

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14**

Ascend Wellness Holdings, Inc.

Employer

and

Case 14-RC-362683

International Brotherhood of Teamsters Local 916

Petitioner

DECISION AND DIRECTION OF ELECTION

International Brotherhood of Teamsters Local 916 (“Petitioner”) seeks to represent a unit of all full-time Kitchen and Carts Room employees employed by Ascend Wellness Holdings, Inc. (“Employer”) at its Barry, Illinois facility (“Barry facility”). The petitioned-for unit includes 21 employees. (Tr. at 351). There is no prior collective-bargaining history between the parties involving the petitioned-for unit. (*Id.* at 10). Employer maintains the petitioned-for unit is inappropriate because it is not homogenous and argues the only alternative is a wall-to-wall unit.¹ At hearing, the Employer stated the size of the proposed wall-to-wall unit was 179 employees as of the date Petitioner filed the Petition. (*Id.* at 350).

A Board hearing officer held a hearing in this matter on April 4 and 9, 2025, and the parties subsequently filed briefs. As explained below, I find the petitioned-for unit is appropriate based on the record, the parties’ briefs, and relevant Board law. Moreover, I do not find an overwhelming community of interest exists between the petitioned-for unit and the excluded employees in Employer’s proposed wall-to-wall unit. Accordingly, I have directed an election in the unit stated above.

I. RECORD EVIDENCE

A. Employer’s Operations

At the Barry facility, Employer cultivates, processes, and packages cannabis and cannabis products. (Tr. at 22). A detailed headcount of the Barry facility showed 396 employees. *See* Er. Exh. 2. Of this figure, 60 are temporary workers. (Tr. at 26).² Employer divides its business between “cultivation,” which involves growing the cannabis, and “operation,” which involves converting the harvested cannabis into finished products. (*Id.* at 23). On the cultivation side, the

¹ Specifically, Employer proposes the following unit description:

[A]ll full-time and regular part-time Kitchen Associates, Kitchen Leads, Cart Associates, Cart Leads, Post-Harvest Associates, Post-Harvest Leads, Extraction Lab Technicians, Senior Lead Extraction Lab Technicians, Packaging Associates, Packaging Leads, Packaging Senior Leads, Labeling Associates, Labeling Leads, Order Fulfillment Specialist, Facilities Associates, Inventory Specialist, Senior Inventory Specialist, Inventory Vault Leads, Materials Handler Associates, Quality Assurance Associates, Receiving Clerks, Preventative Maintenance Technicians, HVAC Technicians, Lead HVAC Technicians employed by the Employer at its facilities located at 1 310th Avenue Barry, Illinois.

² Employer confirmed these temporary employees would not be included in the wall-to-wall unit. (Tr. at 26).

Employer takes clippings from the mother cannabis plant; propagates them; guides the plant through the vegetative cycle; and harvests the flower. (*Id.* at 27–33). Employer maintains two cultivation areas at its facility—one in a separate greenhouse wing. (*Id.* at 58–59). Neither party proposes including the cultivation employees within the proposed unit. (*Id.* at 201–202).

B. Community of Interest Factors

1. Departmental Organization and Functional Integration

Employer divides the operation side into multiple departments. *See* Er. Exh. 1. Employer’s organizational chart lists the following departments: Post-Harvest; Cure; Extraction Lab; Kitchen; Packaging; Fulfillment; Production Management; Facilities; and Materials/Inventory. *See* Er. Exh. 1. A detailed breakdown of Employer’s employment figures also includes Transport, Security, and Labelling departments but excluded the Cure department. *See* Er. Exh. 2. All of these departments report to Senior State Director Josh Luman, who testified at hearing.

After cultivation harvests the cannabis plant, the Post-Harvest team dries and trims the product in dedicated drying rooms. (*Id.* at 33–34). The product then moves to one of the Cure Rooms, where the Cure Room team releases gases from the cannabis. (*Id.* at 34–37, 62–63). Depending on quality and market demand, the cannabis can either proceed from the Cure Room to one of the facility’s labs or the Packaging department. (*Id.* at 37, 50). If the cannabis is suited for oil, Cure Room or lab employees will move it to one of the two labs. (*Id.* at 38–40, 64). The ethanol lab converts the cannabis into oil for gummies and vape cartridges, and the butane lab processes the cannabis for use in concentrate products. (*Id.* at 39–40). Next, the cannabis oil moves to the Kitchen or the Cart Room. (*Id.* at 41). These rooms receive oil every day. (*Id.* at 66). In the Cart Room, denoted as the Process Packaging room in Er. Exh. 3, employees process oils into vape cartridges. (*Id.* at 41, 132). In the Kitchen, Kitchen Associates and Leads track and weigh ingredients; cook gummies using the cannabis oil; package gummies into bags or tins; and prepare finished products for storage in the facility vault. (*Id.* at 44–46, 49–50, 306–307). If the cannabis meets the quality for flower, from the Cure Rooms, it moves to the Packaging department, specifically the Packaging and Batcher Rooms. (*Id.* at 50–51). In the Batcher Room, Packaging employees fill pre-rolled marijuana joints. (*Id.*). In the Packaging Room, Packaging employees package the cannabis flower into bags and jars for consumer purchase. (*Id.* at 51–52).

Thereafter, the Kitchen and Packaging departments move the finished cannabis product to the facility vault. (*Id.* at 45–46). Employees send finished products to the vault via an elevator. (*Id.* at 47–48, 207–208). The finished product sits in the vault until it is ordered. (*Id.* at 53–54). Once the product is ordered, vault employees transfer the product to the Fulfillment department and team, who affixes labels and stickers. (*Id.* at 53–54). Afterwards, the Fulfillment team moves the product to the Secure Storage Packaging Room, where it sits in bins until the transportation team receives it the following day. (*Id.* at 55–56).

Additional departments perform supplemental functions at the facility. The Maintenance department works across the building, including the Kitchen and Cart Rooms, performing preventative maintenance and repairing equipment. (*Id.* at 72–73). Within the greenhouse wing of the facility, Employer has a warehouse that receives the materials for the facility. (*Id.* at 61). The Materials/Inventory department manages the facility vault which stores finished product, as well as items received at the facility. (*Id.* at 149–154); *see also* Er. Exh. 22. The Facilities department handles maintenance and sanitation. (Tr. 159–164). Furthermore, the Production

Management department encompasses Human Resources, management officials, and the quality assurance team. (*Id.* at 75, 201).

