

ber 19, 1957, as the representative of the Employer's production and maintenance employees. On December 12, 1958, the instant petition for decertification was filed with the Board. IAM did not appear at the hearing on the petition, but 2 days after the hearing it filed a written statement with the hearing officer, disclaiming any interest in representing the employees. However, the Grain Millers stated at the hearing that it desires to represent all the employees in the stipulated unit, whether or not IAM participates in the election.

Under these circumstances, we will not place IAM on the ballot as it has effectively disclaimed. However, we will place Grain Millers and District 50 on the ballot.<sup>2</sup>

4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All production, maintenance, and warehouse employees at the Employer's Springfield, Illinois, feed plant, but excluding office clerical employees, professional employees, truckdrivers, laboratory technicians, watchmen, guards, and supervisors as defined in the Act.<sup>3</sup>

[Text of Direction of Election omitted from publication.]

<sup>2</sup> As District 50 is not in compliance with Section 9(f), (g), and (h) of the Act, we shall merely certify the arithmetical results should it win the election unless prior to the date when certification would issue it has achieved compliance, in which case the Regional Director is instructed to issue a certification of representative to District 50.

<sup>3</sup> The unit is the same as that previously certified by the Board.

## **Wonderknit Corporation and Virginia Textile Workers Union, Independent, Petitioner. Case No. 5-RC-2593. March 5, 1959**

### **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 B. Wallerstein, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>1</sup>

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].

<sup>1</sup> At the hearing, the Employer requested the Board and the Petitioner to produce evidence of the Petitioner's compliance with Section 9(f), (g), and (h) of the Act. The hearing officer and the Petitioner refused to comply with the request to dismiss the petition because of the absence of any evidence at the hearing that the Petitioner had complied. However, any matters relating to the determination of the adequacy of compliance with Section 9(f), (g), and (h) are questions for administrative determination and are not cognizable in this proceeding. We are presently administratively satisfied that the Petitioner is in compliance. The Employer's motion to dismiss the petition is, therefore, denied. See *Desaulniers and Company*, 115 NLRB 1025, and *Standard Cigar Company*, 117 NLRB 852

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.<sup>2</sup>

3. A 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.<sup>3</sup>

4. The Petitioner and the Intervenor each seeks to represent about 400 production and maintenance employees at the Employer's Galax, Virginia, plant. The parties agree to the exclusion of office clerical employees and of supervisors classified as floorladies, foremen, supervisors, superintendents, department managers, and managers. However, they do not agree to the unit placement of the following classifications of employees.

*Knitting coordinator:* This individual is considered by the Employer to be a technically trained individual with 25 years' experience in solving problems pertaining to knitting fabrics. He has an office adjacent to the knitting room. He possesses no supervisory authority but attends the managerial meetings pertaining to knitting problems and receives a salary comparable to that of a supervisor.

*The designer:* This individual, whom the Petitioner would exclude, spends about one-third of his time in the Employer's New York office where he selects colors and yarns, and designs products. He receives a higher salary than managers, and, when at the plant, has little contact with production or maintenance employees. We find that the knitting coordinator and the designer<sup>4</sup> have insufficient community of interest with the other employees sought to warrant their inclusion in the unit.

*Roving inspectors:* The Petitioner would exclude these individuals as supervisors. The record shows that they inspect the Employer's

<sup>2</sup> International Ladies Garment Workers Union, Upper South Department, AFL-CIO, herein called the Intervenor, was allowed to intervene in the proceeding on the basis of a showing of representative interest in the employees involved herein. At the hearing, it declined to admit that the Petitioner is a labor organization. However, as the record shows that the Petitioner exists for the purpose of negotiating with employers concerning the wages, hours, and other working conditions of employees, we find that it is a labor organization under the Act. The Employer and the Intervenor also contend that the Petitioner is "fronting" for a noncomplying union, District 50, United Mine Workers of America, herein called District 50. We find no merit in this contention. In *Industrial Rayon Corporation*, Case No. 5-RC-2401 (unpublished), dated May 15, 1958, involving a different employer, the Board found that the instant Petitioner was not acting on behalf of District 50, although there, as here, there was evidence that District 50 had given limited assistance to the Petitioner in its organizational efforts. We find here, also, contrary to the Employer and the Intervenor, that the assistance rendered by District 50 to the Petitioner does not warrant a finding that the Petitioner was acting for District 50.

