In the Matter of Deluxe Products Corporation and International Association of Machinists Lodge No. 1127, A. F. of L.

Case No. 13-R-2314.—Decided May 6, 1944

Mr. B. B. Vedder, of Chicago, Ill., for the Company.

Mr. P. L. Siemiller and Mr. William Heath, both of Chicago, Ill., for the Union.

Mr. Joseph W. Kulkis, of counsel to the Board.

## DECISION

and

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon an amended petition duly filed by International Association of Machinists, Lodge No. 1127, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Deluxe Products Corporation, LaPorte, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Mozart G. Ratner, Trial Examiner. Said hearing was held at LaPorte, Indiana, on April 5, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Deluxe Products Corporation, an Indiana corporation, having its principal office and place of business at LaPorte, Indiana, is engaged in the manufacture of cast iron pistons, oil filters, and cartridges for

<sup>&</sup>lt;sup>1</sup> After the hearing, the parties entered into a stipulation providing for the correction of the stenographic transcript of testimony The stipulation is hereby approved and made a part of the record.

<sup>56</sup> N. L. R. B., No. 67.

the filters. The principal materials used by the Company are grey iron castings, carbon steel, brass, cotton, copper, oil, wood, and fibre containers. During the year 1943, the Company purchased materials valued at approximately \$500,000, of which 95 percent was shipped in from points outside the State of Indiana. During the same period, the Company sold products valued at approximately \$2,000,000, of which 90 percent was shipped to points outside the State of Indiana.

The Company admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, Lodge No. 1127, affiliated with American Federation of Labor, is a labor organization admitting to membership employees of the Company within the alleged appropriate unit.

### III. THE QUESTION CONCERNING REPRESENTATION

On or about February 3, 1944, the Union requested the Company to bargain with it as the exclusive representative of all employees in the alleged unit. On February 8, the Company refused to accord the Union such recognition unless and until it is certified by the Board.

A statement of the Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit hereinafter found to be appropriate.<sup>2</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The Union seeks a unit composed of all production and maintenance employees, including toolroom employees, inspectors, packers, shipping room employees, and laborers, but excluding all cartridge department employees, watchmen, office clerical employees, foremen, and all supervisory employees. The Company disputes the appropriateness of such a unit, contending that a plant-wide unit is more appropriate.

The manufacturing plant of the Company consists of two buildings adjacent to, but unconnected to each other. One, a two-story building, houses the piston department, the filter department, and the shipping department; the second building, a smaller, one-story structure, houses the oil filter cartridge department. The cartridges manufac-

<sup>&</sup>lt;sup>2</sup> The report of the Field Examiner shows that the Union submitted 53 authorization cards. There are approximately 105 employees within the alleged appropriate unit.

tured in the department consist of steel cones about which cotton is wound; the steel cones are manufactured by other companies. Each of the Company's departments is headed by a foreman whose jurisdiction is limited to that department. The employees of the piston and oil filter departments, who perform precision work, are paid approximately 13 percent more than the employees in the cartridge department, where the work is lighter and cleaner and not of the precision type. Twenty percent of the manufactured cartridges are trucked to the assembly room on the second floor of the larger building, where they are inserted into the oil filters prior to packing and shipping. The remaining 80 percent of the cartridges are sold as refills. Although there is some interchange of employees between the departments, such interchange is negligible, being induced primarily by rush orders.

The Company in support of its position that a plant-wide unit is appropriate, introduced into evidence a portion of an agreement for a consent election executed in a prior representation proceeding before the Board.3 The portion of the agreement provided, in effect, that a plant-wide unit constituted an appropriate unit. However, the election held pursuant thereto did not result in the certification of a bargaining representative; and the parties neither prior thereto nor thereafter engaged in collective bargaining on the basis of a plantwide unit. Accordingly, we find that the consent election agreement is not determinative of the appropriateness of the unit sought herein.4 The Company, in further support of its position, submitted evidence tending to show that the Union had extended its organizational activities to all employees of the Company. The record reveals, however, that although handbills were addressed to all the Company's employees, the Union did not attempt to organize the employees of the oil filter cartridge department, who it alleges, are subject to the jurisdiction of another union of the same affiliation. While a plant-wide unit may ultimately become appropriate, under the foregoing circumstances, and in view of the fact that at the present time no labor organization seeks to represent in a single bargaining unit the employees of the entire plant, we are of the opinion that the purposes of the Act will best be effectuated by making collective bargaining an immediate possibility for those employees within the unit hereinafter found appropriate. Our finding in this respect, however, does not preclude a later determination at another stage of self-organization that a more comprehensive unit is appropriate.5

<sup>\*</sup> Matter of Deluxe Products Corporation and Local 746, United Automobile Workers of America, C. I. O., Case No. 13-R-622.

<sup>4</sup> Matter of Servel, Inc., 51 N L R B 224

<sup>\*</sup> Matter of Gardner-Richardson, 52 N L. R. B. 1260; Matter of James Russell Boiler Works, 53 N. L. R B 1411; Matter of Bethlehem Alameda Shipyard, Inc., 53 N. L. R. B. 999; Matter of Maryland Sanitary Mfg. Co., 53 N. L. R. B. 1490

We find that all production and maintenance employees of the Company, including all toolroom employees, inspectors, packers, shipping room employees, truckers, and laborers, but excluding all cartridge department employees (including all inspectors in the cartridge department), watchmen, office clerical employees, foremen, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of the employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

# V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

# DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Deluxe Products Corporation, LaPorte, Indiana, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of the Direction, under the direction and supervision of the Regional Director for the Thirteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by International Association of Machinists, Lodge No. 1127, A. F. of L., for the purposes of collective bargaining.