Multiple witnesses testified to a departmental reorganization on about March 3, 2025, when Employer consolidated the Cart Room employees into the Kitchen department. There are now 21 employees in the Kitchen department consisting of 7 Cart Room and 14 Kitchen employees (Tr. at 351). Donna Hardesty, a current Kitchen Associate, recalled a meeting in early March where Kitchen Manager Cassie Cunningham informed employees that Cart Room employees were being reorganized into the Kitchen department (Tr. at 328–329, 342–344). Employer’s Human Resources Manager Betty Allen confirmed this reorganization, explaining it was in response to the number of employees reporting to each supervisor and manager. (*Id.* at 275). Prior to that reorganization, Cart Room employees were classified within the Packaging department. (Tr. at 172, 224–225). On March 3, only the Cart Room employees were added to the Kitchen department, not all Packaging employees. (*Id.* at 290). Still, Cart Room and Kitchen work in different rooms when performing their respective tasks. (*Id.* at 42–43, 251–252). With this reorganization, Employer changed the Cart Room employees’ job title. (*Id.* at 133–134). HR Manager Allen stated their job title was changed to “Associate – Kitchen Packaging.” (*Id.* at 294). Employer’s digital organization chart confirm that former Cart Room employees hold this title, and Leads hold the title of “Lead – Kitchen Packaging.” See Pet. Exh. B.

2. Skills, Trainings, and Job Functions

All applicants for entry-level positions must be over the age of 21 and have a high-school education. (*Id.* at 229, 239). All employees undergo a two-day orientation. (*Id.* at 90). Thereafter, an employee’s training is primarily on-the-job with either a manager, supervisor, or lead. (*Id.* at 90–91). Generally, all employees clean and sanitize the facility using alcohol spray bottles. (*Id.* at 88).

Employees perform different functions in different departments. Post-Harvest employees manicure/trim cannabis plants using hand shears and a Mobius machine. (Tr. at 82, 86–87). According to Senior State Director Luman, Post-Harvest Associates and Leads do not need any skills beyond having an eye for detail and being able to perform physical labor. (*Id.* at 89–90).

Cure Room employees open and close containers that allow moisture and gases to escape. (*Id.* at 99–100). Per Luman, this process does not require special skills or knowledge, and new employees receive on-the-job-training. (*Id.* at 100–101). Similarly, Cure Leads do not need special skills or knowledge aside from understanding Employer’s processes and people management skills. (*Id.* at 103). The Cure Leads operate grinders. (*Id.* at 105).

For the Extraction Labs, according to Luman, prior lab experience is preferred, but as with other departments, new employees undergo hands-on on-the-job training. (*Id.* at 104–105). To extract oil, Extraction Lab Technicians place the cannabis into large sacks called “socks.” (*Id.* at 107–108). In the labs, the Leads, Senior Leads, Supervisors, and Managers will run the extraction equipment, including the ethanol extraction machinery and butane booth. (*Id.* at 110–111). These same individuals input data into BioTrack, a state regulatory tracking database. (*Id.* at 110).

In the Packaging department, Packaging Associates use pre-roll machines; conveyor belts; grinders; and bag sealers. (*Id.* at 134–135). Packaging Machine Operators develop technical skills that are related to specific pieces of equipment. (*Id.* at 138). Employees manually package product into bags or jars. (*Id.* at 135–136). Prior to March 3, 2025, when the Cart Room employees worked

within the Packaging department, they prepared and packaged vape cartridges and concentrates. (*Id.* at 132). Since March 3, 2025, the Cart Room employees have continued to perform the same duties, but within the Kitchen department. There are no skills or knowledge necessary to hold Packaging department positions, and any training is performed on the job for Associates and Machine Operators. (*Id.* at 141–142). Like other departments, the Packaging Lead oversees the Packaging Associates and completes paperwork. (*Id.* at 143–144).

In the Kitchen, the Kitchen Associates and Leads use digital scales to weigh ingredients. (*Id.* at 115–118). To make gummies, the Kitchen Associates and Leads use mixers to create the gelatin; depositors to deposit the gummy units; and heaters and baking racks to cook the gummies. (*Id.* at 119–124, 130). Once the gummies are made, Kitchen Associates will “demold”—or remove—the gummies and then package them. (*Id.* at 119). Once the gummies are finished, the Kitchen Associates package finished products and test their moisture levels. (*Id.* at 125–126, 335–336). Luman stated that Kitchen Associates did not require any prior skill or training. (*Id.* at 127). Kitchen Leads performed similar tasks to Associates but with more workforce oversight. (*Id.* at 129). Like the Associates, per Luman, Kitchen Leads do not require any training, education, or expertise. (*Id.* at 130). Kitchen Associate Hardesty testified that Kitchen employees must obtain a Food Handling License, which involves an online class, training videos, and a test. (*Id.* at 341). Other employees, including those in the Cart Room, do not need this license. (*Id.* at 340). Luman understood that an employee could learn the Kitchen packaging process within 15 minutes, but it would be harder to learn the gummy cooking and depositing process. (*Id.* at 242–243). He viewed the gummy demolding process as “relatively” simple and could be performed by employees in another department. (*Id.* at 252). Hardesty recalled that Kitchen Manager Cunningham had informed her that Kitchen and Cart Room would be cross-trained because Luman wanted “consumables” together. (*Id.* at 328–329, 342–344). However, Luman denied any plans to cross-train Kitchen and Cart employees. (*Id.* at 346–347).

Meanwhile, the Order Fulfillment Specialists in the Fulfillment department receive orders, process those orders, review the facility’s inventory system, and affix labels to the products. (*Id.* at 148). At the Facilities department, Facility Associates perform general maintenance across the departments. (*Id.* at 159). Per Luman, they do so with “very little technical expertise.” (*Id.*). Relatedly, Facility Inventory Associates order tools and equipment for the facility. (*Id.* at 160). Although the job description for this position states it requires technical expertise, Luman stated Employer had eased those hiring requirements. (*Id.* at 160–161); *see also* Er. Exh. 25. Similarly, HVAC Technicians work on the facility heating, ventilation, and air conditioning systems. (Tr. at 161–162). Employer has three levels of HVAC positions—HVAC Technician I, HVAC Technician II, and Lead HVAC Technician—with the only difference being the number of years required for the position. (*Id.* at 161–164); *see also* Er. Exhs. 26–28. Employer also maintains Preventative Maintenance Technicians. (Tr. at 164–165); *see also* Er. Exh. 30.

