

Banco Credito y Ahorro Ponceno and International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers, District Lodge 3 of Puerto Rico, AFL-CIO,¹ Petitioner

Banco Credito y Ahorro Ponceno and Union de Empleados de Oficinas de Bancos y Financieras, afiliada a Office and Professional Employees International Union, AFL-CIO, Petitioner.

Cases 24-RC-2858, 2881, and 2882. September 30, 1966

DECISION AND DIRECTION OF ELECTIONS

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held in these consolidated cases before Hearing Officer Awilda M. Morales-Fortuno. 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 National Labor Relations Board has delegated its powers in connection with these cases to a three-member panel [Members Fanning, Brown, and Zagoria].

Upon the entire record in these cases, including the briefs filed by the parties, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purpose of the Act to assert jurisdiction herein.
2. The labor organizations involved claim to represent certain employees of the Employer.²
3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.
4. The appropriate unit:

a. The scope of the units

The Employer is a Puerto Rico corporation engaged in the commercial and general banking business, with 31 branch offices located

¹ Referred to herein as Boilermakers

The Boilermakers requested oral argument, but the motion did not satisfy the requirements of Section 102.65(a) of the Board's Rules and Regulations, Series 8, as amended. In any event, the record and briefs adequately present the issues and positions of the parties.

² Office and Professional Employees International Union, AFL-CIO, herein called Office Employees, was permitted to intervene in Case 24-RC-2858, and Boilermakers was permitted to intervene in Cases 24-RC-2881 and 2882, based on their respective showings of interest.

The Employer moved to dismiss the petitions in Cases 24-RC-2881 and 2882, contending that the Petitioner, Union de Empleados de Oficinas de Bancos y Financieras, afiliada a Office and Professional Employees International Union, AFL-CIO, herein called UEOP, is not a labor organization within the meaning of Section 2(5) of the Act. We are satisfied on the instant record that the UEOP, an affiliate of the Office Employees, is a labor organization within the meaning of the Act. Accordingly, we hereby deny the Employer's motion.

in different cities throughout the island of Puerto Rico including a branch on the neighboring island of Vieques, and a bond department in New York City, New York. The Petitioner, UEOB, in Cases 24-RC-2881 and 2882 seeks two single branch office units at Yauco and Arecibo. In Case 24-RC-2858, the Boilermakers petitioned for a unit of 13 of the Employer's branch offices located in the San Juan metropolitan area which are designated San Juan, Stop 17, Loiza, Martin Pena, Puerto Neuvo, Reparto Metropolitano, Hyde Park, Hato Rey, Rio Piedras, Aeropuerto Internacional, 65th Infantry, Bayamon, and Santa Rosa. The Employer contends that the only appropriate unit should include all 31 of its banking offices in Puerto Rico and the bond department in New York, since the bank functions as a highly integrated and centralized organization. There is no recent history of collective bargaining for any of the Bank's employees,³ and no labor organization is seeking the Employer's overall operation.⁴

The Employer's policies pertaining to operations, administration, and labor relations for all of its branch offices are formulated centrally by top management. The Employer's finance, personnel, and publicity departments are housed in its main office in San Juan; general recordkeeping, electronic data processing, and the consumer loans department are located in the centralized Stop 17 office;⁵ and the comptroller's office, including accounting and reports, bookkeeping, purchases, and disbursements, is presently located in Ponce, a distance of approximately 70 miles from San Juan.⁶ Centralized supervision is accomplished by the administrative subdivision of the island into three territories, with area supervisors reporting through the general supervisor of branch offices to the assistant executive vice president.⁷

Apart from the foregoing, each branch office functions autonomously. In their day-to-day operations branch managers are clothed

³ We have taken official notice of the fact that in 1944 a labor organization not involved herein won representation rights in a single branch office unit pursuant to a consent election. However, we have no evidence regarding the duration of the bargaining history. In addition, the record indicates that in 1962, in Case 24-RC-1927, the Employer and two labor organizations entered into a consent-election agreement covering an island-wide unit, but neither union was selected by the employees.

⁴ Office Employees initially contended for an island-wide unit, but subsequently changed its unit position to conform with that of the UEOB which, as noted, petitioned for two single branch office units.

