

clerks, warehousemen, and yardmen, excluding all production and maintenance employees, office clerical employees, foremen, and supervisors as defined in the Act.<sup>4</sup>

[Text of Direction of Elections omitted from publication.]

---

<sup>4</sup> The unit findings are in accord with agreements of the parties.

**Middle Department Association of Fire Underwriters and Local 1115, International Brotherhood of Electrical Workers, AFL-CIO, Petitioner.** *Case No. 22-RC-258. January 27, 1959*

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Leonard Bass, 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 [Chairman Leedom and Members Bean and Fanning].

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

1. The Employer contends that it is not engaged in commerce within the meaning of the Act, and is therefore not subject to the Board's jurisdiction. The Employer is an unincorporated association composed of 266 fire and property insurance companies, with its principal office in Philadelphia, Pennsylvania. Its principal services for its member companies, and for approximately 78 partial subscribers to its services, consist of development of rating schedules for fire and related insurance risks, publishing of rules and policy forms, preparation of fire and underwriting reports, and examination of daily reports, binders, and other evidence of insurance, to determine whether such coverage is in accord with rules and rates filed with State insurance departments. It is licensed by the States of Pennsylvania and Delaware to perform these services for insurance companies, and admits to membership insurance companies licensed to do business in those States. In 1957, it received approximately \$1,739,000 in assessments from companies and subscribers for these services, in excess of \$50,000 of which represented assessments from companies doing business in more than one State. In addition, the Employer also renders an electrical inspection service on a fee basis to building contractors, public utilities, and municipalities in the States of Pennsylvania, Delaware, New Jersey, Maryland, Virginia, and West Virginia. In 1957 its income from

this service was in excess of \$1,832,000, of which approximately \$721,000 represented payments for inspection services performed in New Jersey.

The Employer maintains 18 district offices in the 6 States where the electrical inspection service is performed, mainly for the purpose of providing necessary clerical assistance and a point of contact between supervisors and inspectors. Other inspectors report to supervisors who work out of their homes. Much of the district office management is handled from the main office; leases for the district offices are negotiated and executed by the treasurer at the main office; and major expenditures for the district offices are made by the main office in Philadelphia. Fees received by the inspectors for electrical inspection services are deposited in bank accounts maintained at the district offices, from which point they are forwarded to the home office.

On the basis of the foregoing it is clear and we find, that the Employer's operations, including both its services to its member companies and subscribers, some of whom at least operate in more than one State, and its interstate electrical inspection services, substantially affect commerce within the meaning of the Act, and that the Employer is therefore subject to the jurisdiction of the Board.<sup>1</sup> We further find that, as the Employer furnishes over \$50,000 worth of electrical inspection services outside the State of Pennsylvania, where the Employer's principal office is located, its operations satisfy the Board's jurisdictional standards for nonretail enterprises.<sup>2</sup>

The Employer contends further that, even if it is engaged in commerce within the meaning of the Act and meets the Board's jurisdictional standards, it is nonetheless not an employer subject to the Act because it is a political subdivision within the meaning of Section 2(2) of the Act. We find no merit in this contention. The Employer is a privately organized association, setting its own labor relations policies, doing its own hiring and firing, and handling all its own personnel matters. The fact that the Employer, in connection with its services to insurance companies, is required to be licensed in Delaware and Pennsylvania; is subject to special statutory regulation; and is required to notify the insurance commissioner of uncorrected violations, do not establish that the Employer is operating as an arm or subdivision of the State. Insofar as its inspection services performed for local governments are concerned, which inspections comprise about one-fourth of all its inspections,

<sup>1</sup> Cf. *Associated Press v. N.L.R.B.*, 301 U.S. 100; *Polish National Alliance, etc. v. N.L.R.B.*, 322 U.S. 643.

