

history herein, the branchwide unit would be the only appropriate unit. However, we shall not dismiss the petition as there is an alternative basis for an appropriate unit finding in the fact, as previously noted, that the Maine area salesmen appear to be the only salesmen in the Boston branch not represented by any labor organization. In these circumstances, we shall find appropriate for purposes of collective bargaining, under our residual unit doctrine, all unrepresented salesmen and merchandisers in the Employer's Boston branch.<sup>6</sup>

We find that all unrepresented salesmen and merchandisers in the Employer's Boston, Massachusetts, branch, excluding those currently represented by the Petitioner and Local 646, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, and excluding office and clerical employees, delivery employees, guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

[Text of Direction of Election omitted from publication.]

CHAIRMAN LEEDOM and MEMBER MURDOCK took no part in the consideration of the above Decision and Direction of Election.

<sup>6</sup> *Equitable Gas Company*, 111 NLRB 453; *The Kroger Company*, 93 NLRB 274.

**Paul Hillman and Michael Sakuta d/b/a Hillman Manufacturing Company and Harvey C. Babbitt, Petitioner and International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, and its Local 155, AFL-CIO. Case No. 7-RD-207. August 13, 1956**

#### SUPPLEMENTAL DECISION AND ORDER DIRECTING REGIONAL DIRECTOR TO OPEN AND COUNT CHALLENGED BALLOT

On October 20, 1955, the Board issued its Decision and Direction of Election in this proceeding<sup>1</sup> pursuant to which an election by secret ballot was conducted on November 8, 1955. Out of 22 votes cast, 11 were for the Union, 8 were against it, and 3 were challenged by the Union. The Employer filed, but later withdrew, objections to the conduct of the election, and the Union withdrew its challenge to two of the ballots. The Regional Director duly conducted an investigation upon the remaining ballot which was challenged on the ground that Arthur Stritmatter, the employee in question, was a supervisor and not entitled to vote. On March 19, 1956, the Regional Director's report on

<sup>1</sup> Not reported in printed volumes of Board Decisions and Orders.  
116 NLRB No. 83.

challenged ballots issued, recommending that Strittmatter be found a supervisor and his ballot not counted. To this the Employer has filed exceptions.

In connection with its consideration of the exceptions, the Board ordered that the ballots as to which challenges were withdrawn be counted, and as a result thereof the Regional Director reported that the tally of ballots shows 11 votes for the Union and 10 against.

On the basis of the detailed material concerning Strittmatter's alleged supervisory status contained in the report on challenged ballots, the Board finds that Strittmatter is not a supervisor for the following reasons.

Two diemakers and a trainee are the sole employees on the night shift. Strittmatter is the most skilled and the highest paid of the three, and senior in point of service. He comes in 15 minutes early to get the work "line up," as prepared by one of the partners, which involves drilling and tapping to finish work started by the day shift. He has no authority to start a job or to make changes, and checks the work of the other two night employees only when something special is being done. Serious problems which arise are laid aside for the day shift.

There is no contention that Strittmatter has authority to hire, discharge, or discipline or effectively to recommend such action, and the investigation indicates that he was refused a leader's classification by the Employer such as Molitor, the head diemaker on the day shift, has. Because more than enough work is normally lined up for the night shift by partner Sakuta, Strittmatter is called upon to assign work to the other two employees only in rare instances. Whatever responsibility to direct the work of the others he may have, we believe, arises from his being a skilled diemaker, is based upon working skill and experience, and does not constitute the type of direction emanating from management which is contemplated in the definition of supervisors in Section 2 (11) of the Act.<sup>2</sup>

As we have found merit in the Employer's exceptions, we shall overrule the challenge to the ballot of Arthur Strittmatter and direct that it be opened and counted.

[The Board ordered that the Regional Director for the Seventh Region shall, within ten (10) days from the date of this Order, open and count the ballot of Arthur Strittmatter, and serve upon the parties a revised tally of ballots.]

MEMBERS MURDOCK and PETERSON took no part in the consideration of the above Supplemental Decision and Order Directing Regional Director to Open and Count Challenged Ballot.

<sup>2</sup> See *Southern Bleachery and Print Works, Inc.*, 115 NLRB 787.