⁵ The name *Stop 17* refers to a bus stop on Ponce de Leon Avenue in Santurce which is a part of the San Juan metropolitan area.

⁶ The Employer has plans to remove the comptroller's office from its office in Ponce to its administrative headquarters in San Juan.

⁷ Such centralization is required in order to ascertain the Bank's daily cash position inasmuch as the loan capacity of each branch office is affected by the Bank's overall margin requirements. Accordingly, branch managers have authority to approve commercial and personal loans only up to specified maximum amounts.

with substantial authority in the local application of uniform personnel policies. They generally make effective recommendations with respect to the hire, fire, and discipline of branch employees, authorize overtime work, and schedule vacations to suit the needs of the branch and the desires of the employees. In addition, employees look to immediate branch supervision for resolution of grievances as well as explanation and application of company policy.

Further, there are marked differences among the individual branch offices, which represent the Bank's primary business unit in a particular community. Thus, in establishing branches, primary consideration is given to the economic needs of the locality, and every effort is made to have the branch reflect an image of the community, i.e., by providing employment for its residents and observing local holy days. With the exception of the San Juan metropolitan area, transfers of employees between branches are minimal.⁸ The distances between branches may, of course, vary, but some are as far as 100 miles apart, and even though the average distance between some offices outside of the San Juan metropolitan area is not great, inadequate roads render many such offices remote from one another.

In view of the foregoing, we find that the Employer's branch offices outside of the San Juan metropolitan area function as distinct entities, and that they therefore constitute separate appropriate units. Accordingly, we find that each of the Employer's branch offices in Yauco and Arecibo is separately appropriate for purposes of collective bargaining.

Further, in view of the presence of common working conditions, the high degree of interchange within the metropolitan area, and the absence of substantial interchange with employees or offices outside of the area, we find that the Employer's 13 offices in the San Juan metropolitan area constitute a clearly defined, geographically coherent grouping sufficiently inclusive and compact to make collective bargaining in a single unit feasible.⁹ Accordingly, we shall direct an election among the employees at the Employer's 13 offices comprising the San Juan metropolitan area with the inclusions and exclusions discussed below.

⁸ Of 206 transfers occurring between January 1, 1964, and the time of hearing herein, in April and May 1966, 118 were within the San Juan metropolitan area, 44 were between branches in Ponce, 29 involved transfers between San Juan and other offices throughout the island, and 15 were between branches adjacent to Ponce and those located in Ponce.

⁹ See *Metropolitan Life Insurance Company (Woonsocket, R I)*, 156 NLRB 1408.

The Employer contends that the requested units are inappropriate and the only basis for finding them appropriate would be to give controlling weight to the extent of organization by the respective Unions, which is contrary to the mandate of Section 9(c)(5) of the Act. However, as the single office units at Yauco and Arecibo, and the San Juan metropolitan area unit are appropriate under traditional community of interests criteria, the fact that we have given effect to the Unions' requests does not show that our decision is controlled by the extent of their organization.

b. *Composition of units*

Cases 24-RC-2881; 2882

The parties did not stipulate as to the composition of the Yauco and Arecibo units. Nor did the Employer or Intervenor dispute the unit placement of the classifications sought by the Petitioner. In both cases, the Petitioner requested a unit comprised of "all employees of the Employer [at its respective branch offices in Yauco and Arecibo, Puerto Rico], excluding executive and professional personnel, managers, submanagers, accountants, secretary to the manager, guards and supervisors as defined in the Act." However, as there is no evidence that the Employer employs professional accountants in its branch offices, we shall include accountants, subject to challenge in the election, in the respective units. And since the record shows¹⁰ that the secretaries to branch managers do not perform duties or have access to matters of a confidential nature, we shall include this classification with the units.

Accordingly, in the absence of a dispute, or evidence showing that the composition of the units requested by the Petitioner is otherwise improper, we shall direct separate elections among the employees in the units as hereinafter described.

