

All employees at the Employer's Washington, D.C., apartment building, including engineering assistants, but excluding office clerical employees, guards, and supervisors as defined in the Act.⁶

[The Board dismissed the petition filed in Case No. 5-RC-3443.]

[Text of Direction of Election omitted from publication.]

⁶ As we have directed an election in a larger unit than that requested by either the Operating Engineers or Building Service Union, we shall permit either or both unions to withdraw from the election upon written notice to the Regional Director, within 10 days from the date of this Decision and Direction of Election.

Columbia Steel & Shafting Company and Edgar T. Ward's Sons Company and United Steelworkers of America, AFL-CIO, Petitioner. Case No. 6-R-1019. August 30, 1961

DECISION CLARIFYING CERTIFICATION OF REPRESENTATIVES

On January 31, 1945, the National Labor Relations Board issued its Decision and Direction of Election¹ in the above matter finding the following unit to be appropriate:

All office, clerical, and cafeteria employees, janitors, and nurses employed by the Companies at the Carnegie, Pennsylvania, plant and offices, including pay-roll clerk, schedule clerk, and accounts receivable and payable supervisors at Ward's, but excluding secretaries to heads of departments, supervisor of billing department, head of photostat department, plant engineer, production engineer, chief clerk of order department, order department supervisor at Ward's, metallurgists, guards, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.²

Pursuant to the Direction of Election, an election was held among the employees in the above described unit, and on March 5, 1945, the Regional Director for the Sixth Region certified the Petitioner as bargaining representative for said unit. Thereafter, and continu-

¹ 60 NLRB 301.

² At the time of the certification, Edgar T. Ward's Sons Company was a subsidiary of Columbia Steel & Shafting Company. Ward's operated a number of warehouses throughout the country, including one in Carnegie, Pennsylvania, and clerical employees employed at the Carnegie warehouse were included in the certified unit. Now, however, Ward's consists of only the Carnegie warehouse, and has become a division of Columbia Steel & Shafting Company.

ously to the present time, the parties have entered into collective-bargaining agreements.³

On February 6, 1961, the Petitioner filed a motion to clarify or amend certification of representatives, requesting the Board to find that the following classifications are specifically included in the certified unit: cost accountant and budget clerk, general ledger accountant, orders raw material clerk, orders desk clerk, sales order clerk, stenographer, laboratory clerk. In the alternative, the Petitioner requested that the Board issue an order to show cause why the motion should not be granted, or that the Board order a hearing to be held in the matter. On February 17, 1961, the Employer filed an answer in opposition to the motion in which it, the Employer, denied that any of the categories named therein are properly within the certified unit, and requested that the Board deny the motion or, in the alternative, order that a hearing be held in the matter. On April 13, 1961, the Board issued an order directing that a hearing be held on all issues raised by the Petitioner's motion and the Employer's answer thereto and referring the matter to the Regional Director for the Sixth Region for that purpose. On May 10 and 11, 1961, in accordance with the above order, a hearing was held before F. J. Surprenant, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, including the brief filed by the Employer subsequent to the hearing, the Board⁴ finds:

The Petitioner contends that the following employees are office clericals who should be included in the certified unit. The Employer would exclude them as technical, supervisory, confidential, or managerial. While some of the disputed classifications have been established since the certification, the duties of others have been changed or expanded.

Henry Richell, general ledger accountant, is referred to by the Employer as the accounting department supervisor. He is located in the accounting department where he is in charge of the general ledgers and responsibly directs the work of the department's clericals. He has the authority to discipline and effectively to recommend hiring, firing, and promotion of the employees under him. In these circumstances, the general ledger accountant (accounting department super-

³ In 1954, in Case No. 6-UA-1496, the Petitioner petitioned for authority to make a union-shop agreement and an election was held in the following unit: All office clerical and cafeteria employees, and janitors, excluding confidential employees, nurses, guards, professional employees, and supervisors. Beginning with the contract of September 1, 1952, and continuing through the current contract, dated February 26, 1960, the unit has been described as "all office, clerical, cafeteria employees, and janitors except confidential employees, technical employees, guards, and supervisory employees." However, the Employer stated that it no longer employs cafeteria employees.

⁴ Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Leedom, Fanning, and Brown].

visor) is a supervisor within the meaning of the Act and we shall exclude him from the certified unit.

Joseph Okrutny, orders raw material clerk, is referred to by the Employer as supervisor, tube division. He is located in the business office of the tube division where he, *inter alia*, responsibly directs the clericals in the office and has the authority effectively to recommend hiring, firing, and change of status of these employees. Accordingly, we find that the orders raw material clerk (supervisor, tube division) is a supervisor within the meaning of the Act and shall exclude him from the certified unit.

William Manby, orders desk clerk (referred to by the Employer as assistant to sales manager-bar), and Daniel Wood, sales order clerk (referred to by the Employer as assistant to manager, sales-tube), were located until recently⁵ in the offices of the tube and bar divisions, respectively. Wood was hired in 1959 as a sales or management trainee, while Manby, who had been working for the Employer as an office clerical employee, was selected for management training when he returned from military service in 1955. During their training period, both were engaged primarily in sales work in their respective divisions. Aside from becoming familiar with the way orders are received, processed, scheduled, produced, shipped, and billed, Wood spent the majority of his time in handling customer contacts by telephone and making sales surveys. Manby spent the majority of his time in contacting customers and salesmen and handling customer complaints. We find that the interests and duties of the orders desk clerk (assistant to sales manager-bar) and the sales order clerk (assistant to manager, sales-tube) are more related to those of the Employer's salesmen, who are not a part of the certified unit, than to those of the clerical employees.⁶ We shall, therefore, exclude them from the certified unit.

