

Allstate Insurance Company and General Sales Drivers & Allied Employees Union, Local 198, an affiliate of International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Petitioner. Cases 12-RC-2792, 12-RC-2886, 12-RC-2889, and 12-RC-2897

May 1, 1968

DECISION AND DIRECTION OF ELECTIONS

BY MEMBERS FANNING, JENKINS, AND ZAGORIA

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Herbert M. Watterson, Hearing Officer in Case 12-RC-2792. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statement of Procedure, Series 8, as amended, and by direction of the Regional Director for Region 12, the case was transferred to the National Labor Relations Board for Decision. Thereafter the record in the case was reopened and the case was remanded to the Regional Director for consolidation with Cases 12-RC-2886, 12-RC-2889, 12-RC-2897. After further hearing before the Hearing Officer, these cases were transferred to the Board for decision. The Hearing Officer's rulings are free from prejudicial error and hereby affirmed. Briefs have been filed by the Employer and the Petitioner.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

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 organization involved claims 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.

The Employer's Organization

Allstate Insurance Company is a multiple life insurance company and writes life, accident and health, and casualty insurance, including automobile, fire, and extended coverage and homeowners policies.

The home office of the Company is in Northbrook, Illinois. Organizationally from the home office down to the local sales locations, the Company is divided into zones, the zones into regions, the regions into two or more divisions, and the divisions into districts. The districts consist of two or more sales locations.

There are 27 regions in the United States and 2 in Canada. A region sometimes includes more than one State, sometimes coincides with the boundaries of a single State or may be less than a single State. The region involved in this case is the Florida Region and it consists only of the State of Florida. Since May 20, 1967, the region has had two divisions (designated Division I and Division II) with each division having eight districts. On July 1, 1968, a third division is to be reestablished (there were three divisions until May 20, 1967) and will include Districts 13, 14, and 15 currently in Division I, Districts 12 and 16 currently in Division II, and a new District 17.

A regional manager is in charge of and has responsibility for the management of the region. Reporting to him is a regional sales manager who is responsible for all sales activities within the region. A field sales manager heads each of the two divisions and they report to the regional sales manager. The lowest level of management in the Company is the district sales manager.

Unit Finding

In Case 12-RC-2792, the Petitioner is seeking a bargaining unit of all the Employer's insurance agents within Dade County, which comprises Districts 1, 2, and 3 of Division I, including a total of eight sales locations in Dade County, and two locations in Broward County. In 1968, the Employer will open another office in Broward County and 3 more offices in Dade County. In Case 12-RC-2889, the requested unit covers District 4 of Division I, and involves the insurance agents within two locations in Palm Beach County and one location in Broward County. Case 12-RC-2897 is composed of five locations in District 5 of Division I. The unit sought in Case 12-RC-2886 consists of three locations in Jacksonville all within District 15 of Division I, which will be transferred to Division III on July 1, 1968. In the alternative only, the Petitioner seeks separate bargaining units of the insurance agents of the districts involved herein.

The Employer contends that the Florida region is the minimum appropriate unit and the Company's administrative structure and management organization has no relationship to a county subdivision and affords no basis for establishing an appropriate unit

on a district or combination of districts basis. The Employer also contends that the district managers have so little independent authority over the agents in their districts that a district is not the analogue of the plant or retail store for unit purposes. There is no history of collective bargaining.

The Employer, in support of its contention, cites the fact that in regard to hiring, discharging, promotions, and transfers the final authority rests with higher management. Although this is correct, district sales managers¹ do perform an important managerial function in these areas. As to hiring, a district sales manager screens applicants and those applicants he evaluates as not being suitable for employment are removed from the hiring procedure at that point. Although there are cases of an applicant being hired without the prior recommendation of a district sales manager, this is the exception. As a general rule, no employee is hired without the screening and the recommendation of a district sales manager.² Discharges are usually initiated by the district sales manager. When this occurs he submits a series of questions for approval to the regional manager. These questions are presented to the agent by the district sales manager at a personal interview with the field sales manager usually present. At this conference the agent is told what he must do in order to avoid disciplinary action or discharge. A decision to discharge an agent is ultimately made by the regional manager. Promotions and transfers are normally initiated by recommendations from the district sales managers to the regional manager.

The district sales manager supervises and guides the agents within his district. His basic duties include administration, planning, manpower, and training.

