

Employees may communicate directly with the Board's Regional Office, 745 Fifth Avenue, New York, New York, Telephone No. Plaza 1-5500, if they have any question concerning this notice or compliance with its provisions.

Mary Carter Paint Co., Victor Paint Co. Division, Petitioner and Retail Store Employees, Local Union No. 876, Retail Clerks International Association, AFL-CIO, Petitioner and Amalgamated Clothing Workers of America, Retail and Department Store Employees, AFL-CIO, Petitioner. *Cases Nos. 7-RM-475, 7-RC-6129, 7-RC-6133, and 7-RC-6134. July 28, 1964*

DECISION AND DIRECTION OF ELECTION

Upon separate petitions duly filed under Section 9(c) of the National Labor Relations Act, a consolidated hearing was held in Detroit, Michigan, before Hearing Office Ruth Greenberg. 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 these cases to a three-member panel [Chairman McCulloch and Members Fanning and Jenkins].

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

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. Retail Store Employees, Local Union No. 876, Retail Clerks International Association, AFL-CIO (Retail Clerks), seeks a unit of Mary Carter Paint Co., Victor Paint Co. Division (Employer) employees at the 14 Detroit and Pontiac, Michigan, stores. The unit sought would include the warehouse manager, store managers, assistant store managers, and sales employees and would exclude the wall-paper sales manager, the divisional sales manager, and the area sales manager, Sidney Fields. The Amalgamated Clothing Workers of America, Retail and Department Store Employees, AFL-CIO (Amalgamated), seeks two multistore units, one consisting of the above specified employees at the Employer's Detroit and Pontiac

stores and the other consisting of employees at the Employer's three Flint, Michigan, stores. The Employer filed a petition alleging representation demands from the Retail Clerks and the Amalgamated.

The Employer contends that only a single unit consisting of all its stores in Detroit, Pontiac, and Flint which excludes store managers and both sales managers is appropriate. It asserts that store managers are supervisory, managerial, and confidential, and hence excluded by the Act, and that Area Sales Manager Buszke has duties no different from those of Area Sales Manager Fields, whom both Unions would exclude and that, therefore, Buszke should also be excluded.

The Employer operates 14 stores in Detroit and Pontiac and 3 stores in Flint, approximately 60 miles from the Detroit area. These stores are primarily retail sales outlets for the Mary Carter Paint Co. They are administered as a single divisional unit, with merchandise being transferred from store to store, advertising materials and programs centrally prepared for all stores, and the same group hospitalization and insurance plan applicable to all stores. The divisional sales manager, Joseph Weeks, is in charge of all the stores in the Victor Paint Co. Division. He is assisted in this function by two area sales managers who service and supervise the individual stores on a periodic basis.¹ The store managers are responsible to the divisional sales manager. Policy changes are communicated to the individual stores by frequent divisional sales meetings which all the store managers are required to attend and during the periodic visits by the area sales managers. There appears to be no essential distinction between the stores in Detroit and Pontiac and those in Flint. Accordingly, we find that a divisionwide unit consisting of all the Employer's stores in Detroit, Pontiac, and Flint is appropriate.²

Of the 17 stores in the division, 8 have only 1 employee—the store manager. These store managers are charged with the maintenance of the individual stores. Approximately 90 percent of their time is spent selling paint. Their management duties are limited to adhering to a procedure formulated by the central office; they have no authority to hire or fire or to handle anything more than routine matters without clearance from the central office. We find that the managers of the one-man stores are not supervisory and include them in the unit. *Eastern Camera and Photo Corp.*, 140 NLRB 569. The remaining nine stores have employees in addition to the store man-

¹ The Unions have agreed that Area Sales Manager Fields should be excluded from the unit. As the functions performed by Buszke are essentially the same as those of Fields, we shall also exclude him from the unit.

² Since the Board has found that a single unit composed of Employer's stores in Detroit, Pontiac, and Flint is appropriate, the Amalgamated's motion challenging the intervention of the Retail Clerks is denied.

ager, ranging in number from one employee, shared by two store managers, to five employees. We find that these store managers exercise supervisory authority over employees under them and hence shall exclude them from the unit.³

Accordingly, we find that the following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All regular full-time and all regular part-time employees of Mary Carter Paint Co., Victor Paint Co. Division, employed at the Detroit, Pontiac, and Flint, Michigan, stores, including the warehouse manager, store managers in stores having no employees working under the direction of a manager, and sales employees, but excluding the wall-paper sales manager, the divisional sales manager, the area sales managers, the store managers of multiemployee stores, the secretary, confidential employees, guards, and professional employees, as defined in the Act.

[Text of Direction of Election omitted from publication.]

³ In *Eastern Camera Photo Corp.*, *supra*, cited by the Amalgamated, the employees were temporary; here they are permanent.

Amarillo Hardware Company, Inc., and Building and Mechanical Supply Company, Inc., a wholly owned subsidiary of **Amarillo Hardware Company, Inc.**¹ and **Lodge 1255, International Association of Machinists, AFL-CIO**, Petitioner. *Case No. 16-RC-3493. July 28, 1964*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Leon E. Kahn. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

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

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

¹ The parties agree that the two companies constitute a single employer, and together they will be referred to herein as the Employer.