

**International Association of Machinists & Aerospace Workers, AFL-CIO and I. A. M. Representative Association, Petitioner. Case 5-UC-106**

May 7, 1979

DECISION ON REVIEW

BY CHAIRMAN FANNING AND MEMBERS JENKINS  
AND PENELLO

On October 20, 1978, the Regional Director for Region 5 issued a Decision and clarification of bargaining unit in the above-entitled proceeding in which he ordered included in the existing recognized unit certain employee classifications. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Regional Director's decision, alleging error, *inter alia*, in the inclusion of the disputed classifications in view of an earlier Board decision<sup>1</sup> and the specific exclusion contained in the recognition clause of the parties' current collective-bargaining agreement.

By telegraphic order dated December 20, 1978, the Board granted review regarding the propriety of the Regional Director's clarification to include the classifications in dispute, but in all other respects denied the request for 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 and makes the following findings:

At issue in these proceedings is the inclusion of the following employee classifications at Employer's Washington, D.C., headquarters office in the existing recognized contract unit: a legislative representative in the legislative department, international representative in the international affairs department, assistant community services representative in the community services department, assistant to the coordinator in the civil rights department, and a Grand Lodge representative and economist in the organizing department.

In 1966 the Board certified the Petitioner in the following appropriate unit:

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.

In 1972 the Board certified Petitioner to represent employees in the following appropriate unit:

*Voting Group 1:* All technical employees in the Employer's Research Department at 1300 Connecticut Avenue, Washington, D.C., excluding all other employees, office clerical employees, professional employees, auditors, elevator operators, custodial employees, Grand Lodge, Special and Press Representatives, guards and supervisors as defined in the Act and employees in the General Secretary-Treasurer's Department.

*Voting Group 2:* All professional employees in the Employer's Research, Education and Newspaper Departments at 1300 Connecticut Avenue, excluding all other employees, office clerical employees, technical employees, auditors, elevator operators, custodial employees, Grand Lodge, Special and Press Representatives, guards and supervisors as defined in the Act and employees in the General Secretary-Treasurer's Department.

The certified units were combined by contractual agreement to form a single bargaining unit in 1973. The unit, as described in the 1973 agreement and through the current agreement, consists of:

All Grand Lodge, Special and Press Representatives, All Economists, Associate Editors, Assistant Associate Editors, Educational Representatives, Agreement Analysts, Research Associate, Research Associate Leadman employed by the IAM but excluding: Administrative Assistant in the office of the International President and of each General Vice President, the Airline Coordinator, the Automotive Coordinator, the Railroad Coordinator, those persons employed chiefly in unrelated special assignments at Headquarters, Grand Lodge Auditors, office clerical employees, guards and supervisors as defined in the Act.

As found by the Regional Director, the legislative department is headed by a coordinator, stipulated to be a supervisor within the meaning of the Act, and a legislative assistant whose unit placement is in issue. The legislative assistant's responsibilities include preparing testimony regarding legislation pending before Congress and actual lobbying activities. In some instances the legislative representative reports directly to the Employer's international president, or resident general vice president, or his administrative assistant.

<sup>1</sup> *Grand Lodge International Association of Machinists and Aerospace Workers*, 159 NLRB 137 (1966).

The international affairs department also consists of a coordinator, stipulated to be a supervisor, and an assistant whose unit placement is in issue. The assistant serves as liaison with the United Nations and free world labor organizations; collects trade assistance and trade law information used in Employer's lobbying efforts before government agencies including the U.S. Tariff Commission; participates in Employer's education program in Africa; and is expected to perform similar work in Asia and South America. The assistant has some contact with Employer's Grand Lodge representatives in the field when gathering information regarding plant closures due to foreign competition.