3. Interchange and Frequency of Contact

Periodically, Employer may “flex” its labor and have workers from one department temporarily work in another. (Tr. at 43). Luman called this a “fairly frequent,” if not “daily” occurrence. (*Id.* at 165). At daily meetings, Luman and the departmental managers discuss employee absences and business demands; based on these concerns, managers may agree to flex workers. (*Id.* at 165–166, 169–170, 190–191, 253). According to Luman, when employees work in other departments, someone from the receiving department demonstrates how to perform the assigned tasks. (*Id.* at 241–242). Generally, flexed employees perform basic departmental tasks,

such as affixing labels in the Fulfillment department or packaging gummies in the Kitchen. (*Id.* at 242–243). For example, whenever Hardesty flexed into the Fulfillment department, she placed barcodes on products. (*Id.* at 330). Employer tracks flex assignments. (*Id.* at 166); *see also* Er. Exh. 4. For the period October 21, 2024, through April 1, 2025, Employer recorded 469 employees sent to another department for a total of 3108.5 hours. Er. Exh. 4 at 1.³

The Cart Room and Kitchen participate in employee flexing. (Tr. at 43). For the Cart Room, however, Employer’s records do not specify which employees from Packaging flexed into other departments or whether employees flexed into the Packaging department performed Cart Room work. *See* Er. Exh. 4. Likewise, given that Employer reassigned Cart Room employees to the Kitchen department on about March 3, 2025, it is unclear whether work performed by Cart Room employees in the Kitchen after that date is considered “flex” work so that it would be logged on this document. *Id.*

From October 21, 2024, to April 1, 2025, there were five instances where the Kitchen received employees from other departments, specifically the Packaging and Fulfillment departments.⁴ *Id.* at 2; *see also* (Tr. at 331). It is unknown if these Packaging employees sent to Kitchen prior to March 3, 2025, were Cart Room employees. (Tr. at 233–235). When Hardesty previously worked in Post-Harvest and Packaging, she was never flexed into the Kitchen. (*Id.* at 338). During this same period, the Kitchen sent 294 employees to three departments—Facilities, Fulfillment, and Packaging—across fifty instances for a total of 2,357 hours. *See* Er. Exh. 4 at 1–3; *see also* (Tr. at 234). In her Kitchen tenure, Hardesty testified that she worked in the Cart Room once every six months. (Tr. at 337). Additionally, in about early 2024, Hardesty recalled Employer redesigning the gummy manufacturing process, requiring her and other Kitchen employees to work in other departments for multiple weeks. (*Id.* at 332–334). Prior to joining the Kitchen, Hardesty never worked in the Cart Room (*Id.* at 337–338).

Employees may also permanently transfer between departments. Luman did not believe transfers were “uncommon.” (*Id.* at 183). Luman, who was unsure if Employer possessed data showing departmental transitions, estimated that approximately a dozen employees per month were “moving in some direction,” meaning either to a new department or a promotion. (*Id.* at 184–185). With regards to transfers, Luman recalled that Employer had “seen lateral moves in any combination you can imagine.” (*Id.* at 186). Luman further stated that promotions typically came from within a department, but he generally remembered employees being promoted from other departments. (*Id.*). Prior to working in the Kitchen, Associate Hardesty worked in the Post-Harvest and Packaging departments. (*Id.* at 305).

As for employee communications, the Barry facility has a communal breakroom for all employees. (*Id.* at 70). But Hardesty testified that staggered break times reduced overlap between

³ On multiple instances, Employer’s record shows the same department sending employees to the same department on the same date. For example, on February 17, 2025, Kitchen sent 15 employees to Packaging for a total of 150 hours, but the line immediately below states Kitchen sent another 15 employees for 145 hours on the exact same date. Er. Exh. 4 at 2. It is unclear whether these two lines represent the same flex transaction or how—if at all—this impacts the document’s total figures. Considering the record shows Kitchen only had about fifteen employees, it seems impossible that these employees could total 295 hours in the span of one day.

⁴ On December 4, 2024, two Packaging employees worked in Kitchen for a total of four hours. Er. Exh. 4 at 2. The next day, three Packaging employees worked in Kitchen for a total of two hours. *Id.* On December 12, Fulfillment sent two employees to Kitchen for a total of two hours. *Id.* On two separate occasions, on December 17, 2024, and January 20, 2025, Fulfillment sent a single employee to Kitchen for three hours of work. *Id.*

departments. (*Id.* at 324). Hardesty testified that she primarily interacted with Kitchen Associates, Leads, and Supervisors on a daily basis. (*Id.* at 327). Since the merger on about March 3, Hardesty said Kitchen Associates have assisted in the Cart Room “quite often,” but no Cart Room employees have come to the Kitchen. (*Id.* at 327–328). She added that she had “no real interaction” with any other employees in the building. (*Id.* at 324). Throughout the day, either the lab employees will take the oil to the Kitchen or Cart Room, or the Kitchen or Cart Room employees will pick it up at the lab; Hardesty testified that it was the Kitchen Supervisor—not the Associates or Leads—who would go to the lab. (*Id.* at 65–66, 314–315). Whenever Hardesty takes the product to the vault, she interacts with vault employees by yelling down the elevator to notify them of the arriving product. (*Id.* at 339).

4. Terms and Conditions of Employment

Employer has one handbook for all employees at the Barry facility. (*Id.* at 175, 272); *see also* Er. Exh. 31. Employer provides the same Benefits Guide to all employees. (Tr. at 273–274); *see also* Er. Exh. 32. All employees within the facility wear scrubs, but for biosecurity purposes, employees who work in the greenhouse wing wear different colored scrubs. (Tr. at 179–180, 238). All employees wear personal protective equipment (PPE) such as gloves, hairnets, and booties. (*Id.* at 221). All employees use the same time clocks. (*Id.* at 181). All employees receive a state-mandated security badge. (*Id.* at 205, 229). All employees have access to two locker rooms. (*Id.* at 67–68).

