

In the Matter of BOSTON MUTUAL LIFE INSURANCE COMPANY and
UNITED OFFICE AND PROFESSIONAL WORKERS OF AMERICA (CIO)

Case No. 1-R-1710.—Decided August 3, 1944

Messrs. Damon E. Hall, and William J. Nolan, of Boston, Mass., for the Company.

Mr. Harold B. Roitman, of Boston, Mass., for the Union.

Mrs. Catherine W. Goldman, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Office and Professional Workers of America (CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Boston Mutual Life Insurance Company, Boston, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Leo J. Halloran, Trial Examiner. Said hearing was held at Boston, Massachusetts, on June 16, 1944. The Company and the Union appeared and participated. All parties 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

Boston Mutual Life Insurance Company, a Massachusetts corporation, with its home office in Boston, Massachusetts, is engaged in selling and servicing life and endowment insurance in the States of Massachusetts, Rhode Island, Maine, and New Hampshire.¹

¹ The Company maintains 33 district offices, 27 of which are located in Massachusetts, 3 in Rhode Island, 2 in Maine, in 1 in New Hampshire.

At the close of the last fiscal year, the Company had in force policies of insurance on which the premium income in 1943 was \$4,766,695.10. The premiums received in 1943 came from policyholders residing in every State of the United States and in some foreign countries. The Company's assets totaled on December 31, 1943, approximately \$19,733,000. They consisted of Government bonds amounting to \$13,276,000, State bonds amounting to \$186,000, municipal bonds amounting to \$185,000, railroad bonds amounting to \$872,000, public utility bonds amounting to \$1,004,000, industrial bonds amounting to \$48,000, public utility stock amounting to \$24,000, bank stocks amounting to \$44,000, loans on policies amounting to \$900,000, and cash on hand of \$765,000. The Company owned real estate valued at approximately \$284,000, of which \$184,000 represented property acquired through foreclosure of mortgages and the balance represented the book value of the home office building. The Company uses as depositories for its funds in States outside of Massachusetts, various banking institutions in Maine, New Hampshire, and Rhode Island.

We find, contrary to the Company's contention, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Office and Professional Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to recognize the Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.²

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 requests a unit covering all cashiers and assistant cashiers in the Company's district offices. The Company objects to the unit

² The Field Examiner reported that the Union submitted 21 authorization cards; that there are 59 employees in the unit requested; and that the cards were dated as follows: 7 in December 1943, 5 in October 1943, 6 in September 1943, 2 in August 1943, and 1 in June 1943.

on the ground that the cashiers and assistant cashiers are supervisory and confidential employees.

The Company operates its 33 district offices under the supervision of a Superintendent of Agencies, who is located in the home office. Each district office is under the supervision of a superintendent and assistant superintendents, who have direct charge of the industrial insurance agents³ attached to the particular office. In addition, each office has a cashier and one or more assistant cashiers, who are appointed by the Superintendent of Agencies. There are no other clerical or office employees in the district offices.

The cashiers are in complete charge of the financial operations of their respective district offices. They report and are directly responsible to the Superintendent of Agencies at the home office. The cashiers train and direct the assistant cashiers. They have the authority to effectively recommend discipline of assistant cashiers by discharge or otherwise. The cashiers also, on occasion, take dictation and type letters from the superintendent to the home office on matters concerning labor relations. We are of the opinion that the cashiers have confidential duties, and that they exercise authority placing them within our customary definition of supervisory employees. Accordingly, we shall exclude the cashiers from the unit.

The assistant cashiers, however, perform only routine office functions under the direction of the cashiers. While in the absence of the cashiers, the assistant cashiers may handle correspondence pertaining to labor relations, this occurs infrequently. There is nothing in their customary duties to warrant the conclusion that they are employed in a confidential capacity, nor does it appear that they exercise any supervisory authority. Accordingly, we are of the opinion that the assistant cashiers may properly function as a bargaining unit.

We find that all assistant cashiers in the 33 district offices of the Company excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of 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 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

³ Pursuant to a consent election of August 7, 1941, the Union represents all the industrial insurance agents employed by the Company.

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with the Boston Mutual Life Insurance Company, Boston, Massachusetts, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the First 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 the 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 those employees 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 the United Office and Professional Workers of America, (CIO), for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.