mons to the "boss' office" is not lessened by the nonexistence of physically enclosing walls.

In these circumstances, we adopt the Regional Director's recommendations and shall set aside the election and order a second election.[3]

[The Board set aside the election of October 10, 1957.[4]]

[Text of Direction of Second Election omitted from publication.]

[3] As the Employer's exceptions raise no substantial issues of fact, we reject the Employer's contention that the issues raised herein should be resolved in an unfair labor practice proceeding. *The Humko Co., Inc.*, 117 NLRB 825.

[4] Accordingly, we find, as did the Regional Director, that it is unnecessary to consider at this point the disputed issue raised by the Petitioner's assertion that various of the Employer's supervisors promised wage increases to employees if they voted against the Petitioner.

American Federation of Labor and Congress of Industrial Organizations *and* Field Representatives Federation, Petitioner.
Case No. 5–RC–2293. May 14, 1958

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 Louis S. Wallerstein, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. Pursuant to a notice of hearing, oral argument was heard before the Board on April 1, 1958. Both parties were represented by counsel and participated in the argument.

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 petitioning labor organization claims to represent certain employees of the Employer.

3. The Petitioner seeks a unit of all employees of the Employer's Department of Organization classified as organizers or field representatives. The Employer agrees that, if the Board finds no merit in its various contentions, the requested unit is appropriate. It maintains, however, that the employees involved are managerial employees who, under Board decisions, are not accorded collective-bargaining rights either as part of a unit comprising other employees or as separate units. It also urges that the Board in deciding this issue should consider the fact that the Employer is a labor organization engaged in rendering services, on a nonprofit basis, to employees throughout the Nation and that it would be contrary to the best in-

terests of the labor movement for the AFL–CIO to recognize a union of its organizers. It also contends that the Board should keep in mind that, if an election is directed herein, the result will be to encourage organizers of international unions to organize with a consequent danger of promoting "power blocs" of organizers within the international unions.[1]

With respect to the latter contentions, we find them to be without merit. The fact that the Employer is also a labor organization is not a sufficient basis for disregarding, as to it, considerations applicable to other employers under the Act. A similar contention was before the Supreme Court in *Office Employees International Union* v. *N. L. R. B.*,[2] and the Court there stated:

> It [the Act] says that the term "employer" includes any labor organization "when acting as an employer." It follows that where a labor union takes on the role of an employer the Act applies to its operations just as it would to any other employer.[3]

The Court, further, stated that it was not "within the Board's discretion to remove unions as employers from the coverage of the Act after Congress specifically included them therein." Clearly, then, the fact that the employer is a labor organization is not a material consideration here.

The Employer's other argument that the fact that organizers, as distinguished from other union employees, are involved creates special problems warranting dismissal of the petition, seems to assume that extending collective-bargaining rights under the Act to organizers will impair their effectiveness in discharging their duties and responsibilities and, at least in the case of international unions, will enable them to exercise undue control over internal union affairs. The Employer's position is clearly at variance with (1) the finding of the Act that it is the denial of the right of employees to organize and bargain collectively that causes industrial strife and unrest and not the granting of such right and (2) the express policy of the Act to eliminate the causes of such strife and unrest "by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing. . . ."[4] If the Employer is, in effect, taking exception to these findings and policy, then its arguments should be directed to Congress, not to this

[1] The Employer contends also that the Board's decision in *Airline Pilots Association*, 97 NLRB 929, directed an election in a unit which contained union organizers, should not be deemed controlling here, because the contentions made here were not litigated in that case To the extent that this is so, we have considered those contentions on their merits and as not foreclosed by *Airline Pilots*.

[2] 353 U S 313.

[3] 353 U. S. 313, 316

[4] Section 1 of the Act

Board. Furthermore, the Board has long held that "there is no incompatibility between the faithful performance of duty and enjoyment of benefits under the Act." [5]

We now come to the Employer's primary contention that the organizers are, in fact, representatives of management and, thus, not employees entitled to the benefits of the Act.[6] The Employer concedes that none of the employees heretofore found by the Board to be managerial had exactly the same duties as organizers, but it takes the position that the essential factors upon which the Board relies in finding employees managerial are present here.

The organizers are part of the staff of the Employer's Department of Organization. The headquarters of the Department is in Washington, D. C., and has a local staff composed of the director of Organization, 4 assistant directors, 2 professional members, and clerical employees. Under the supervision of the Washington office are 23 regional offices in various cities in the United States, which offices have jurisdiction over particular geographical areas. Each region is headed by a regional director who has under him, in most instances, an assistant regional director. The organizers are assigned to the various regions by the Washington office. Their work assignments in the field are determined by the regional directors and may be either to cover generally a particular area in the region or to handle some specific assignment within the region.

