We find that the following employees at the Employer's Milwaukee, Wisconsin, plant constitute an appropriate unit for the employees of collective bargaining within the meaning of Section 9 (b) of the Act: All laboratory helpers and laboratory assistants in the technical control and development departments, excluding office clerical and plant clerical employees, chemists and other professional employees, shop, or production, employees, guards, and all supervisors [6] as defined in the Act.

[Text of Direction of Election omitted from publication.]

[6] Excluded, as supervisors, are Joseph Miller, George Geiger, Otto Hansen, Harry Peksa, Ed Olenzak and Malcolm Schelong, who have hereinabove been found to be supervisors.

Charles and Henry Bertermann d/b/a Western Machine & Tool Company [1] *and* Local 849 of the International Association of Tool Craftsmen, Petitioner. *Case No. 13–RC–4830. April 4, 1956*

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Allen P. Haas, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.[2]

Upon the entire record in this case, the Board finds:

No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

The Employer is a Racine, Wisconsin, partnership engaged in job shopping tools, dies, fixtures, jigs, and similar products. During the calendar year, 1955, the Employer's purchases, received from directly outside the State, were approximately $3000, and its purchases received indirectly from out-of-State were approximately $11,500. During that period, the Employer's gross sales were $99,357, and during the 12-month period immediately preceding the hearing, its gross sales were $99,870. All such sales were made to enterprises located in the State of Wisconsin and, although the Employer testified that its customers were themselves engaged in commerce, the record fails to show on what basis, if any, the Board would assert jurisdiction over the Employer's customers. However, even assuming that the necessary facts were shown, and that the Employer's sales would be found to constitute indirect outflow, these sales fall short of the minimum juris-

[1] The Employer's name appears as amended at the hearing.

[2] Lodge No. 849, International Association of Machinists, AFL–CIO, was permitted to intervene on the basis of a current contractual interest.

dictional amount of $100,000 established by the Board for asserting jurisdiction on the basis of indirect outflow.[3]

The Petitioner contends that the Board should consider the Employer's sales for the years 1953 and 1954, as well as those for the most recent year, in determining whether to assert jurisdiction herein. However, the Board in applying its jurisdictional standards uniformly relies on the experience of an employer during the most recent calendar or fiscal year, or the 12-month period immediately preceding the hearing before the Board, where such experience is available.[4] Moreover, no evidence has been advanced to show that the decline in the Employer's sales was temporary or caused by factors not likely to recur. Accordingly, we find no reason to depart from our usual practice in this case. As the Employer's operations fail to meet either the Board's indirect outflow standards, or any of the Board's other jurisdictional standards, we find that it will not effectuate the policies of the Act to assert jurisdiction in this case, and we shall therefore dismiss the petition.

[The Board dismissed the petition.]

[3] *Jonesboro Grain Drying Cooperative,* 110 NLRB 481; *Whippany Motor Co. Inc.,* 115 NLRB 52.

[4] *Aroostook Federation of Farmers, Inc.,* 114 NLRB 538; *Bischof Die and Engraving,* 114 NLRB 1346.

The Stickless Corporation *and* District 65, RWDSU, AFL–CIO New York Printing Pressmen's Union No. 51, I. P. P. & AU, and New York Press Assistants Union No. 23, I. P. P. & AU, AFL–CIO, Joint-Petitioners. *Case No. 2–RC–7933. April 5, 1956*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Leonard J. Lurie, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.[1]

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

[1] Over the objection of the Employer and Amalgamated Workers Union, Local 139, I. U. D. & TW, AFL–CIO, Intervenor herein, the hearing officer granted the motion of New York Printing Pressmen's Union No. 51, I. P. P. & AU, and New York Press Assistants Union No. 23, I P. P. & AU, AFL–CIO, Joint Intervenors, and District 65, RWDSU, AFL–CIO, the original Petitioner, to amend the petition by adding the names of the Joint Intervenors as Joint Petitioners with District 65 Since the amendment of the petition did not materially affect the composition of the unit as originally petitioned for, the parties were not prevented from presenting all the evidence available to them on that question *Mission Appliance Corporation,* 108 NLRB 176; *General Electric Company (River Works),* 107 NLRB 70. Accordingly we find no merit in the contentions, including the Employer's contention of surprise, of the objecting parties.