

All our employees are free to become or remain members of the Union named above, and they are also free to refrain from joining any union.

ACME BOOT COMPANY, INC.,  
Employer.

Dated\_\_\_\_\_ By\_\_\_\_\_

(Representative)

(Title)

NOTE.—We will notify any of the above-named employees presently serving in the Armed Forces of the United States of their right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act of 1948, as amended, after discharge from the Armed Forces.

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

Employees may communicate directly with the Board's Regional Office, 714 Falls Building, 22 North Front Street, Memphis, Tennessee, 38103, Telephone No. Jackson 7-5451, if they have any questions concerning this notice or compliance with its provisions.

**Allied Grocers Cooperative, Inc. and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 677. Case No. 1-RC-6787. July 16, 1963**

#### DECISION AND ORDER CLARIFYING CERTIFICATION

On March 5, 1962, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 677, was certified as the representative of the employees of the Employer in the following unit:

All employees, including part-time employees at the Employer's wholesale establishment in Torrington, Connecticut, but excluding office clerical employees, guards, professional employees, and supervisors as defined in the Act.

On September 19, 1962, the Employer filed a motion for clarification of unit, requesting the Board to clarify the certification by determining that the individuals occupying the positions of stock supervisor, dairy and meat department supervisor, and frozen food supervisor are supervisors as defined by the Act and should be excluded from the unit. On November 21, 1962, the Board issued a notice directing the Petitioner to show cause why the Board should not consider and rule upon the Employer's motion on the basis of the facts stated therein. Thereafter, on December 3, 1962, the Union filed a response to the Board's notice, contending that the three employees were not supervisors.

On December 11, 1962, the Board ordered a hearing held on the issues raised by the Employer's motion for clarification of unit and the Union's response to the notice to show cause. Thereafter, a hearing was held before A. Gene Niro, hearing officer. The hearing offi-

cer'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 McCulloch and Members Rodgers and Leedom].

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

The Employer operates a wholesale grocery and produce business employing approximately 63 employees. In charge of the entire operation are the general manager and the assistant general manager. Heading up the grocery department is a general foreman and beneath him in the hierarchy of authority is an assistant foreman, a night foreman, and a stock supervisor. The produce department is also headed by a general foreman and beneath him is an assistant foreman, a night foreman, a dairy and meat department supervisor, and a frozen-food supervisor.

The parties' current collective-bargaining agreement recognizes the Union as the exclusive representative for all employees in the certified unit. Article XVIII of the agreement states, in part, as follows:

. . . Supervisors will continue to perform the work that they have in the past (i.e., prior to the Union election of February 24, 1962.) The supervisors who perform work are the two departmental general foremen, their two assistants, one night foreman in each department, one stock supervisor, one dairy and meat department supervisor, and one frozen food supervisor.

Despite the language of article XVIII, the Union contends that the stock supervisor, the dairy and meat department supervisor, and the frozen-food supervisor are not in fact supervisors because their responsibilities do not satisfy the requirements of Section 2(11) of the Act. The Union further asserts that the disputed supervisors spend a major portion of their time in the performance of bargaining unit work.

The stock supervisor is responsible for receiving all groceries brought to the warehouse by truck or rail and for the proper placement and rotation of merchandise in the warehouse. He is in charge of three forklift truck operators and one or two stock clerks, directing and instructing them in the performance of their duties. Although he may recommend hiring, discharging, and other disciplinary action, it appears that such recommendations are subject to independent investigation by his superiors. However, the stock supervisor does have the authority effectively to recommend merit wage increases for those working under him and has done so at the quarterly meetings held for this purpose. In addition, he attends meetings of the grocery depart-

ment supervisors where general work problems are discussed. His pay is more than 10 percent higher than the maximum specified in the collective-bargaining contract for the labor grades of the employees with whom he works.

The dairy and meat department supervisor has full responsibility for all buying, ordering, selling, and billing of dairy and meat products and for the maintenance of proper inventories. On the Employer's behalf, he deals and negotiates with salesmen, suppliers, and customers. He assigns order assembly and truck-loading work to the three employees who work with him. In addition, he has the authority to direct them to work overtime and to grant them time off. Two employees have been hired on his recommendation. He attends the produce department supervisory meetings and, in common with the other supervisors, he has the authority effectively to recommend merit wage increases. His pay is approximately 10 percent higher than the contractual maximum for the labor grade of the employees with whom he works.

The frozen-food supervisor does all the ordering, buying, and selling of frozen products and sets up the truck routes for their delivery. He deals, on behalf of the Employer, with salesmen, suppliers, and customers. He is in charge of two employees who work in the frozen-food coolers and in the truck-loading area. He directs them in assembling orders, rotating inventory, and truck loading, and in connection therewith, he may direct them to work overtime. He has effective authority to recommend periodic merit wage increases for his men. He has also effectively recommended the hiring of two employees, and he regularly attends the meetings of the produce department supervisors. His pay is more than 10 percent higher than the contractual maximum for the labor grade of the men with whom he works.

We find that the duties assigned to these three individuals require them to exercise responsible direction over the employees in their departments. Furthermore, all of them make effective recommendations, at least with respect to wage increases. Accordingly, we find that the individuals working in the three disputed classifications are supervisors within the meaning of the Act, and shall grant the Employer's motion for clarification by excluding them from the unit.

[The Board amended the Certification of Representatives specifically to exclude from the unit described therein the classifications of stock supervisor, dairy and meat department supervisor, and frozen-food supervisor.]