On the whole, the organizers spend a majority of their time in organizing activities, though individual organizers may be assigned to other tasks which take up a majority, if not all, of their time. The organizer may conduct an organizing campaign on his own initiative or on direction of the regional office. He may work alone, or with other AFL–CIO organizers, or if the campaign is under the direction of an AFL–CIO international union, he may work with the organizers of that international. If several organizers are assigned to a campaign, one may be selected to coordinate the activities of all.

Organizing activities involve, among other things, talking to employees, setting up committees of employees in the group being organized, and distributing throwaways which the organizers themselves draft. When the occasion warrants, television and newspaper advertising may be used. The organizers may also talk with various persons such as civic leaders in the area where the organizing occurs in order to create a sympathetic community attitude toward the campaign and unions involved.

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[5] *Brooklyn Borough Gas Company,* 110 NLRB 18, 22, *Bethlehem-Alameda Shipyard, Inc.,* 59 NLRB 1525, 1527. Moreover, any fear as to the untoward effect on the labor movement of now granting bargaining rights to organizers overlooks the fact that such rights were granted by the Board over 6 years ago in the *Airline Pilots* case, *supra,* a precedent which until now had not been challenged We are not advised, and it is not contended, that such decision has had any adverse effect on the functioning of labor organizations.

[6] See, *Swift & Company,* 115 NLRB 752, 754.

In those cases where it is deemed advisable to seek a certification under the provisions of the Act, the organizer will file a petition and represent the employees both at the hearing, if one is held, and at the Board election. He may also act on his own initiative with respect to unfair labor practice charges. If a unit of employees gains recognition from its employer, the organizer may help the employees to set up a local union and install and instruct its first officers. He may also help the new union in bargaining for its initial contract with the company involved. Such new local may either affiliate directly with the AFL–CIO or with one of its international unions. He may, on request of an international union, negotiate a contract for one of its locals.

Many of the organizers in the requested unit spend some of their time serving local unions directly affiliated with the AFL–CIO. In areas where there are many such unions, an organizer may be assigned to handle such work a majority of his time. Servicing these unions involves various duties, such as negotiating contracts for the union, which the organizer may sign on behalf of the AFL–CIO, participating in grievance and arbitration proceedings, handling certain strike problems, or acting as a trustee of a local where abuses have occurred. A number of organizers have, since the merger of the AFL and the CIO in 1955, been engaged in merging various local central bodies of the two formerly independent parent federations. Their responsibility with respect to this activity involves bringing the officers of the separate local bodies together to reach agreement on merger and drafting of a constitution for the new central organization. The constitution must be approved by the office of the AFL–CIO's president in Washington before it becomes effective.

Article XIII of the AFL–CIO constitution provides generally that the AFL–CIO wishes to encourage its members and affiliated unions to participate in community activities. Thus, organizers engage in such work, serving as union representatives in community organizations and encouraging greater union participation in such groups. They also may speak before various civic groups as representatives of the AFL–CIO, and in conjunction with State or local labor organizations, they may work on various legislative matters.

As stated above, the organizers are employed by the Washington office and assigned to the various regions where their activities are under the general direction of the regional director. However, the very nature of their work militates against close supervision and, thus, they of necessity exercise considerable discretion in doing their work. Moreover, as they are all employees of considerable experience, they are expected to be able to discharge their responsibilities properly with a minimum of supervision. They are, nevertheless, required to submit to their regional director and the Washington office every

2 weeks a report on their activities during the period and they are in frequent contact, either in person or by telephone, with their regional director. In carrying out their duties, the organizers are required to incur certain expenditures which they may either have billed to the AFL–CIO or pay themselves subject to reimbursement by the AFL–CIO. These include expenses for hotel rooms or other sleeping accommodations and expenses incident to organizing campaigns, such as printing bills for throwaways, rent for a hall for a union meeting or for a temporary office. The former expenses are limited to $6.50 a night, absent special permission, and the latter expenses usually amount to less than $100 unless specific authorization is granted to spend a greater sum. There are other minor expenses, such as toll telephone calls.

We believe that it is clear from the foregoing that the organizers are the "production" employees of the Employer's Department of Organization. They are the ones who do the actual organizing and related work which the Department is primarily responsible for carrying out.[7] The Board has held, in essence, that managerial employees are those who formulate, determine, and effectuate an employer's policies.[8] But there is nothing in the record to indicate that, apart from an occasional recommendation,[9] they play any part in the formulation or determination of the policy of their Department. In fact, there are 2 or 3 levels of supervision between the organizers and top management.