Although district sales managers do not have the authority to make the final managerial decisions, their recommendations and actions in regard to the making of such final decisions are clearly an important part of the managerial decisional chain, and the district sales managers are clothed with sufficient authority over normal incidents of the employment relationship to warrant the finding of

these employer-established administrative units as units presumptively appropriate for purposes of collective bargaining.³

With respect to transfers, the record shows that from December 20, 1963, to June 26, 1967, there were 83 transfers in the Florida region. Of these, 51 were intradistrict, that is from one sales location to another sales location within the same district. These transfers weigh towards, rather than against, a finding that the districts may constitute an appropriate bargaining unit. The 32 transfers that involved agents relocating to an office where they were under the jurisdiction of a different supervisor were minimal considering the fact that such transfers occurred in an employment force of 71 sales agents and were spread over a 4-year period.

Moreover, the same conclusion is reached when each requested unit is analyzed. As for the Dade County unit, approximately 16 transfers occurred within the confines of that unit and of these, only 4 resulted in the agents involved being placed under the supervision of a different district sales manager. As to the other units, there were approximately six transfers between locations within District 4 of Division I of the 12-RC-2889 petition, and the agents involved remained under the supervision of the same district sales manager. At the locations of the 12-RC-2897 case there were seven transfers, with only one agent having a new district sales manager. Within the Jacksonville unit there were only two transfers with both agents retaining the same district sales manager. Thus, from 1963 through 1967 there was only a minimal amount of transfers that involved a change from one to another district. These transfers do not detract from the administrative cohesiveness and identity of the districts within the petitioned-for units.

Nor can we agree with the Employer that the authority of agents to sell outside the district to which they are assigned militates against district bargaining units. Although the agents may sell outside their districts, this is not the normal procedure. Rather, an agent works out of a sales location and alternates with the other agents between selling within the office and the field. He confers with his

¹ In June 1967, there was created the position of a senior district sales manager who is promoted from among the district sales managers. A senior district sales manager supervises only direct sales locations as distinguished from Sears Retail locations. Where there is a senior district sales manager present in a district the district sales manager supervises only the Sears Retail location. There are presently only two senior district sales managers in the Florida region, one in District I of Division I and the other in District 7 of Division II

² The factual determinations are based upon the testimony of the Employer's own witnesses and to the extent that Petitioner's witness Mr Overstreet's testimony conflicts with the rest of the record, it is not relied upon.

³ See *Western and Southern Life Insurance Company, Inc.*, 163 NLRB 138, where the superintendent of agencies, Mr Maly (the comparable position to the field sales manager), oversaw the operations of the district sales manager and had the final authority to hire, discharge, promote, and demote agents in his division. Notwithstanding this the Board found a sufficient degree of local autonomy stating, "it is the district sales manager and his associate sales managers who responsibly *carry out* these functions, . . . While promotions, demotions, and discharges are finally determined by Maly, his action in each instance is taken upon consideration of the recommendation of the district manager."

district sales manager in reference to problems, policy, and production. It appears that an agent does not sell outside of his district as a matter of course but may do so if he happens to come in contact with people outside his assigned selling area in which case he is not precluded from making a sale. The heart of the matter is that sales agents operate within the administrative framework of a sales district. Accordingly, the fact that occasionally, if the opportunity arises, agents may sell to someone outside their normal work area does not detract from the administrative cohesiveness and autonomy of the district.

The Employer's position that a distinction must be made between debit agents and other kinds of insurance agents is without merit.⁴ The Employer's argument rests upon his contention that debit agents are limited both in the area, a so-called debit, and in the type of insurance they may sell.

As stated above, Allstate agents normally sell within a geographic area. The fact that the agents here are not restricted to any type of insurance is not controlling. What is important is the fact that administratively the agent operates within a district and has as his immediate supervisor a district sales manager who carries out the day-to-day functions of the Company. Thus, there is supervision as to every type of insurance sold and the administrative framework is the same for all insurance sold. Therefore, what is scrutinized is the administrative structure and management organization and not whether an agent is or is not a so-called debit agent.

The Employer makes the final argument that due to the continuing realignment of districts and the fluctuation as to the number of divisions, any unit other than statewide would be unstable and, furthermore, such realignment is evidence of the fact that a district office is not a self-contained administrative unit.

While the Company does have a history of continuous reorganization and expansion, a close scrutiny of the facts indicates that, in fact, such realignments and other administrative changes do not demonstrate instability or a deficiency in the independence of a district office. For example, in September 1967, the Employer established a sales location communicator program whereby selected

agents from all major locations throughout the State attend meetings at the regional office at least quarterly and participate in discussions on many of the various activities that are taking place in the Region. These agents, called "communicators," are also agents in the locations in which they are based and have the role of carrying back to the agents assigned to their particular work locations the information that was conveyed to them at these sessions. These "communicators" have no other functions or responsibilities in reference to other agents in the locations in which they are based. The fact that agents are selected as representatives of their sales locality is a further argument against the Employer's position that only a statewide unit is appropriate as the communicator program is additional evidence of the administrative identity of the districts. Furthermore, the fact that it takes 9 months of preparation, planning, and considerable expenditure of time and money before a new sales location opens in the Florida region is proof that sales locations within districts are not fly-by-night operations that come and go but rather are important stable elements of the districts to which they are assigned.