For wages, HR Manager Allen summarized that entry-level starting rates among the departments were “within a couple dollars.” (*Id.* at 278). Five departments—Post-harvest, Packaging, Fulfillment, Labeling, and Facilities Sanitation—start at a “lower” pay rate of \$17.30 per hour. (*Id.* at 300–301). The Kitchen and Extraction Lab start at \$18.30 per hour. (*Id.* at 301). Comparatively, Leads in different departments are also within a similar range. (*Id.* at 279). Managers and Supervisors within departments are salaried. (*Id.* at 174). For the Cart Room employees that Employer merged with the Kitchen on about March 3, testimony alluded to a change made to the pay system with this reassignment. When asked if Employer had prepared new job descriptions for the Cart Room employees, Senior State Director Luman replied that he was unsure. (*Id.* at 225–226). He then referred to a system “specific to how we have our employees paid” and said that he knew it had been updated there “because there was a wage differential with the folks that move from packaging to the kitchen.” (*Id.* at 226).

Furthermore, different departments maintain different work hours. *See* Er. Exh. 2.⁵ Luman, Human Resources, and department managers set a department’s schedule, and in doing so, they consider how to optimize the schedule based on their output and facility demands. (Tr. at

⁵ Employer’s documents showed the following hours for each department: Cultivation (6:00 a.m. to 4:30 p.m. Monday to Thursday or Tuesday to Friday); Extract Tech 1st (6:00 a.m. to 4:30 p.m.); Extraction Tech 3rd (5:00 p.m. to 3:30 a.m.); Kitchen -1st Shift (5:00 a.m. to 3:30 p.m.); Kitchen -2nd Shift (6:30 a.m. to 5:00 p.m.); Post Harvest – 1st Shift (6:00 a.m. to 2:30 p.m.); Post Harvest – 2nd Shift (2:30 p.m. to 11:00 p.m.); Packaging -1st Shift (7:00 a.m. to 5:30 p.m.); Packaging -3rd Shift (7:30 p.m. to 6:00 a.m.); Inventory/Materials (7:00 a.m. to 3:30 p.m.); Fulfillment (6:00 a.m. to 2:30 p.m.); Labeling (7:00 a.m. to 3:30 p.m.); Facilities PM Mechanic- 1st Shift (6:00 a.m. to 2:30 p.m.); Facilities PM Mechanic- 2nd Shift (1:30 p.m. to 9:00 p.m.); Facilities PM Mechanic- Weekends (8:30 a.m. to 7:00 p.m.); Facilities Inventory Specialist (7:00 a.m. to 3:30 p.m.); HVAC/HVAC Lead (6:00 a.m. to 2:30 p.m. and 1:00 to 8:00 p.m.); Facilities Sanitation – 1st Shift (6:00 a.m. to 2:30 p.m.); Facilities Sanitation – 2nd Shift (2:30 to 11:00 p.m.); Security – 1st Shift (6:00 a.m. to 2:30 p.m.); Security - 3rd Shift (6:00 p.m. to 6:00 a.m.); Transport (4:00 a.m. to 5:00 p.m.); Production Management (Varies). Er. Exh. 2.

182, 247–248). Some departments, including the Kitchen, Extraction Lab, and Packaging, work only four days per week. (*Id.* at 198–200). Other departments, including Post-Harvest, Inventory and Materials, Fulfillment, and Labelling, work five days per week. (*Id.* at 199–200).

5. Separate Supervision

Organizationally, Senior State Director Luman oversees the Barry facility. (Tr. at 20–22). Every department except Materials and Inventory has its own Manager, who reports to Luman. (*Id.* at 74–75); Er. Exh. 1. Each department except the Cure Department also has its own Supervisor. Er. Exh. 1. Most departments then have Leads, who perform the same work as the department Associates but perform the supervising and overseeing of the work. (Tr. at 93–94, 210). The Associates/Technicians are the entry-level position for each department.

Every week, Employer’s corporate commercial team or the Barry facility sales team create a demand plan, and Luman and the managers work with the site production planner to build a “production schedule,” which determines what the facility will produce. (Tr. at 115–116). The Kitchen, Cart Room, and Packaging all receive production schedules. (*Id.* at 116). Luman testified that each department’s hiring manager—identified in the Employer’s headcount—decided promotions. (*Id.* at 178–179); *see also* Er. Exh. 2. Employer’s corporate office set annual employee pay raises. (Tr. at 178). As for disciplines, any major disciplines, including terminations, are decided and issued by Betty Allen, the Human Resources manager. (*Id.* at 175). Luman noted that “minor infractions” and attendance issues could be handled by a department manager. (*Id.*). For more severe issues, HR would investigate and decide whether to issue discipline. (*Id.* at 176–177). Employer maintains one HR office at the facility. (*Id.* at 71).

Cassandra Cunningham and Pam Ward are respectively the Kitchen Manager and Supervisor. *See* Er. Exh. 1. After the March 3 reorganization, both the Kitchen and Cart Room employees report to Cunningham and Ward. (Tr. at 189–190, 236). No employees outside the Kitchen and Cart Room report to Cunningham or Ward. (*Id.* at 236–237). Aside from Ward and Cunningham, no other supervisors or managers oversee the Kitchen and Cart Room. (*Id.* at 237).

II. ANALYSIS

A. Legal Standard

When examining the appropriateness of a unit, the Board must determine not whether the unit sought is the only appropriate unit or “the most appropriate unit, but simply to determine *an* appropriate unit.” *Wheeling Island Gaming*, 355 NLRB 637, 637 n.2 (2010) (emphasis in original) (citing *Overnite Transp. Co.*, 322 NLRB 723 (1996)). “There is nothing in the statute which requires that the unit for bargaining be the only appropriate unit, or the ultimate unit, or the most appropriate unit; the Act only requires that the unit be ‘appropriate.’” *Overnite Transp.*, 322 NLRB at 723 (quoting *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950), *enfd.* on other grounds 190 F.2d 576 (7th Cir. 1951)). “It is elementary that more than one unit may be appropriate among the employees of a particular enterprise,” and the Board’s decision “in a particular case ‘involves a large measure of informed discretion.’” *Haag Drug Co., Inc.*, 169 NLRB 877, 877 (1968) (quoting *Packard Motor Car Co. v. NLRB*, 380 U.S. 485, 491 (1947)).

