

**P. Ballantine & Sons and Salesmen's Division, Local 153, Office Employees' International Union, AFL-CIO, Petitioner.** *Case No. 22-RC-41. March 13, 1958*

### DECISION AND ORDER

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

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Rodgers, Jenkins, and Fanning].

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

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

2. The labor organization involved claims to represent certain employees of the Employer.

3. 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 Petitioner seeks a unit of all outside salesmen working out of the Employer's branch sales offices in Newark, New Jersey, and New York City. In the alternative, the Petitioner would add thereto the salesmen in the Red Bank, New Jersey, branch, or accept separate Newark and New York City units. The Employer in its brief moved the dismissal of the petition on the ground that the only appropriate unit is one that includes (1) the outside salesmen in all of its 10 branches at Newark and Red Bank, New Jersey; New York, Albany, and Tillson, New York; Providence, Rhode Island; Fairfield, Hamden, and Wethersfield, Connecticut; and Washington, D. C.; (2) the Employer's district sales managers and field salesmen who assist the distributors representing the Employer in seven regions in various parts of the United States; and (3) the Employer's salesmen who sell directly to military outlets along the eastern seaboard.

The Employer is engaged in the manufacture and distribution of beer, ale, and other malt beverages, and maintains its home office in Newark, New Jersey. The Employer's selling operations consist of 2 major divisions, namely, the 10 branches through which it sells its products to retailers, and the independent distributors who sell the Employer's products to wholesalers in places not served by the branches. In addition, two salesmen, who operate in several of the regions, sell to military outlets along the eastern seaboard. The sales territory of all the Employer's branches other than that located

in Washington, D. C., are, except for an 8-mile gap between New York City and Connecticut, contiguous within a 4-State area. In contrast to the branches, which are located from 3 to 190 miles from the Employer's principal office in Newark, the 7 regional offices of the distributors extend to a large part of the nation, covering the New England, Atlantic, Midwestern, and Southern States.

The Employer's sales operations are centrally directed from Newark by a general sales manager.<sup>1</sup> Sales quotas for the branches and regions are established by the home office, but individual quotas for the salesmen are fixed by either branch managers or the assistant general managers in charge of the regions. Personnel and payroll records are maintained both in Newark and at the branch offices. Salary checks for all salesmen, except those in Connecticut and Rhode Island, are prepared at the main office.<sup>2</sup> While branch managers and assistant sales managers conduct interviews and make recommendations as to hiring and discharge, the final decision is the responsibility of the general sales manager who does not always follow these recommendations. Policies as to labor relations, methods of compensation, vacations, holidays, and fringe benefits are formulated by the home office which handles grievances and arbitration proceedings in all the branches. All assistant general sales managers meet together every month except July and August regarding the Employer's sales training program. The record also shows that the Employer held a meeting in Newark of all sales personnel early in 1957 and intends to continue to do so on an annual basis. Transfers between the branches and the regions have occurred. Finally, it appears that there is no bargaining history with respect to any of the salesmen involved herein.

On the basis of the foregoing, particularly the nature of the branch operation and the fact that the branches are, with the exception of the one in Washington, D. C., located in a distinct geographical area and the salesmen therein have a community of interests different from those of the regional salesmen who are scattered in various sections of the country, we find that a unit of the Employer's 10 branches is appropriate for collective bargaining.<sup>3</sup> Accordingly, as both the primary and the alternative units sought by the Petitioner are too narrow in scope to constitute appropriate units, and the Petitioner's showing of interest is insufficient to warrant the direction of an election in the broader unit herein found appropriate, we shall dismiss the petition herein.

[The Board dismissed the petition.]

<sup>1</sup> The Employer sets prices for the branches only.

<sup>2</sup> However, the Employer indicated that within a month from the hearing date, November 7, 1957, this exception would no longer prevail.

<sup>3</sup> See *Laebman Breweries, Inc.*, 92 NLRB 1740; *John F. Trommer, Inc.*, 90 NLRB 1200 *Cf. Anheuser-Busch, Inc.*, 110 NLRB 194.