The Employer contends, however, that the organizers are managerial employees in that (1) they do not work under close immediate supervision and, in consequence, exercise wide discretion and responsibility in carrying out their duties; (2) they represent the Employer to the public; (3) they may pledge the Employer's credit; and (4) they may engage in collective bargaining and sign agreements on behalf of the Employer. We disagree. The performance of duties under little supervision and involving the exercise of considerable discretion does not necessarily indicate managerial status.[10] Neither

[7] See article XI and article VIII, section 8 of the Employer's constitution.

[8] See *American Broadcasting Company,* 107 NLRB 74, 79; *St. Louis Independent Packing Company,* 67 NLRB 543, 547; *Palace Laundry Dry Cleaning Corporation,* 75 NLRB 320, 323.

[9] An employee does not necessarily possess managerial status because he makes recommendations which may influence an employer's policy or business decisions *Titefex, Inc,* 103 NLRB 223, 225; see also *Puget Sound Power & Light Company,* 117 NLRB 1825, 1827; *Westinghouse Electric Corporation,* 113 NLRB 337, 339–40; *Western Electric Company, Incorporated,* 100 NLRB 420, 422

[10] *Eastern Corporation,* 116 NLRB 329, 332; *The Daily Review, Inc,* 111 NLRB 763, 764, *A. S. Abell Company, Publishers,* 81 NLRB 82, 83; *Northwestern Bell Telephone Company,* 79 NLRB 549, 552; *Worthington Pump and Machinery Corporation,* 75 NLRB 678, 679. Also, the fact that organizers represent the Employer in proceedings before this Board would not appear to be indicative of managerial status. See *Lumbermen's Mutual Casualty Co,* 75 NLRB 1132, in which the Board found lawyers who represented their employer in court not to be managerial. See also *Air Line Pilots Association,* 97 NLRB 929, 931, in which lawyers representing their employer in both court and administrative proceedings were included in a voting group of professional employees.

does the fact that an employee may represent its employer to the public.[11] Furthermore, though we have in many cases[12] found the authority to pledge an employer's credit to be indicative of managerial status, we have not done so in cases such as we have here where such authority is strictly limited and is not regularly exercised.[13] As for the organizers' signing labor agreements as representatives of the Employer, the Board has long held that the authority to sign an agreement binding on an employer does not confer managerial status on an employee.[14]

Thus, viewed singly, the various factors relied upon by the Employer are insufficient to support a finding that the organizers are managerial employees, nor do we believe that such a finding is warranted by considering the work and responsibilities of the organizers in their totality. For whether these factors are viewed singly or in combination, they fail to meet the Board's view of what constitutes managerial status. Moreover, the duties of the organizers are not materially more complex, nor do they require more judgment or responsibility than those of other employees heretofore held to be within the coverage of the Act.[15] Accordingly, we find that the organizers are nonmanagerial employees and that there thus exists a question concerning the representation of employees within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. In view of the foregoing, and adopting the agreement of the parties with respect to the composition of the unit, we find that the following employees of the Employer constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act: All employees of the Employer's Department of Organization classified as organizers who are not employed on a temporary basis, excluding all regional directors, assistant regional directors, the director of Organization, and all other personnel of the Department of Organization not classified as organizers.

[Text of Direction of Election omitted from publication.]

[11] See *Wells Fargo Carloading Company*, 78 NLRB 419, 420 (salesmen); *Oklahoma State Union, etc*, 92 NLRB 248, 252; *Travelers Insurance Company*, 116 NLRB 387, 389 (insurance adjusters); *Northwestern Bell Telephone Company*, 79 NLRB 549, 552 (plant engineers who are frequently called upon to make public contacts for the telephone company); *Eljir Co*, 108 NLRB 1417, 1420 (clerks in constant communication with customers with regard to filling and scheduling shipments of orders).

[12] See, for example, *Swift & Company*, 115 NLRB 752, 753

[13] See *St Cloud Rendering Co.*, 116 NLRB 1069, 1071–72; *F. Segari & Co*, 114 NLRB 1159, 1161, *Wilson & Co., Inc*, 97 NLRB 1388, 1391–92; *Transit Casualty Company*, 83 NLRB 857, 859; *Lumbermen's Mutual Casualty Co.*, 75 NLRB 1132, 1139, adjusters who may settle claims up to $2,500, not managerial.

[14] See *Lumbermen's Mutual Casualty Co.*, 75 NLRB 1132, where adjusters who reached final settlements with claimants were held not to be managerial. See also, cases cited in footnote 13, *supra*.

[15] *Oklahoma State Union, etc.*, 92 NLRB 248, 252; *Travelers Insurance Company*, 116 NLRB 387, 389 (adjusters); *Northwestern Bell Telephone Company*, 79 NLRB 549, 552 (plant engineers); *Lumbermen's Mutual Casualty Co.*, 75 NLRB 1132, 1134–39 (lawyers).