Further, the regional office review program is also an indication that the district sales locations are administrative entities of substance. This program, established by the Company, 3 or 4 years ago, has as its objective the bringing of agents into the regional office to acquaint them with regional office operations. New agents go to the regional office after 4 to 6 months, with all other agents participating in the program at least every 2 years, with approximately 20 to 30 going at a time. The fact that there is a program to familiarize agents with regional operations demonstrates once again that the agents operate largely within a framework of a district office supervision and administration.

On the basis of the foregoing, we conclude that the Employer's district offices are distinct separate administrative entities through which the Employer conducts its business operations, and are therefore inherently appropriate units for purposes of collective bargaining. We therefore find that the individual district bargaining units sought by Petitioner in Cases 12-RC-2792, 12-RC-2889, and

⁴ There are three classifications of sales agents, these being retail agent, account agent, and senior account agent. A retail agent works out of a Sears Roebuck store. Once an agent attains 750 accounts, and is working out of an office type location, he becomes an account agent. Once an agent acquires two thousand accounts and is working out of an office location he is promoted to the status of a senior account agent. On October 1, 1967, a Commerce Sales Department was established for the Florida region to handle all of the commercial business written in the Florida region, except for smaller commercial accounts that the regular Allstate agents handle and

the Jumbo type accounts that the special accounts section of the Company handle. Those individuals in the Commerce Sales Department sales position are Account Executives. They work out of one of the regular office sales locations and report directly to the commercial manager in the Regional Office, but there will be no basic difference between their working conditions and the working conditions of the agents in those locations and their wages and benefits will be comparable. There were at the time of the hearing only two account executives appointed. The parties stipulated that this group should be part of any appropriate bargaining unit.

12-RC-2897 constitute units appropriate for purposes of collective bargaining within the meaning of Section 9(b)(2) of the Act. In Case 12-RC-2792, Petitioner requests a unit of sales agents of the three districts serving the Dade County metropolitan area. In *Metropolitan Life Insurance Company*,⁵ the Board set forth the principles governing its unit determinations in the insurance industry. It there noted that in cases such as this one, the fact that individual district qualified as separate appropriate bargaining units did not necessarily mean that a combination of such districts into a broader more inclusive bargaining unit was to be ruled out. Such a combination of districts into one bargaining unit is appropriate where there is a reasonable degree of geographic coherence among the locations within the proposed unit. We find such coherence to exist in this case. Thus, but for two sales locations, all of the sales locations of the proposed three-district unit are located in Dade County. The two exceptions are located in Broward County. One, the Ft. Lauderdale sales location, is included in District 2. The other, the Hollywood sales location, is included in District 1. These sales locations are 18 miles and 8 miles respectively from the nearest Dade County sales location. Their locations outside of Dade County would not preclude their grouping with other sales locations in district bargaining units, and, in view of their geographical proximity to Dade County, we see no reason why their location in Broward County should preclude a finding of their inclusion in the proposed three-district unit. Moreover, there is a community of interest arising from the social and economic cohe-

sion of a geographic area.⁶ As the proposed unit is sufficiently compact to permit employees who perform the same work under the same overall working conditions effectively to exercise their collective-bargaining rights under the Act, we find that the requested unit of sales agents of Districts 1, 2, and 3, as more precisely described below, constitutes a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b)(2) of the Act.

We find, therefore, that the following employees of the Employer constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

In Case 12-RC-2792:

All State Insurance Agents within District I, District II and District III of Division I, excluding all claim adjustors, clerical workers and supervisors and all other employees as provided under the Act.

In Case 12-RC-2889:

All Insurance agents within District IV of Division I, excluding all claim adjustors, clerical workers and supervisors and all other employees as provided under the Act.

In Case 12-RC-2897:

All Insurance Agents within District 5 of Division I excluding all claim adjustors, clerical workers and supervisors and all other employees as provided under the Act.

In Case 12-RC-2886:

[Direction of Elections⁷ omitted from publication.]

⁵ 156 NLRB 1408, 1414.

⁶ See *Crown Drug Company*, 108 NLRB 1126

⁷ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them *Excelsior Underwear Inc.*, 156 NLRB 1236, *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759. Accordingly, it is hereby directed that an election eligibility list, con-

taining the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 12 within 7 days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. No extension of time to file this list 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.