Case 24-RC-2858

The parties have stipulated to the inclusion of 52 classifications¹¹ in the San Juan metropolitan branches. The parties also agree as to the exclusion of executive and professional personnel, managers, submanagers, secretaries to the following persons: president, executive vice president, assistant executive vice president, secretary to the board of directors, vice president of personnel,¹² comptroller, auditor, vice president and assistant vice president in charge of branch

¹⁰ See our discussion and findings concerning the *Executive Secretary* and *Secretary* classifications in the San Juan unit, *infra*.

¹¹ The included classifications are: janitor, messenger, file clerk, janitor-messenger, mail clerk, Addressograph operator, chauffeur, clerk typist, key-punch operator, paying and receiving teller (trainee), returned-checks clerk, stock room helper, payroll clerk, branch clerk, clearance clerk, clerk stenographer, collections clerk, currency clerk, current accounts clerk, exchange clerk, mail clerk (senior), proof and transit clerk, savings teller, senior clerk-typist, signature clerk, telephone operator, accounting clerk, accounting clerk (FHA), bookkeeping machine operator, credit information clerk, insurance and tax clerk, loan interviewer, loan investigation clerk, maintenance man, proof machine operator, registration and insurance clerk, tabulating machine operator, utility clerk, credit investigator, letter of credit clerk, paying and receiving teller, receptionist, senior accounting clerk, senior collections clerk, senior current accounts clerk, senior proof and transit clerk, head teller, senior branch clerk, senior department clerk, senior loan interviewer (FHA), senior utility clerk, assistant methods and procedures analyst

The parties apparently agreed that the category of mail clerk (consumer loan) be included but stipulated that the position was vacant at the time of the hearing.

¹² The Employer originally sought to include this classification, but in its brief agreed to its exclusion as a confidential employee.

supervision, vice president of administration,¹³ guards, and supervisors as defined in the Act. Accordingly, there is a dispute as to the unit placement of 26 categories.

The Petitioner and Intervenor contend for the exclusion of, and the Employer would include, the following 17 employee classifications from the appropriate unit.

Employees in the classifications *office loan adjustor*, *senior loan adjustor*, and *field loan adjustor* all work in the consumer loans department at the Stop 17 office under the operations supervisor. The office loan adjustors contact debtors by telephone, or in person in the Bank, to discuss repayment of delinquent loans. They have no authority to adjust the repayment of loans but merely report their conversations to the supervisor, who then decides upon an appropriate course of action. The designation senior loan adjustor is given to a more experienced employee who performs similar duties, and the parties agree that his unit placement should be the same as that of the office loan adjustors. There are eight field loan adjustors who report to the office each morning, visit debtors and cosigners in an effort to collect outstanding loans in arrears, and return in the afternoon to turn in moneys collected and report on unsuccessful efforts. They receive a higher salary plus an allowance for using their own automobiles while in the field. As these adjustors have no supervisory authority and exercise no discretion, and they all perform duties similar to one another and to employees whose inclusion the parties stipulated, we shall include the three categories of loan adjustors in the unit.

Collectors perform a function similar to that of the field loan adjustors except that they collect payments of drafts and other negotiable instruments on behalf of the Bank's clients rather than debts owned to the Bank. They work out of centralized offices or branches and under common supervision with other included classifications. Their daily schedules and working conditions closely resemble those of the field loan adjustors. We shall therefore include all collectors based in the San Juan metropolitan area in the unit.

The Bank employs approximately 41 *executive secretaries* and 39 *secretaries*, many of whom work in the San Juan metropolitan area performing general secretarial work for top management officials and junior offices, respectively. Inasmuch as the employees in these classifications, aside from those whose stipulated exclusion is set forth above, are assigned to junior officers, such as branch managers,¹⁴ who

¹³ See footnote 12, *supra*.

¹⁴ The record shows that the branch managers communicate personnel and labor relations problems directly to the vice president of personnel or his assistant in person or by telephone, and that in no event would the secretary to the manager become involved until after such disciplinary or other action is taken.

do not formulate, determine, and effectuate management policies in the field of labor relations, we shall in accordance with established Board precedent,¹⁵ include all such nonconfidential employees in the San Juan metropolitan area within the unit.

