

Alco-Gravure, Inc. and Baltimore Newspaper Graphic Communications Union No. 31, Subsidiary to International Printing and Graphic Communications Union, Petitioner. Case 5-RC-10858

June 3, 1980

DECISION ON REVIEW AND DIRECTION

BY CHAIRMAN FANNING AND MEMBERS JENKINS AND PENELLO

On August 9, 1979, the Regional Director for Region 5 issued a Decision and Direction of Election in which he found, *inter alia*, that the process control supervisor and the quality control monitors and the job operators employed by the Employer were neither supervisory nor managerial employees, and were included in the appropriate unit of office and plant clerical employees for purposes of an election. Thereafter, the Board, by telegraphic order dated September 12, 1979, denied the Employer's timely filed request for review of the Regional Director's Decision but amended the Decision to permit the employees in the above categories to vote under challenge. Following the election held on September 13, 1979, the tally of ballots showed that 7 ballots were cast for, and 8 against, the Petitioner, with 8 challenged ballots, a number sufficient to affect the results of the election.¹ On September 25, 1979, the Regional Director issued his Supplemental Decision in which he reaffirmed his original Decision on the eligibility of the contested employees, overruled all the challenges, and directed that the ballots be opened and counted, and a revised tally of ballots issue. Thereafter, the Employer filed a request for review of the Regional Director's Supplemental Decision and the Board, by telegraphic order dated November 21, 1979, granted review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case with respect to the issues under review, and it hereby affirms the Regional Director's Supplemental Decision.

The Employer is a New York corporation engaged in the rotogravure printing of newspaper supplements, direct mail supplements, and advertising materials at its plant located at Glen Burnie, Maryland.

The parties agreed that a unit of office and plant clerical employees is appropriate for collective bar-

gaining. We granted review of the Regional Director's determinations with regard to the managerial or supervisory status of the following categories of employees:

The Process Control Supervisor

Robert Schwartz is the process control supervisor and, in this capacity, is supervised by the manager of technical services (a vacant position at the time of the hearing in this proceeding), or directly by the plant manager. His duties include ensuring that standard operating procedures are followed in technical areas; monitoring the quality of new materials including films, inks, and processing chemicals; and resolving problems with materials and processes as they affect manufacturing operations. He is also responsible for the industrial waste management system including testing and taking measures necessary to conform to Government regulations. Schwartz initially decides what tests are needed and when they will be performed and has the authority to halt production while tests are performed. The decisions he makes in this area require independent judgment and discretion, and the superintendents and foremen are to honor his requests and then themselves assign the work to particular employees. Schwartz evaluates test results and makes determinations as to any corrective action that he deems necessary. Schwartz has authority to authorize bill payment by the Employer of approximately \$1,600 per month; he orders some supplies on his own, has successfully recommended capital expenditures by the Employer, and can recommend overtime for testing.

He is paid a salary comparable to the quality control monitors and the job operators and earns considerably more than the hourly paid employees in the unit, is not paid overtime, and does not punch a timeclock. He enjoys comparable benefits with supervisors, and attends weekly staff meetings.

Although it appears that Schwartz can at times recommend overtime, and the Employer claims he has recommended that employees be disciplined, the record is clear that he has no employees working under his supervision. He has no authority to hire, fire, lay off, transfer, suspend, promote or demote, or discipline employees. Any direction he gives to supervisors or employees appears to be of a technical nature, relating to quality control rather than supervisory. We therefore find that Schwartz is not a supervisor.

Although Schwartz' job duties require the use of independent judgment and discretion, the record does not show that such discretion is independent of the Employer's established policies, or that he

¹ The eight challenged ballots involved employees in the three categories which the Board had ordered should vote subject to challenge.

makes any managerial decisions as to the levels of manpower required for projects. We therefore find that his position is not managerial and shall overrule the challenge to his ballot.