In *American Steel Construction, Inc.*, the Board reworked the framework applicable when a labor union seeks to represent a unit that contains a portion of the job classifications at a particular workplace, but the employer contends only a larger unit is appropriate. 372 NLRB No. 23 (Mar. 9, 2023). In doing so, the Board overruled the standard articulated in *The Boeing Co.*, 368 NLRB

No. 67 (Sept. 9, 2019), and *PCC Structural, Inc.*, 365 NLRB 1696 (2017), and reinstated the framework from *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934 (2011), enfd. sub nom. *Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013). As the Board wrote in *American Steel*, “[i]n each case, the Board will examine the petitioned-for unit to determine whether it is appropriate, including when the employer contends that the unit is not appropriate because it excludes certain classifications of employees.” 372 NLRB No. 23, slip op at *3. Continuing, *American Steel* explained that “if the Board determines that the petitioned-for unit is *not* appropriate, then the Board must determine the alternative configuration encompassing the petitioned-for classifications that constitutes the smallest appropriate unit.” *Id.*

Thus, the Board will approve a petitioned-for “subdivision” of employee classifications where the petitioned-for unit: “(1) shares an internal community of interest, (2) is readily identifiable as a group based on job classifications, departments, functions, work locations, skills, or similar factors, and (3) is sufficiently distinct.” *Id.* at *13. Where a party contends the smallest appropriate unit must contain additional employees it challenges the third element, that the unit is not sufficiently distinct. *Id.* In this situation the Board will apply its traditional community-of-interest factors to determine whether there is an “overwhelming community of interest” between the petitioned-for and excluded employees. *Id.* The Board’s well-established community of interest test examines whether employees are:

organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the employer’s other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.

United Operations, Inc., 338 NLRB 123, 123 (2002). Particularly important in considering whether the unit sought is appropriate are the organization of the plant and the utilization of skills. *Gustave Fisher, Inc.*, 256 NLRB 1069, 1069 n.5 (1981). “If there are only minimal differences, from the perspective of collective bargaining, between the petitioned-for employees and a particular classification, then an overwhelming community of interest exists, and that classification must be included in the unit.” *American Steel*, 372 NLRB No. 23, slip op. at *13. With regard to organization of the plant, the Board has made clear that it will not approve of “fractured units”—that is, combinations of employees that are too narrow in scope or that have no rational basis. *Seaboard Marine, Ltd.*, 327 NLRB 556 (1999); *Odwalla, Inc.*, 357 NLRB 1608 (2011). However, *all* relevant factors must be weighed in determining the community of interest.

Employer argues *American Steel* was wrongly decided. Employer relies on the rationale set forth in *PCC Structural, Inc.* and *The Boeing Co.* When deciding *American Steel*, the Board explicitly considered and rejected the rationale in *PCC Structural* and *The Boeing Co.* See *American Steel*, 372 NLRB No. 23, slip op. at *7–14. Indeed, the Board has continued to apply *American Steel* in subsequent cases. See, e.g., *Black Iron Reinforcing, LLC*, 28-RC-290472, 2024 WL 1434398 (Apr. 1, 2024); *MV Transp., Inc.*, 373 NLRB No. 8 (Dec. 27, 2023). Because *American Steel* is binding Board precedent, I will adhere to that case.

B. The Petitioned-For Unit is Appropriate.

In cases where a petitioner seeks to represent a subdivision of employees, under *American Steel*, the petitioned-for unit must be: (1) homogeneous; (2) identifiable; and (3) separate or

sufficiently distinct. 372 NLRB No. 23, slip op. at *3. Upon review of the evidence, I find that the petitioned-for unit is appropriate.

First, for the petitioned-for unit to be “homogeneous,” the “petitioned-for employees must share a community of interest that renders the unit suitable for collective bargaining.” *Id.* The Board will reject a proposed unit where “the petitioned-for employees represent a heterogeneous grouping of classifications with disparate interests.” *Id.* Upon review, I conclude the proposed unit of Kitchen and Cart Room employees sufficiently share a community of interest. It is undisputed that these classifications are organized into a separate department together and share the same supervisors as of March 3, 2025. *See* Er. Exhs. 1 and 2; *see also* (Tr. at 189–190, 236–237). These factors heavily favor a community of interest between the Kitchen and Cart Room employees. While the Kitchen and Cart Room employees produce different products, which requires different skills and equipment, within Employer’s organization, Kitchen and Cart Room employees serve a similar function in that they both convert cannabis oil into finished products for consumption.

Other factors are more neutral in the analysis. While tasks in the Kitchen and Cart Room may require little prior skill or knowledge, the evidence suggests Kitchen employees—unlike those in the Cart Room—must have a Food Handler’s license. (*Id.* at 127, 141–142, 341). As to terms and conditions of employment, the Cart Room and Kitchen employees—like all employees—have a security badge, wear scrubs, wear PPE, receive the same benefits, have the same locker and breakrooms, and are subject to same employee handbook. (*Id.* at 67–68, 175, 179–181, 205, 221, 229, 238, 272–274); *see also* Er. Exhs. 31 and 32. Prior to the March 3, 2025, reorganization, the Packaging department had different hours than Kitchen, but it is unknown whether Cart Room employees’ hours have changed to comport with the rest of Kitchen. *See* Er. Exh. 2. Similarly, while it was not explained further, Luman gave testimony inferring that employees’ pay status changed when the Cart Room employees were incorporated into the Kitchen department. *See* Tr. at 225–226. Although the Employer flexes employees between departments, the records are unclear as to whether the Kitchen employees performed Cart Room tasks when the Cart Room was organized into the Packaging department. Conversely, from October 2024 to April 2025, there are only two instances when employees from Packaging worked in Kitchen, and again, it is unknown whether they were Cart Room personnel. *See* Er. Exh. 4. Aside from Luman’s generalized testimony, there is no evidence of permanent interchange between the Cart Room and Kitchen. Furthermore, Kitchen Associate Hardesty testified that she had “no real interaction” with anyone outside the Kitchen, though Kitchen employees had assisted in the Cart Room more since the March 3, 2025, change. (Tr. at 324).

One factor—functional integration—weighs against an internal community of interest. The evidence does not show functional integration between the Kitchen and Cart employees. Where the Kitchen uses cannabis oil to cook gummies, the Cart Room uses oil to manufacture vape cartridges. Each room involves a different process to produce a different oil-based product.

Balancing these factors, I ultimately conclude that there is an internal community of interest among the petitioned-for unit. Based on the record, that unit includes the following classifications: Kitchen Associates, Kitchen Leads, Associates – Kitchen Packaging, and Leads – Kitchen Packaging.