Resident auditors are based in various of the Employer's branch and centralized offices. They review record entries made by other employees for accuracy, verify moneys in the possession of tellers, and check that all work is done according to the Bank's "Manual of Operations." Their job requires no special professional training and they have no authority to discipline other employees for faulty work, but merely report any errors or deficiencies to the auditor. The major portion of their work is performed in close proximity to unit employees with whom they share common hours and working conditions. In view of the foregoing, we shall include those resident auditors situated in the San Juan area within the unit.

The *field auditors* make surprise audits of the records in all offices throughout the island periodically. Their audits cover a longer period of time, and their schedules and findings are by nature highly confidential matters. Because of the character of their work, we find that their interests are more closely related to management, thus differing substantially from all other unit employees, and we shall exclude this classification from the unit.

The *property coordinator* and the *insurance coordinator* work in the same office in the Stop 17 location. However, both are required to travel extensively throughout the island, and are provided with automobile as well as room and board allowances therefor. The property coordinator acts as a liaison between central management and branch managers with respect to the maintenance and repair of physical facilities, and assigns such work to maintenance personnel. The insurance coordinator handles and keeps all insurance policies and records relating to bank property, and processes insurance claims thereon. He inspects property requiring insurance and checks out damaged property on which insurance claims may be filed. As the work of both employees requires substantial travel throughout the island, we find that they do not share a sufficient community of interests with employees in San Juan, and we shall exclude them from the unit.

The *public relations assistant*, *public relations representative*, and *business development representative* perform a related function, that of promoting good will among the customers or prospective customers of the Bank. The public relations assistant is not situated and does not operate in the San Juan area. The public relations representative

¹⁵ See *The B. F. Goodrich Company*, 115 NLRB 722, 724-725.

helps in arranging details of Bank-sponsored social activities anywhere in the island. The business development representative promotes good relations in communities designated for future branch offices. As these employees' duties are dissimilar from those of unit employees and as the scope of their employment extends to all parts of the island, we shall exclude them from the unit.

The *cost and accounting systems analyst* works in the comptrollers' office in Ponce. His job involves streamlining accounting and cost systems and related clerical operations. He does not possess supervisory authority or have employees assigned to him. The record indicates that the Employer contemplates that this employee will be moved from Ponce to the San Juan metropolitan area. We shall include this analyst in the unit, if the transfer of his place of work to the San Juan area has been accomplished by the eligibility date.

The *methods and procedures analyst* works in the San Juan centralized office along with the assistant methods and procedures analyst, whose inclusion in the unit was stipulated by the parties. He coordinates studies for work simplification and standardization of general clerical and office operations. Although he performs essentially the same duties as the assistant, the disputed analyst, as the "senior" employee, is assigned the more difficult work and he drafts the new procedures for inclusion in the Bank's "Manual of Operation." He has no supervisory authority over other employees. In view of the foregoing, we shall include this classification in the unit.

The employees designated *assistant to the area supervisor* primarily aid in followup of credit applications from branches, and in consolidation of financial reports in order to ascertain the Bank's daily loan position. They have no employees working under their direction, and they exercise no supervisory authority. Accordingly, we shall include in the San Juan unit the employee in this classification who is assigned to the administrative territory which encompasses the San Juan metropolitan area.

There are 14 nonclassified employees designated *trainees* who are undergoing a formalized training program, learning while performing various jobs throughout the branches and centralized departments of the Bank. During this training period of approximately 1½ years, these employees punch timecards and are eligible for overtime work. Those selected to participate must have either a college education, prior banking experience, or a number of courses completed or undertaken in the American Institute of Banking. Although candidates occasionally drop out of the training program or accept nonmanagerial positions prior to its completion, clearly the purpose of the program is to prepare trainees for management jobs. Therefore, we

find that the employees herein are management trainees, and in accordance with established Board precedent, we shall exclude them from the unit.¹⁶

The Employer and the Intervenor would include, and the Petitioner would exclude, the following nine categories of employees.