The Quality Control Monitors and the Job Operators

The job operators and the quality control monitors perform functions in ensuring the quality of the publications printed by the Employer, and both categories are under the direct supervision of the manager of job operators. The record also shows that employees in either of these categories may act in either capacity and that shift superintendents may also serve in either of these capacities ensuring quality control.

There are three quality control monitors and one trainee. Their function is to ensure the quality of the publication of the New York Times Magazine, and they work closely with in-house representatives of the New York Times. They are required to be present at all times that magazine is being printed, and they constantly check on the product as it comes off the presses. If magazines are showing defects, the monitors have the authority to stop the presses and have corrections made and new magazines printed. Their actions may require production to be idle while corrections are made, and may require the necessity for overtime because of printing schedules and deadlines. The monitor must use independent judgment in his work, and his expertise is based mainly on experience.

The two job operators and one trainee perform much the same functions as the quality control monitors while ensuring the quality of other commercial printing performed by the Employer. They also have the authority to have the presses stopped for the correction of defects in printing and to order reprints. In addition, they are responsible for the preparation of factory orders detailing the specifics of each printing job; keeping records evaluating the quality of the printing; and preparing invoices and billing forms to be used by the accounting department in billing the customers. The job operators also may have considerable contact with the customers and have authority to negotiate changes in a printing contract, which may affect the Employer's cost factor. Although the Employer contends that the operators can make financial commitments on behalf of the Employer, the record is unclear as to the necessity for approval from management in these matters.

The quality control monitors and the job operators are salaried (except for trainee Leitner), and receive no overtime. Their compensation is greater than the other employees in the unit except for the

process control supervisor, and they do not punch a timeclock.

In contending that these groups of employees are supervisors, the Employer relies on their authority to halt production and order corrections made. In addition, it states that these employees can evaluate other employees and recommend promotions. Further, the Employer presented evidence that these employees often substitute on weekends, for shift superintendents, who are admitted supervisors, and have all the authority of superintendents at that time.

Although there is evidence that a couple of these employees have been asked to do evaluations of other employees in the past, the evidence is scant concerning the weight given these evaluations independent of other evaluations on the same subjects. Further, these appear to be isolated occurrences and not a matter of policy.

As in the case of Schwartz, any directions given by these employees concerning the halting of production in connection with quality control is of a technical rather than a supervisory nature, and is channeled through superintendents and foremen to employees. The record also shows that they do not attend management or supervisory meetings and that they are not authorized to hire, fire, lay off, suspend, promote or demote, or effectively recommend any of these. Regarding their substituting for shift supervisors on weekends, the evidence does not show that they have real supervisory authority. Rather, it appears that they are performing in their normal capacity during these periods, although they may be the highest ranking employee at the plant at the time, and thus responsible for seeing that things run smoothly. The only evidence of their directing other employees is their occasional direction to copy clerks to go to the airport to pick up shipments. However, even as to this, it appears that they are merely acting as conduits through whom are channeled the directions left by the manager of job operators, Greis. As the record shows that the quality control monitors and the job operators exercise no real supervisory authority over other employees, and they do not possess any of the usual indicia of supervisory authority, we find that they are not supervisors.

Also, as the record does not show that in the performance of their duties these employees exercise judgment and discretion independent of their employer's established policies, or that they are involved in the formulation, determination, and effectuation of management policies, we find that they are not managerial employees. Accordingly, we adopt the findings of the Regional Director and we

overrule the challenges to the ballots cast by these employees.

DIRECTION

It is hereby directed that, as part of the investigation to ascertain a representative for the purpose of collective bargaining with the Employer, the Regional Director for Region 5 shall, pursuant to the Rules and Regulations of the Board and within 10 days from the date of this Decision, open and

count the ballots of Theodore Stegmiller, Lawrence Kelly, Edward Schmuff, Robert Reppel, Robert Schwartz, Dean Reinmund, Lewis Pheabus, and Patricia Leitner, and thereafter issue and serve on the parties a revised tally of ballots.

IT IS FURTHER DIRECTED that the above-entitled matter be, and it hereby is, referred to the Regional Director for Region 5 for further proceedings pursuant hereto.