

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.<sup>3</sup>

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 wallpaper 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.]

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

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**Amarillo Hardware Company, Inc., and Building and Mechanical Supply Company, Inc.**, a wholly owned subsidiary of **Amarillo Hardware Company, Inc.**<sup>1</sup> 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.

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

2. The labor organization involved claims to represent certain employees of the Employer.

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.

4. The Petitioner seeks a unit of all production, maintenance, and warehouse employees at the Employer's Amarillo, Texas, warehouses, including shipping and receiving employees and truckdrivers, but excluding office clerical employees, salesmen, buyers, professional and technical employees, managerial employees, guards, watchmen, and supervisors as defined in the Act. The Employer contends that the only appropriate unit is an overall unit of all its employees including the employees of its wholly owned subsidiary Mercantile Acceptance Company, Inc., herein called Mercantile Acceptance. There is no history of collective bargaining in the operations herein involved.

The Employer is engaged in the wholesale distribution and sales of appliances and hardware products with principal places of business at 600 Grant and 701 Johnson Streets, Amarillo, and in Lubbock, Texas. At these locations display areas, offices, and warehouses are maintained. In addition, the Employer maintains four other warehouses in various locations in Amarillo. Mercantile Acceptance handles the financing and credit arrangements for the Employer from its offices also located at 600 Grant Street.

The majority of the Employer's employees work at the 600 Grant Street facility. At this location a display of appliances, hardware, and other items sold by the Employer are maintained, and wholesale sales are made directly by the floor salesmen, through telephone orders, or through orders brought in by its outside salesmen. In addition, the purchasing, payroll, printing, financing departments, and the IBM section, which handles order writing, invoicing, bookkeeping, and invoice control, are located in office areas adjacent to the display area. Mercantile Acceptance employees are also located in the office area at 600 Grant Street. Also, at this location, and adjacent to the display area, the Employer has a service and appliance department which repairs and services appliances and supplies orders for various requested parts. Each of the above departments, as well as the Employer's executive offices, which are also located in the office area, have supporting staffs of receptionists, clerks, typists, and stenographers who perform usual office clerical duties. Certain other salesmen and employees performing office clerical duties are also employed at both the Employer's 701 Johnson Street location, and in Lubbock, Texas. All of the employees working in the above-described departments and areas are separately supervised, and have only mini-

mal contact with those employees herein sought to be represented by the Petitioner, namely, those employees working principally in the Employer's warehousing and delivery operations.

The employees in the Employer's various warehouses are engaged in the ordinary duties of warehouse and delivery employees. The merchandise handled by the Employer is picked up from suppliers by trucks and brought back to the warehouses to be stored. Deliveries to the customers are made from the warehouses. The usual type of job classifications are employed at the warehouses, such as truck dispatchers, truck loaders, packers, mechanics, truckdrivers, and plant clericals. The warehouse employees are separately supervised and have only incidental exchange of duties with employees in the above display or office areas, such as the moving of appliances and hardware to the display areas, or checking with the IBM section or purchasing or sales departments as to the availability of merchandise or inventory. In these circumstances, and as the record shows that the work interests and supervision of the employees herein sought to be represented by the Petitioner are different from those employees whom the Employer would also include in the unit, we find that the warehouse unit sought by the Petitioner constitutes an appropriate unit for collective bargaining within the meaning of Section 9(b) of the Act.<sup>2</sup>

With respect to the warehouse employees in the Lubbock warehouse, the record indicates they perform virtually the same warehouse work as that performed by the warehouse employees in Amarillo. However the Lubbock warehouse is separated from those in Amarillo by approximately 120 miles. In addition, the Lubbock warehouse employees are separately supervised, have a minimal contact with employees from the Amarillo area, and do not transfer to or interchange with the Amarillo operation. Accordingly, we shall not include the warehouse employees at Lubbock in the unit.

In view of the foregoing, and on the basis of the entire record, we find that all production, maintenance, and warehouse employees at the Employer's Amarillo, Texas, warehouses, including shipping and receiving employees and truckdrivers, but excluding office clerical employees, salesmen, buyers, professional and technical employees,

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<sup>2</sup> See *Interstate Supply Company*, 117 NLRB 1062, 1065, and cases cited therein.

The record shows that two janitors are employed at the Grant Street location. The janitors work under the supervision of the office manager and their work is confined almost exclusively to the display and office areas. Their only contact with the warehouse employees is to empty wastebaskets in the warehouse. The Employer contracts the cleaning work in the warehouses to an outside firm. Accordingly, we shall exclude the janitors from the unit. See *Morris Kirschman & Co., Inc., et al.*, 111 NLRB 776, 779.

We shall also exclude the two snackbar employees working in the snackbar at the Grant Street location. These employees perform no warehouse work, do not interchange with warehouse employees, and work under separate supervision of the office manager. Cf. *Allied Stores of Ohio, d/b/a A. Polsky Company*, 90 NLRB 1868, 1869.

managerial employees, guards, watchmen, and supervisors as defined in the Act<sup>3</sup> constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act.

[Text of Direction of Election omitted from publication.]

<sup>3</sup>The warehousing operations are under the direct supervision of Marvin Jones, warehouse superintendent. The record shows that when Jones is absent, or not available, he leaves specific instructions as to work assignments which are carried out by Truck Foreman Anderson and Assistant Warehouse Supervisor Dale. It appears that neither Dale nor Anderson has the authority to transfer, discipline, or discharge employees, and in carrying out their duties, follow instructions set down by Jones. The record further shows that when Jones is absent one of the Employer's officers takes charge and Dale and Anderson are expected to discuss any problems which arise with the officials in question. The Employer contends that Dale and Anderson are in effect leadmen who merely follow routine directions in carrying out orders and should be included in the unit. As the record does not show that either Anderson or Dale hire, discharge, responsibly direct employees, or have any of the other attributes of supervisory authority, we shall include them in the unit.

**Emery Industries, Inc. (Dice Road) and United Emery Industries Employees Committee (Dice Road), Petitioner.** *Case No. 21-RC-8373. July 28, 1964*

DECISION AND ORDER AMENDING CERTIFICATION  
OF REPRESENTATIVE

On June 25, 1963, pursuant to a Stipulation for Certification Upon Consent Election, a representation election was held among the Employer's production and maintenance employees at its Santa Fe Springs, California, plant. As a result of this election, the Regional Director, on July 3, 1963, certified United Emery Industries Employees Committee (Dice Road), the Petitioner herein,<sup>1</sup> as exclusive bargaining representative of the aforementioned employees. On May 13, 1964, the Petitioner filed the instant motion to amend the certification to designate "Emery Unit of Local 509, UAW," as certified representative of the Employer's employees. On June 1, 1964, the Employer filed a memorandum in opposition.

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 Leedom and Brown].

In its motion, the Petitioner alleged that on or about April 8, it mailed a notice to all of its members stating that: a special membership meeting would be held to decide whether the Petitioner should affiliate with Local 509, UAW; pursuant to said notice, a special meeting of its members was held on April 18, 1964, attended by 19 of the

<sup>1</sup>No other labor organization appeared on the ballot.