The classifications *accounting clerk (comptroller's office)* and *senior accounting clerk (comptroller's office)* include a separate group of employees located in the comptroller's office in Ponce. However, at the time of the hearing herein their transfer to San Juan was imminent. The accounting clerks prepare and maintain simple accounting records and reports. The senior accounting clerks perform more complex accounting work, including consolidation and reconciliation of accounts, property taxes, and preparation of reports for such Government agencies as the Federal Deposit Insurance Corporation. In the absence of evidence that either category includes professional or supervisory personnel and as the parties agreed to include other employees similarly classified within the San Juan offices we shall include both groups if their removal from Ponce to San Juan has been accomplished by the eligibility date.

Employees in the classifications of *loan officer* and *assistant loan officer* analyze, evaluate, approve or disapprove consumer loans up to authorized dollar limitations. There is no supervisory relationship between these two categories of employees, the only apparent difference between them being the *loan officer's* authority to approve loans in greater amounts. Both employees are restricted to objective analysis of consumer loan applications, and neither exercises discretion. They have no specialized training. As they perform work of routine nature, and do not exercise any supervisory authority, we shall include them in the unit.

There are four employees with the title *credit analyst* working in the San Juan centralized office. They prepare credit applications, analyze the credit standing, and evaluate financial statements of the applicant for employees who will further process the application. They make no recommendations, perform work of a routine nature, and enjoy working conditions similar to other unit employees. We shall therefore include them in the unit.

The *securities analysis clerk* is located in the San Juan centralized office. She analyzes information received from branches relating to Government deposits, correspondence, bank balances, and stock market

¹⁶ *Montgomery Ward & Co., Incorporated*, 131 NLRB 1436. Moreover, as these employees move from office to office in and out of the San Juan area, we further find that they lack sufficient interests with unit employees to warrant their inclusion herein

data. She has no supervisory authority, and her working conditions and work duties are similar to those of other unit employees. Accordingly we shall include her in the unit.

The classification *assistant maintenance man* in the San Juan metropolitan area was vacant at the time of the hearing. However, as there is no real dispute regarding the propriety of including this classification in the unit, we shall include it and, in the event that the vacancy in San Juan is filled, we shall permit the incumbent to vote.

There are two *personnel clerks* and five *senior personnel clerks* who work in the personnel department at the San Juan office. One of the two personnel clerks does clerical work related to fringe benefits, and the other processes and files employee hospitalization claims. Likewise, each of the senior personnel clerks performs a different function; such as processing application forms and administering admission tests; explaining fringe benefits to new employees and assisting in filling out personnel forms; maintaining records of transfers, promotions, and vacations; checking on employee eligibility for fringe benefits; and maintaining a list of the Bank's authorized signers on a day-to-day basis. The main difference between the two categories is that the senior clerks are more experienced and are therefore higher rated. None of the above employees has supervisory authority or access to confidential information regarding personnel and labor relations policy before it is communicated to other unit employees. They share common working conditions with one another and with other unit employees. We shall therefore include both of these classifications.

In view of the above, we find that the following constitute units appropriate for collective bargaining within the meaning of Section 9(c) of the Act.

1. All employees employed by the Employer at Yauco, Puerto Rico,¹⁷ including accountants and the secretary to the manager, but excluding executive and professional personnel, managers, submanagers, guards, and supervisors as defined in the Act.

2. All employees employed by the Employer at Arecibo, Puerto Rico,¹⁸ including accountants and the secretary to the manager, but excluding executive and professional personnel, managers, submanagers, guards, and supervisors as defined in the Act.

¹⁷ As noted above, there is no evidence or disagreement as to the unit placement of any specific classifications herein. However, to the extent that the same classifications which were litigated or stipulated in the San Juan branches are present, their unit placement shall conform to our San Juan unit findings.

¹⁸ See footnote 17, *supra*.

3. All employees, including those classifications listed in the attached Appendix¹⁹ employed by the Employer at its establishments located in the San Juan metropolitan area, including the offices designated San Juan, Stop 17, Loiza, Martin Pena, Puerto Neuvo, Reparto Metropolitano, Hyde Park, Hato Rey, Rio Piedras, Aeropuerto Internacional, 65th Infantry, Bayamon, and Santa Rosa, but excluding all other employees,²⁰ all executive and professional personnel, managers, submanagers, authorized signers, guards, and supervisors as defined in the Act.