We note that the unit description contained in the initial Direction of Election contained the following exclusion: "those [employees] employed chiefly in unrelated special assignments at headquarters."<sup>2</sup> And in connection with this exclusion we also note that the Direction of Election referred to the assignments of reviewing correspondence to the international president, liaison with Government agencies, internal union appeals, review of bylaws adopted by subordinate lodges' *legislative representative*, and *international representative*.<sup>3</sup>

It thus appears that the positions of legislative representative and international representative were in existence at the time of the initial certification and were specifically excluded from the unit. We find the description of the functions in the original Direction of Election and the other listed examples falling within the exclusion as defining the intent of the exclusion which has been carried forward into the present recognized contract unit description. Although we are unable to determine conclusively that the classifications now in dispute are identical to those previously excluded, on the basis of our analysis of the current responsibilities of the disputed categories of legislative representative and assistant international representative we find that they fall within the intended reach of the express exclusion contained in the present collective-bargaining agreement. As to these two positions we therefore conclude that the instant UC petition is inappropriate as it seeks to overturn the clear mandate of the previous Board decision and the agreement of the parties as set forth in the recognition clause of their contract.<sup>4</sup>

<sup>2</sup> *Id.* at 142.

<sup>3</sup> It appears from the context of the Direction of Election and from uncontroverted testimony at the hearing that this reference does not merely denote a representative of the International Union but a representative in the area of internal affairs.

<sup>4</sup> *Wallace-Murray Corporation, Schwitzer Division*, 192 NLRB 1090 (1971). Compare *Union Electric Company*, 217 NLRB 666, 667 (1975).

### III

Pursuant to the direction of its 1976 convention, the Employer established a community services department, a civil rights department, and an organizing department.<sup>5</sup> The coordinators in these newly created departments have been stipulated to be supervisors. Accordingly, their unit placement is not in issue.

The community services department includes, in addition to the coordinator, an assistant whose unit placement is in issue. This individual is responsible for assisting local and district lodge participation in community service organizations such as the Red Cross, United Givers Fund, American Cancer Society, and the American Heart Association, and for helping to meet the needs of I.A.M. members in such areas as drug and alcohol abuse, family problems, natural disasters, long-term unemployment, and prolonged illness.

The civil rights department also has an assistant to the coordinator. The assistant is involved in all areas of civil rights and matters arising under the Equal Employment Opportunity Act. This individual is charged with working with the legal department to settle civil rights complaints against the Employer and is also actively involved in the area of women's rights and the Equal Rights Amendments.

The organizing department has, in addition to the coordinator, an assistant who bears the title of Grand Lodge Representative, and an individual who bears the title of economist. The Grand Lodge Representative and the economist are the only employees in this department whose unit placement is in issue. The Grand Lodge Representative is primarily responsible for handling jurisdictional disputes pursuant to article XX of the AFL-CIO constitution, metal trades department disputes, and disputes over jurisdiction of work within I.A.M. bargaining units; setting policy to be implemented in the field regarding coordinated bargaining, both in-house and with the Industrial Union Department of the AFL-CIO; and responding to requests from the field for organizing material and other correspondence relating to organizing. He also fills in for the coordinator when the coordinator is out of town. This individual maintains regular contact with Grand Lodge representatives in the field and on occasion travels to the field to discuss jurisdictional problems and organizing problems. The individual bearing the title of economist actually performs more of a clerical function in preparing routine correspondence and collecting bargaining information pursuant to requests of union representatives in the field.

<sup>5</sup> Although the Employer had an organizing department in the past, the present version seems to differ substantially in its structure.

Although these recently organized departments were created subsequent to the original certifications, our analysis of the responsibilities of the individuals in the above-described classifications which are in dispute leads us to conclude that they are all involved in "unrelated special assignments at headquarters" within the meaning of the unit description in the original Direction of Election and in the current collective-bargaining agreement. That is, we view the individuals in these classifications as not falling within those classifications involved directly with organizing and negotiating activity as set forth in the 1966 certification, nor fitting any of the specifically enumerated categories marked for inclusion by the 1972 certification, but falling squarely within the express exclusion contained in the unit description in the current collective-bargaining agreement. Accordingly, we view the instant UC petition inappropriate as to the above-

described classifications as it seeks to effect a mid-contract-term modification of the description of the recognized unit. Although we have determined that the UC petition is an inappropriate vehicle for resolving these unit placement issues, these issues may of course be raised pursuant to an appropriate petition under Section 9(c) of the Act.

In conclusion, we have found that with regard to all classifications placed in issue by the Petitioner there is no basis for concluding that they are or should be included in the existing recognized bargaining unit. Accordingly, we shall dismiss the petition herein.

#### ORDER

It is ordered that the petition in Case 5-UC-106 be, and it hereby is, dismissed.