<sup>2</sup> *Siemens Mailing Service*, 122 NLRB 81. Contrary to the contention of the Employer, it is immaterial in the application of the Board's jurisdictional standards that the Employer may regard its electrical inspection services as a "sideline" or a public service, or that the fees may be related only to the cost of furnishing the services.

it is clear the Employer is merely acting as a contractor and in no way becomes a part of the local government. Under all the circumstances, therefore, we find that the Employer is not a political subdivision.<sup>3</sup>

We also find no merit in the Employer's contention that the Board should not assert jurisdiction here because it falls within the class of nonprofit enterprises over which the Board as a matter of policy normally declines to assert jurisdiction. The Employer here, assuming that it is a nonprofit organization, is engaging in activities of a commercial nature, both in its rating and insurance services, and in its inspection services, since it performs its services as an important part of the insurance business and as an important adjunct to the building construction and public utilities business. It is immaterial that an employer is a nonprofit corporation motivated by considerations not strictly commercial where the activities themselves are commercial in nature.<sup>4</sup> Accordingly, we find no basis for concluding that the Employer is the type of nonprofit corporation over which the Board has declined to assert jurisdiction.<sup>5</sup>

We therefore find, in view of the foregoing, that it will effectuate the policies of the Act for the Board to assert jurisdiction in this case.

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:

Petitioner seeks to represent a unit composed of "all electrical inspectors assigned to the North New Jersey field operations" of the Employer. The Employer contends that the appropriate unit must include all of its electrical inspectors, wherever located.

As stated above, the Employer maintains 18 district or field offices, in 6 States; about 60 percent of the inspectors report to those field offices, while other inspectors report to supervisors who work out of their homes. As also noted above, the district offices, where such have been established, exist mainly for the purpose of supplying necessary clerical assistance and a place of contact between supervisors and the inspectors, local office management being largely handled from the main office. All inspectors are hired by the Employer at its main office in Philadelphia, although local supervisors may refer job candidates to the main office. A system of

<sup>3</sup> See *Toledo Board of Trade*, 117 NLRB 1504, 1507; *Great Southern Chemical Corporation*, 96 NLRB 1013, 1014.

<sup>4</sup> *Disabled American Veterans, Inc.*, 112 NLRB 864.

<sup>5</sup> Cf., e.g., *Armour Research Foundation*, 107 NLRB 1052.

promotions, which is uniformly applied throughout the Employer's inspection operations, is formulated at the home office. Employee benefits are uniformly applied in all district offices. While some minor disciplinary problems may be handled informally by the local supervisors, any serious disciplinary action is reported to the main office where a review of such action is normally conducted.

The duties of the inspectors are uniform throughout the Company's operations, the standards for the inspections being established by the National Electrical Code as supplemented by company instructions. Meetings of supervisors are held at the main office to standardize methods, etc. In many cases, inspectors have been moved from one district to another to fill in for emergency workloads, or in cases of sickness; in most cases these transfers are within the same State, but in some cases they have been interstate. Similarly, permanent transfers have been made between districts and state areas.

The unit described in the petition, as amended at the hearing, would include all inspectors assigned to two supervisors. One group of inspectors is under the supervision of DeLoach, who is in charge of the East Orange office. The other inspectors involved here are under the supervision of James, who is not connected with any district office. While five of the inspectors under James make use of the secretarial services of the East Orange office, the others use the Pottstown, Pennsylvania, office for this purpose, which office is also apparently used by other inspectors under entirely different supervision.

This, it appears that the employees sought by the Petitioner do not conform to any administrative subdivision of the Employer's operations, and the record fails to establish that these employees have interests which differ in any way from those of the electrical inspectors working in other areas. On the contrary, the skills required and the duties performed by electrical inspectors are the same throughout the Employer's operations. Under the foregoing circumstances, particularly the marked centralization of the Employer's operations, the absence of local autonomy in hiring and discharge, and the central control over wages, employee benefits, and all other labor relations policies, we find that the unit sought is inappropriate for collective-bargaining purposes<sup>6</sup> and we shall therefore dismiss the petition herein.

[The Board dismissed the petition.]

<sup>6</sup> *Liebmann Breweries, Inc.*, 92 NLRB 1740, at 1742. For similar reasons, a unit limited to inspectors employed throughout the State of New Jersey, which the Petitioner would accept as an alternative, is also inappropriate.