[Text of Direction of Elections omitted from publication.]²¹

¹⁹ The unit found appropriate is larger than that originally sought by the Petitioner, and neither the exact size of the unit nor the precise interest of the Petitioner in the unit is clear from the record. Accordingly, the Regional Director is instructed not to proceed with the election herein until he shall have first determined that the Petitioner has an adequate showing of interest among the employees in the appropriate unit. *Foremost Dairies, Inc*, 118 NLRB 1424, 1428. We shall also permit the Petitioner to withdraw its petition without prejudice upon notice to the Regional Director within 10 days from the date of issuance of this Direction.

²⁰ The lists of classifications of employees in the Appendix under "included," and under "allowed to vote if located in the San Juan metropolitan area" constitute a comprehensive and all-inclusive list of inclusions. The list of classifications of employees under "excluded" covers only those classifications which the parties stipulated should be excluded, and those which were in dispute and which the Board has decided to exclude. It does not contain a listing of other employees whose exclusion was not disputed, but whose status as either guards, professional employees, confidential employees, managerial employees, or supervisors, was not litigated. These employees are excluded from the unit by operation of the phrase "all other employees."

²¹ Election eligibility lists, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 24 within 7 days after the date of this Decision and Direction of Elections. These lists may initially be used by the Regional Director to assist in determining adequate showings of interest. The Regional Director shall make these lists available to all parties to an election when he shall have determined that an adequate showing of interest among the employees in the unit found appropriate has been established. No extension of time to file these lists shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. *Excelsior Underwear Inc*, 156 NLRB 1236.

APPENDIX

Included

Janitor	Payroll Clerk
Janitor-Messenger	Branch Clerk
Messenger	Clearance Clerk
Chauffeur	Clerk Typist
Mail Clerk	Clerk Stenographer
File Clerk	Collections Clerk
Addressograph Operator	Currency Clerk
Keypunch Operator	Current-Accounts Clerk
Stockroom Helper	Exchange Clerk
Paying and Receiving Teller	Mail Clerk (Senior)
(Trainee)	Proof and Transit Clerk
Returned-Checks Clerk	Savings Teller

APPENDIX—Continued

Included—continued

Senior Clerk-Typist	Maintenance Man
Signature Clerk	Proof Machine Operator
Bookkeeping Machine Operator	Registration and Insurance Clerk
Credit Information Clerk	Tabulating Machine Operator
Senior Branch Clerk	Utility Clerk
Senior Department Clerk	Credit Investigator
Senior Loan Interviewer (FHA)	Letter of Credit Clerk
Senior Utility Clerk	Paying and Receiving Teller
Assistant Methods and Procedures Analyst	Receptionist
Office Loan Adjustor	Senior Accounting Clerk
Senior Loan Adjustor	Senior Current Accounts Clerk
Field Loan Adjustor	Head Teller
Collector	Loan Interviewer
Secretary	Senior Collections Clerk
Executive Secretary	Senior Proof and Transit Clerk
Secretary to Branch Manager	Telephone Operator
Resident Auditor	Accounting Clerk
Methods and Procedures Analyst	Accounting Clerk (FHA)
Assistant to the Area Supervisor	Assistant Maintenance Man
Loan Officer	Mail Clerk (Consumer Loan)
Assistant Loan Officer	Credit Analyst
Insurance and Tax Clerk	Securities Analysis Clerk
Loan Investigation Clerk	Personnel Clerk
	Senior Personnel Clerk

Excluded

Secretaries to

President	Vice President of Administration
Executive Vice President	Assistant Vice President of Personnel
Assistant Executive Vice President	Field Auditor
Secretary to Board of Directors	Property Coordinator
Vice President of Personnel	Insurance Coordinator
Comptroller	Public Relations Assistant
Auditor	Public Relations Representative
Vice President of Branch Supervision	Business Development Representative
Assistant Vice President of Branch Supervision	Trainees

Allowed to vote if located in *San Juan metropolitan area*
 Accounting Clerk (Comptroller's Office)
 Senior Accounting Clerk (Comptroller's Office)
 Cost and Accounting Systems Analyst