Second, the petitioned-for unit must be “identifiable,” meaning “the unit employees can ‘logically and reasonably be segregated from other employees for the purposes of collective

bargaining.” *Id.* (quoting *Champion Machine & Forging Co.*, 705, 707–708 (1943)). In other words, “there must be a ‘substantial, rational basis’ for the unit’s contours.” *American Steel*, 372 NLRB No. 23, slip op. at *3–4 (quoting *Johnson Controls, Inc.*, 322 NLRB 669, 672 (1996)). I find that the petitioned-for unit is sufficiently identifiable because it includes all of the non-supervisory positions within Employer’s Kitchen department as of March 3, 2025.

Lastly, the “sufficiently distinct” element “recognizes that even if the petitioned-for unit exhibits a mutuality of interests and has some coherent organizing principle, it may nonetheless be inappropriate because it excludes employees who cannot rationally be separated from the petitioned-for employees on community-of-interest grounds.” *American Steel*, 372 NLRB No. 23, slip op. at *4. The Board will invalidate units where the petitioned-for units “have little-to-no separate identity from the excluded employees.” *Id.* But “the presence of *some* overlapping interests between the petitioned-for and excluded employees does not invalidate the petitioned-for unit”; the Board explained that “the excluded employees must share ‘strong,’ ‘substantial,’ ‘overwhelming,’ ‘significant,’ or ‘extremely close’ interests with the petitioned-for employees to mandate inclusion.” *Id.* As discussed below, even if the petitioned-for unit includes some overlapping interests with the excluded employees, those interests are not so “overwhelming” as to mandate a wall-to-wall unit as proposed by Employer. Thus, the petitioned-for unit is sufficiently distinct.

Thus, the Employer has not demonstrated that the petitioned-for unit is “arbitrary or irrational.” *American Steel*, 373 NLRB No. 23, slip op. at *4. In other words, even if the petitioned-for unit is not the *most* appropriate unit, I find it is at least *an* appropriate unit. However, because Employer proposes a wall-to-wall unit, below I will explain why the Board’s community of interest factors do not require a wall-to-wall unit in this matter.

C. An Overwhelming Community of Interest does not Exist Between the Petitioned-For Unit and the Excluded Individuals.

1. Departmental Organization

First, the Board considers whether the petitioned-for unit conforms to an administrative function or grouping of an employer’s operation. *United Operations*, 338 NLRB at 123. However, in certain circumstances the Board will approve a unit when it excludes other employees in the same administrative grouping. *Home Depot USA*, 331 NLRB 1289, 1289, 1291 (2000).

Here, the petitioner-for unit conforms to an administrative grouping of the Employer. Employer maintains distinct departments at the Barry facility, including the Kitchen department. *See* Er. Exh. 1. As discussed further below, these departments each have separate Managers and Supervisors. It is undisputed that Employer consolidated the Cart Room employees into the Kitchen department as of about March 3, 2025. Indeed, Employer’s organizational chart places the Cart Room employees—now called Associate - Kitchen Packaging and Lead – Kitchen Packaging—under the Kitchen department. Er. Exh. 1. There is no evidence that any other employees have been reassigned or reorganized into the Kitchen department. Thus, the evidence shows Employer maintains a separate, distinct Kitchen department that now includes both the Kitchen Room and Cart Room employees and no other employees. Therefore, this factor weighs against an overwhelming community of interest between the petitioned-for unit and the excluded employees.

2. Skills, Training and Job Functions

This factor examines whether disputed employees can be distinguished from one another on the basis of job functions, duties or skills. *United Operations*, 338 NLRB at 123. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that employees perform the same basic function or have the same duties, that there is a high degree of overlap in job functions or of performing one another's work, or that disputed employees work together as a crew, support a finding of similarity of functions. Evidence that disputed employees have similar requirements to obtain employment; that they have similar job descriptions or licensure requirements; that they participate in the same Employer training programs; and/or that they use similar equipment supports a finding of similarity of skills. *Casino Aztar*, 349 NLRB 603 (2007); *J.C. Penny Co., Inc.*, 328 NLRB 766 (1999); *Brand Precision Servs.*, 313 NLRB 657 (1994); *The Phoenixian*, 308 NLRB 826 (1992). Where there is also evidence of similar terms and conditions of employment and some functional integration, evidence of similar skills and functions can lead to a conclusion that disputed employees must be in the same unit, despite lack of common supervision or evidence of interchange. *See The Phoenixian*, 308 NLRB 826.

Senior State Director Luman testified that most entry-level positions required little prior skill or knowledge, but this testimony comes from a high-ranking official, not an individual who performs these tasks on a daily basis. Meanwhile, Hardesty's unrebutted testimony was that Kitchen employees needed a Food Handler's license, weighing against a community of interest. Other positions within the facility, such as the HVAC Technicians, would also seem to require skills unavailable to other employees, further distinguishing the petitioned-for unit from the excluded employees. While all employees receive the same two-day orientation, thereafter, their training is hands-on experience, suggesting that employees from different departments become more familiar with different processes over time. Likewise, different departments use different equipment. For example, the Post-Harvest employees use the Mobius trimming machine and are uninvolved with cooking. Meanwhile, the Kitchen Associates use mixers, heaters, depositors, and baking racks. Plus, many of the different departments and classifications perform different job functions. Where the Cure Room and Post-Harvest employees prepare the cannabis after cultivation, the Packaging and Kitchen departments prepare that cannabis for consumer consumption. Other departments, like Fulfillment and Materials, oversee the handling and preparing of that product for delivery. As such, the evidence as a whole establishes that while initial hires may start off with similar skills and duties, they quickly obtain job-specific training and skills in the separate work areas that are not necessarily interchangeable, and therefore, are distinguishable from one another. For this reason, I find this factor weighs against finding an overwhelming community of interest between the petitioner-for unit and the excluded employees.