<sup>3</sup> The Employer moved to dismiss the petition on the ground that the Petitioner had not demanded recognition by the Employer before filing its petition. We find no merit in this contention, as the Board has frequently held that the filing of a petition constitutes a demand for recognition. *Goldblatt Bros., Inc.*, 119 NLRB 1340.

<sup>4</sup> *J. P. Stevens & Co., Inc., etc.*, 93 NLRB 1513, 1515.

products while production machines are in operation. They report faulty work to supervisors. The record does not show, and the Petitioner does not contend, that roving inspectors have authority to hire, discharge, or otherwise exercise the functions of a supervisor. The Petitioner contends only that they are in the "supervisory category." However, the Petitioner would include the "regular" inspectors whose duties are essentially the same as those of the roving inspectors. In these circumstances, we find, contrary to the Petitioner, that the roving inspectors are not supervisors, and we shall include them.

*Instructors:* The instructors are experienced machine operators who instruct and train new employees. When not instructing, these employees perform production work. As part of the duties of instructors, they report the progress of employees to the supervisors. They have no authority to hire, discharge, or otherwise affect the status of employees. We find, on the basis of the foregoing, that they are not supervisors, and we shall include them.

*Production coordinators:* These two employees have an office adjacent to the production department where they "control the yarn" and "issue knitting and cutting orders," which are transmitted to the production departments by the production control clerk. They direct the work of this clerk, and are salaried. They may not hire or discharge; and while there was testimony that they may recommend such action, there was no evidence as to the effectiveness of such recommendations. In these circumstances, we find that the record does not afford an adequate basis for determining their unit placement. Accordingly, we shall permit them to vote under challenge.

*Sewing, laundry, cutting, and knitting supervisors:* These individuals, who are salaried, assist 2 managers in directing the work of approximately 270 employees. Each supervisor directs a group of 25-30 employees, whose job assignments he may change within the group. Each receives a substantially higher salary than production workers in his group. The Employer asserts that they may not hire or discharge subordinates or make effective recommendations affecting their status. However, in view of the extent of their authority to direct other employees, and the fact that, apart from these individuals, there are only 2 supervisors for 270 employees—a disproportionate number of supervisors to rank-and-file employees—we find that they are supervisors and shall exclude them.

*Sewing machine mechanics:* These employees repair sewing machines either in the sewing machine shop or in the production departments. They spend all of their time at sewing machine maintenance under the supervision of the sewing machine manager. The Petitioner and the Intervenor object to the inclusion of these employees on the ground that they are not included in the usual garment industry unit. We find no merit on this contention as it is clear that sewing machine

mechanics are maintenance employees. We shall, therefore, include them.

*Clerical employees:* The Petitioner objects to the inclusion of any clerical employees. The billing clerk in the shipping department and the receiving clerk in the receiving department are hourly paid, and work in the plant, where they perform the clerical work incident to receiving and shipping merchandise. As they work in the plant exclusively, we shall include them as plant clerical employees. The production control clerk works in an office adjacent to the knitting floor. He prepares knitting or cutting orders under the direction of the production coordinators, discussed above, which he delivers to the production departments, where he spends about one-third of his time. We find that he is a plant clerical employee and shall include him. The billing clerk (office) works in the general administrative offices where she prepares invoices under the supervision of the office manager. She spends no time in the plant. We find that she is an office clerk and shall exclude her. The payroll clerk also works in the general administrative offices under the supervision of the office manager. She computes piecework earnings from employees' work tickets delivered to her by supervisors. Although she spends up to 1 hour a day in the plant obtaining employees' timecards, we find that, as her duties are primarily office clerical, and she is supervised by the office manager, she is an office clerk and we shall exclude her.

*Watchmen-firemen:* These employees primarily perform janitorial tasks and fire boilers. However, they also punch watchmen's clocks, lock doors, and report the presence of intruders or unauthorized movements of employees. There are no others in the plant performing guard duties. We find that these employees perform guard duties and we shall exclude them.<sup>5</sup>

We find accordingly that the following employees constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9(b) of the Act:

All production and maintenance employees at the Employer's Galax, Virginia, plant, including roving inspectors, regular piecework inspectors, instructors, sewing machine mechanics, the billing clerk in the shipping department, the receiving clerk in the receiving department, and the production control clerk, but excluding the knitting coordinator, the designer, the sewing, laundry, cutting, and knitting supervisors, the billing clerk (office), the payroll clerk, office clerical employees, the watchmen-firemen, floorladies, foremen, supervisors, superintendents, managers, department managers, and all other supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

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<sup>5</sup> *Walterboro Manufacturing Corporation*, 106 NLRB 1383.