1965. The Petitioner alleges that these individuals were temporarily furloughed due to a lack of finances, that they received letters indicating that their furloughs were temporary, that some have been and others soon will be recalled, and that they are, therefore, eligible to vote. The Employer makes no contention with regard to these individuals. The record shows only that they were terminated and that the Employer's financial position has recently improved. The termination letters referred to by the Petitioner are not in evidence, and there is no other evidence as to the circumstances of their termination or the Employer's intentions regarding their recall. As the record is therefore insufficient to show whether these employees have a reasonable expectancy of recall in the foreseeable future, we shall permit those terminated in 1965 and not recalled prior to the eligibility date to vote subject to challenge.⁸

⁷ The following personnel are excluded in accordance with the stipulation of the parties: the Employer's executive council composed of the International president, nine general vice presidents, and the general secretary-treasurer; the general secretary-treasurer's assistant; the education department, research department, newspaper department, and legal department; the medical doctor; the Univac operator, and all office clerical employees wherever located.

As the unit found appropriate is broader than the unit requested by the Petitioner, the Petitioner may withdraw from the election directed herein upon written notice to the Regional Director within 10 days after the issuance of this Decision and Direction of Election.

⁸ *Radio Corporation of America*, 127 NLRB 633.

Representatives discharged in 1961. Petitioner urges that certain GLR's discharged in 1961 be allowed to cast challenged ballots as they are presently seeking reinstatement, backpay, and other relief from a United States District Court under the provisions of the Labor-Management Reporting and Disclosure Act. A verdict in their favor would establish, in effect, that their employee status was never lawfully terminated, while a contrary determination would establish that it was. In these circumstances, we shall permit them to vote subject to challenge.⁹

[Text of Direction of Election omitted from publication.] ¹⁰

⁹ Cf. *Pacific Tile and Porcelain Company*, 137 NLRB 1358, 1365.

¹⁰ An election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 10 within 7 days after the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. No extension of time to file this list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. *Excelsior Underwear Inc.*, 156 NLRB 1236.

Hotel Employers Association of San Francisco and Professional and Clerical Employees, Local 856, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner and San Francisco Local Joint Executive Board of the Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO; and Hotel, Motel & Club Service Workers Union, Local No. 283, Intervenor. Case 20-RC-6369. June 10, 1966

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Joe R. McCray. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Employer, Petitioner, and Intervenor filed briefs with the Board.¹

Upon the entire record in this case, the National Labor Relations Board finds:

1. The Employer, sometimes referred to herein as the Association, is an organization of both large and small hotels and motels formed for the purposes of collective bargaining. The Employer annually exceeds \$500,000 in gross sales and annually purchases in excess of \$50,000 worth of goods from outside the State of California. The

¹ The Employer and Intervenor's requests for oral argument are hereby denied as the record and briefs adequately present the issues and positions of the parties.