3. Functional Integration

"Functional integration refers to when employees' work constitutes integral elements of an employer's production process or business." *IKEA Distrib. Servs., Inc.*, 370 NLRB No. 109, slip op. at *11 (Apr. 19, 2021). "Thus, for example, functional integration exists when employees in a unit sought by a union work on different phases of the same product or as a group provides a service." *Id.* "Evidence that employees work together on the same matters and perform similar functions is relevant when examining whether functional integration exists." *Id.* The Board

recently stated that “functional integration exists only where employees must work together and depend on one another to accomplish their tasks.” *WideOpenWest Illinois, LLC*, 371 NLRB No. 107, slip op. at *7 n.16 (Jun. 10, 2022). The Board has previously found no functional integration where excluded employees did “not spend substantial portion of their time working alongside or in close proximity with other employees.” *Home Depot USA*, 331 NLRB at 1291; *see also Guide Dogs for the Blind*, 359 NLRB 1412 (2013) (declining to find an overwhelming community of interest, the Board highlighted that “each classification has a separate role in the process” and “only limited interaction and interchange with other classifications”). “On the other hand, if functional integration does not result in contact among employees in the unit sought by a union, the existence of functional integration has less weight.” *IKEA Distrib. Servs.*, 370 NLRB No. 109, slip op. at 11.

In the instant matter, the Kitchen and Cart Room employees in the petitioned-for unit convert the cannabis oil produced in the facility Extraction Labs into consumable products. Once the Kitchen and Cart Room have processed the oil, those finished products are relocated to the facility vault, where Materials employees oversee the product and Fulfillment prepares it for shipping. With respect to other departments, the Kitchen and Cart Room employees arguably work “on different phases of the same product.” *IKEA Distrib. Servs.*, *supra*. Though the evidence more accurately supports a finding that the Kitchen and Cart Room are merely part of the same production process and do not work together or depend on one another to accomplish their tasks. *WideOpenWest Illinois, LLC*, *supra*. More specifically, the Kitchen department exists separately from the other departments, and the Kitchen and Cart Room employees can continue to produce consumable products as long as they receive a supply of oil, regardless of whether the Extraction Lab is operating at the moment. There is even less evidence of potential functional integration between the Kitchen department and the Packaging department because they produce different products. Although both process cannabis, Packaging prepares flower and pre-roll joints, while Kitchen and Cart Room employees prepare oil-based gummies and vape cartridges. Furthermore, this factor carries less weight because there is little evidence that any integration results in contact between employees. *See IKEA Distrib. Servs.*, *supra*. As Hardesty testified, she had little interaction with the lab employees, who provided the oil, and vault employees, who stored the finished cannabis product. Therefore, I find this factor weighs against an overwhelming community of interest with the excluded employees, or at best, is neutral.

4. Interchangeability and Frequency of Contact

“Interchangeability refers to temporary work assignments or transfers between two groups of employees.” *IKEA Distrib. Servs.*, 370 NLRB No. 109, slip op. at *11. “Frequent interchange ‘may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills.’” *Id.* (quoting *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987)). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. *Executive Resource Assocs.*, 301 NLRB 400, 401 n.10 (1991) (citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1081)). Still, “the Board has found that infrequent and limited interchange does not preclude a finding that the petitioned-for unit had a distinct community of interest.” *DTG Operations, Inc.*, 357 NLRB 2122, 2128 (2011). Additionally, while not as important as temporary interchange, the Board also examines whether there are permanent transfers between the petitioned-for unit and the excluded employees. *See Hilton Hotel Corp.*, 287 NLRB at 360. Further relevant to this analysis is the amount of work-

related contact among employees, including whether they work beside one another. *See Casino Aztar*, 349 NLRB at 605-606.

The record revealed limited instances of temporary interchange through flexing employees between departments. Considering the Cart Room employees named in the Petition were included in the Packaging Department prior to March 3, 2025, it is impossible to determine how frequently that group specifically flexed with other departments. But, for the Kitchen department, there is scant evidence that it received employees from other departments. From October 21, 2024, to April 1, 2025, across five instances, two departments—Fulfillment and Packaging—sent nine employees for a total of fourteen hours to the Kitchen. Er. Exh. 4 at 2. As shown in these records, some departments, including Post-Harvest, Facilities, and Inventory, never sent employees to the Kitchen during this six-month period. *Id.* Conversely, for Kitchen sending employees to other departments, the records showed the Kitchen department only sent employees to three other departments—Fulfillment, Packaging, and Facilities. *See* Er. Exh. 4. For the Packaging department, the records show two isolated incidents of Kitchen employees flexing in November 2024, then multiple instances in mid-February 2025 where seemingly every employee in the Kitchen department worked in Packaging. From the record, it is impossible to say whether the Kitchen employees flexed into the Cart Room or performed other Packaging tasks. Likewise, there is a single, isolated incident of a single Kitchen employee working in Facilities for a single hour in November 2024. But the records show that one or two Kitchen employees worked in the Fulfillment department at least once every week—if not more—from mid-October 2024 to mid-January 2025.

For permanent interchange, the record reveals limited evidence of permanent transfers between employees in the petitioned-for unit and the excluded employees. While Luman estimated approximately twelve employees per month either moved between departments or received promotions, this figure was based on pure speculation. (Tr. at 183–185). Indeed, he testified he was unsure if Employer had the “specific data” on such transitions. (*Id.* at 184). The record did show that Hardesty, now a Kitchen Associate, had previously worked in the Post-Harvest and Packaging departments. (*Id.* at 305). Although the example of Hardesty shows that permanent interchange is possible, there is no specific evidence speaking to how frequently such transfers took place.

Finally, there is little evidence of contact between employees in the petitioned-for unit and the excluded employees. As described above, except when flexing, employees in different departments work in different rooms, suggesting limited interaction with other employees. Hardesty, a Kitchen Associate, said she had “no real interaction” with employees outside the Kitchen. (*Id.* at 324). When Kitchen received oil from the Labs, it was her Supervisor—not the Associates—who performed this task. (*Id.* at 314–315). When she dropped the gummies off at the lab, she placed the product on an elevator, and her sole interaction with the Materials team was yelling down the elevator shaft. (*Id.* at 339). While all employees used the same breakrooms, she explained that breaks were staggered, so there was no overlap with other departments. (*Id.* at 324). Even if employees all utilize the same locker rooms, there was no testimony about how much interaction occurred there, and the staggered work schedules diminish the possibility of significant contact occurring in those locations.

