

In the Matter of ACWELTONE CORPORATION and UNITED OFFICE AND PROFESSIONAL WORKERS OF AMERICA, LOCAL 1, C. I. O.

*Case No. 2-R-5236.—Decided May 2, 1945*

*Mr. Daniel Arvan, of New York City, for the Company.  
Boudin, Cohn & Glickstein, by Mr. I. Phillip Sipser, of New York City, for the Union.  
Mr. Herbert C. Kane, 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, Local 1, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Acweltone Corporation, New York City, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before David H. Werther, Trial Examiner. Said hearing was held at New York City, on February 21, 1945. 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

Acweltone Corporation is a New York corporation having its principal place of business in New York City, where it is engaged in the production, sale, and distribution of lithographic products. During the past 12 months the Company purchased more than \$50,000 worth of raw materials, consisting principally of paper and ink, more than

15 percent of which was shipped to its plant from points outside the State of New York. During this same period the Company sold more than \$50,000 worth of finished products, more than 15 percent of which was shipped to points outside the State of New York.

The Company admits for the purpose of this proceeding 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, Local 1, 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 grant recognition to 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.<sup>1</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 parties agree generally that a unit of all office clerical employees excluding supervisory employees would be appropriate. The only dispute centers around two messengers and Frances Korrins, all of whom the Union would include and the Company exclude.

There is one full-time and one part-time messenger. They are stationed in the corridor outside the office and sent on errands by the office employees and, at times, by the plant superintendent. The part-time messenger does some filing. They are under the supervision of the office manager and are on the office pay roll. We find that their duties and interests are closely related to those of the office employees; we shall therefore include them in the unit.

The Union requests that Frances Korrins be included in the unit of office clerical employees of the Company; in the alternative, the Union requests that if she is not so included, a separate unit of office clerical

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<sup>1</sup> The Field Examiner reported that the Union submitted 15 authorization cards; that the names of 11 persons appearing on the cards were listed on the Company's pay roll list telephoned to the Field Examiner, January 12, 1945, which contained the names of 13 employees in the appropriate unit; and that the cards were dated, 7 in November 1944, 6 in December 1944, 1 in January 1945, and 1 was undated.

employees of The Frontenac Grill, Inc. be found appropriate and that she be included therein. Although previously employed by the Company, Korrins was transferred to the pay roll of The Frontenac Grill, Inc., a separate corporation, on about December 16, 1944. Since Korrins is no longer an employee of the Company, but of The Frontenac Grill, Inc., we shall exclude her from the unit. Further, since she is the only office clerical employee of The Frontenac Grill, Inc., a unit of office clerical employees of The Frontenac Grill, Inc., is inappropriate for collective bargaining purposes under a well established principle of the Board.<sup>2</sup>

We find that all office clerical employees of the Company, including messengers, but excluding all 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

The Company contends that the part-time messenger should not be allowed to participate in the election since he is a part-time employee. The record discloses that he is a regular part-time employee and that the Company now intends to keep him for an indefinite period of time. We shall allow him to participate in the election.

The petitioner requests that the pay roll immediately prior to the hearing date be used to determine eligibility. No sufficient reason appearing for such request, 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 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 Acweltone Corporation, New York City, 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

<sup>2</sup> *Matter of Steamer Service Company*, 58 N. L. R. B. 632, and cases cited therein.

Director for the Second 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 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 United Office and Professional Workers of America, Local 1, C. I. O., for the purposes of collective bargaining.

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