Robert Kolvek, laboratory clerk (referred to by the Employer as metallurgical laboratory technician), is located in the plant laboratory where he is engaged in research and testing of the physical properties of steel. He spends about half his time in running routine chemical and physical tests and balance of his time in research and development projects which require the exercise of independent judgment. Although he does not have a degree, he has had 1 year of col-

⁵ On May 4, 1961, Manby was promoted to manager of sales for the Summerhill Stainless Tube Division in Scottsdale, Pennsylvania, and on May 1, 1961, Wood was promoted to district sales manager for the Employer's Philadelphia office. Neither had been replaced at the time of the hearing, but the Employer anticipated filling their positions as soon as it could find qualified men. Accordingly, we shall determine the unit placement of the positions held by Manby and Wood prior to May 1961. *United States Pipe and Foundry Company*, 104 NLRB 202, at 203 and footnote 4

⁶ We find it unnecessary to decide whether these trainees have interests more closely related to management solely by virtue of their selection for such training. See, e.g., *Montgomery Ward & Company, Incorporated*, 131 NLRB 1436.

lege chemistry and 3 years of college metallurgical engineering. In addition, he had 8 years of experience as a laboratory technician prior to his employment by the Employer. The record shows his college training is essential to the performance of his work. He is supervised by a graduate engineer, and he has no contact with the Employer's clerical employees, except Rosella Bigelman, discussed below, who types his reports. We find that the laboratory clerk (metallurgical laboratory technician) is not a clerical employee and that his duties and interests are substantially different from those of the clerical employees in the certified unit. Accordingly, we shall exclude him from the certified unit.

Rosella Bigelman, a stenographer, is secretary to the plant manager, and is engaged in the usual duties of her classification. As secretary to the plant manager, who participates in the formulation of company labor policies and administers labor contracts covering production and maintenance employees, this employee assists and acts in a confidential capacity to a person who formulates, determines, and effectuates management policies in the field of labor relations. Accordingly, we find that she is a confidential employee and shall exclude her from the certified unit.⁷

Charles Lowar, cost accountant and budget clerk (who the Employer states has no official title), works in the methods and cost department under the supervision of Mr. Korte, the methods engineer.⁸ It appears the department was created after the certification. Korte's functions include serving as chairman of the job evaluation committee for the production unit and as chairman of the Employer's budget committee. Lowar is primarily engaged in the preparation and typing of cost, efficiency, and time-study reports, from accounting department records, following a formula set up by Mr. Korte. These reports are used by Mr. Korte in making recommendations to top management concerning cost reduction which could affect the jobs of the Company's production and maintenance employees. However, there is no evidence that Korte formulates, determines, and effectuates Company policies in the field of labor relations with respect to either the production and maintenance or the clerical employees. As Lowar does not assist a person performing such functions, it follows, and we find, that Lowar is not a confidential employee.⁹ Nor is he a managerial employee, for there is nothing in the record to indicate that he takes part in the formulation and determination of company policy in gen-

⁷ *The B F. Goodrich Company*, 115 NLRB 722, 724. Moreover, her predecessor was not included in the unit.

⁸ Mr. Korte is not a college graduate. However, he has taken some courses in methods engineering and has had on-the-job training in this field. The parties agree that he is excluded from the unit.

⁹ *The B F Goodrich Company*, *supra*; *Ethyl Corporation*, 118 NLRB 1369, 1371. Cf. *Inland Steel Products Company*, 124 NLRB 198, at 199-200.

eral.¹⁰ On the contrary, the duties and interests of Charles Lowar are substantially the same as those of the clerical employees in the certified unit. Accordingly, we find that the cost accountant and budget clerk is an accretion to the certified unit, and shall include him.

ORDER

IT IS HEREBY ORDERED that the certification heretofore issued in the above-captioned proceeding be, and it hereby is, clarified by specifically including, in the description of the appropriate unit, the classifications of cost accountant and budget clerk and the secretary to the methods engineer, and specifically excluding, in the description of the appropriate unit, the classifications of general ledger accountant (accounting department supervisor), orders raw material clerk (supervisor, tube division), orders desk clerk (assistant to sales manager-bar), sales orders clerk (assistant to manager, sales-tube), and secretary to the plant manager.

¹⁰ *American Federation of Labor, etc.*, 120 NLRB 969, 973. See also *Swift & Company*, 129 NLRB 1391. Cf. *Puget Sound Power & Light Company*, 117 NLRB 1825, 1827; *Eljer Co.*, 108 NLRB 1417, 1422 (William Webber).

**Chickasaw Hotel Company d/b/a Chisca Plaza Motor Hotel,¹
Petitioner and Hotel & Restaurant Employees & Bartenders
International Union, Local 847, AFL-CIO. Case No. 26-RM-
121. August 30, 1961**

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the Act a hearing was held before John E. Cienki, 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 National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman McCulloch and Members Fanning and Brown].

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

The Employer is engaged, in Memphis, Tennessee, in a hotel business over which the Board previously asserted jurisdiction in 1959.² The question of the Board's present assertion of its jurisdiction arises anew because the figures provided by the Employer show the Employer's gross volume of business during 1960, to be \$493,276.

This drop to below the \$500,000 volume necessary to satisfy the Board's jurisdictional standards, reflects a loss in revenue occasioned

¹ The name of the Employer appears as amended at the hearing.

² Case No. 32-RC-1330, not published in the printed volumes of Board decisions. The Union was the Petitioner in this prior proceeding.