In summary, temporary interchange occurs between the petitioned-for unit and some of the excluded employees but it is very limited in frequency. For some departments, like Extraction Labs, there is no evidence the petitioned-for unit temporarily interchanged there. For other

departments, like Packaging, the evidence of temporary interchange shows only infrequent interchange. For other departments, like Fulfillment, the records show more frequent interchange over a sustained time period. And, while certainly possible, no specific evidence was provided as to how frequently permanent interchange occurred between the petitioned-for unit and the excluded employees. Any contact between the petitioned-for unit and the excluded employees is limited and infrequent. Therefore, I find this factor weighs against an overwhelming community of interest with the excluded employees.

5. Terms and Conditions of Employment

Terms and conditions of employment include whether employees receive similar wage ranges and are paid in a similar fashion; whether employees have the same fringe benefits; and whether employees are subject to the same work rules, disciplinary policies and other terms of employment that might be described in an employee handbook. However, the fact that employees share common wage ranges and benefits or are subject to common work rules does not warrant a conclusion that a community of interest exists where employees are separately supervised, do not interchange and/or work in a physically separate area. *Overnite Transp. Co.*, 322 NLRB 347. Similarly, sharing a common personnel system for hiring, background checks and training, as well as the same package of benefits, does not warrant a conclusion that a community of interest exists where two classifications of employees have little else in common. *American Security Corp.*, 221 NLRB 1145 (1996).

The record shows all employees are subject to the same employee handbook; receive the same benefits; wear the same scrubs and PPE; use the same time clocks; receive a security badge; and use the same breakrooms and locker rooms. (*Id.* at 67–68, 175, 179–181, 205, 221, 229, 238, 272–274); *see also* Er. Exhs. 31 and 32. However, the departments have different work schedules. *See* Er. Exh. 2. Where some departments work four days per week, others work five. *Id.* Some departments have third shifts, others do not. *Id.* There are also minor discrepancies in starting wage rates between departments. (Tr. at 300–301). Except when flexing, employees work in different areas of the facility. Therefore, while many overarching terms and conditions between the petitioned-for unit and the excluded employees are similar, differences in pay and work schedule, both days and hours, establish a distinct separation. Therefore, I find this factor weighs against an overwhelming community of interest with the excluded employees, or at best, neutral.

6. Separate Supervision

The final community-of-interest factor is whether the employees in dispute are commonly supervised. For this factor, most important is the identity of employees' supervisors who have the authority to hire, to fire or to discipline employees (or effectively recommend those actions) or to supervise the day-to-day work of employees, including rating performance, directing and assigning work, scheduling work providing guidance on a day-to-day basis. *Executive Resources Associates*, 301 NLRB at 402; *NCR Corp.*, 236 NLRB 215, 215–216 (1978). Common supervision weighs in favor of placing the employees in dispute in one unit. However, the fact that two groups are commonly supervised does not mandate that they be included in the same unit, particularly where there is no evidence of interchange, contact or functional integration. *United Operations*, 338 NLRB at 125. Similarly, the fact that two groups of employees are separately supervised weighs in favor of finding against their inclusion in the same unit. However, separate supervision does not mandate separate units. *Casino Aztar*, 349 NLRB at 607 n 11.

Each department at the Barry facility has its own Manager and Supervisor. *See* Er. Exh. 2. Manager Cunningham and Supervisor Ward oversee the Kitchen department, which after March 3, 2025, includes the Cart Room employees. (Tr. at 189–190, 236). Cunningham and Ward only oversee employees in the Kitchen department, and they do not oversee any other employees from other departments. (*Id.* at 236–237). While facility HR may issue investigate and issue disciplines or terminations of severe infractions, departmental managers and supervisors, like Ward and Cunningham, would be responsible for correcting minor infractions. (*Id.* at 175). Managers and Supervisors like Cunningham and Ward would also be responsible for supervising the day-to-day work and promoting or hiring individuals in the department. Thus, each department within the Barry facility has distinct, separate supervision that can exercise significant authority over the respective departmental employees. As such, this factor weighs against an overwhelming community of interest between the petitioned-for unit and the excluded employees.

CONCLUSION

In determining that the unit sought by Petitioner is appropriate, I have carefully weighed the community-of-interest factors cited in *United Operations*, 338 NLRB at 123. I conclude that the unit sought by Petitioner is appropriate because the record reveals that the Kitchen and Cart Room employees are organized into a distinct department, have separate supervision, perform similar job functions, and many similar terms and conditions of employment. However, I do not find an overwhelming community of interest between the petitioned-for unit and excluded employees, as Employer requests. The petitioned-for unit is organized into a different department and has separate supervision than the excluded employees. While the petitioned-for unit depends upon the excluded employees to perform their tasks in cannabis processing, this integration results in minimal interaction between the groups. Similarly, while the petitioned-for unit shares many terms and conditions of employment with the excluded employees, there are differences in pay and schedule. Likewise, there is infrequent contact between the petitioned-for unit and excluded employees; the evidence provided on temporary and permanent interchange does not display blurred departmental lines between the petitioned-for unit and all of the excluded individuals in the facility. And although there are some common terms and conditions, others—such as work schedule—vary between departments.

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer’s rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.⁶

⁶ At hearing, the parties stipulated to the following: The Employer, Ascend Wellness Holdings, Inc., a State of Delaware corporation, with a place of business located in Barry, Illinois, is engaged in the business of producing, processing, cultivating, extracting, and distributing cannabis throughout the nation, including from its facility located at 1 310th Ave., Barry, Illinois, the only facility involved herein. During the last 12 months, a representative period, the Employer from its Barry, Illinois location, purchased and received goods valued in excess of \$50,000 directly from points outside the State of Illinois. During the same representative period, the Employer derived gross annual revenues in excess of \$1 million. (Tr. at 12 and 259).

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time employees who work in Employer's Kitchen department, including Kitchen Associates, Kitchen Leads, Associates – Kitchen Packaging, and Leads – Kitchen Packaging, employed by Employer at its facility located at 1 310th Avenue, Barry, Illinois.

Excluded: All office clerical employees, professional employees, confidential employees, managerial employees, guards and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Brotherhood of Teamsters Local 916.

A. Election Details

The election will be held on **Wednesday, May 14, 2025** from 12:00 p.m. to 4:00 p.m. in the Greenhouse Breakroom at the Employer's facility located at 1 310th Avenue, Barry, Illinois.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **Sunday, April 20, 2025**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail ballot election, before they mail in their ballots to the Board's designated office; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names (that employees use at work), work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Monday, April 28, 2025**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: April 24, 2025



Andrea J. Wilkes, Regional Director
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