

Scope Associates, d/b/a Westbridge and Building Service Employees Union, Local 22, Building Service Employees International Union, AFL-CIO, Petitioner. Case 20-RC-7885

September 3, 1968

DECISION AND DIRECTION OF ELECTION

BY MEMBERS BROWN, 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 Hearing Officer Patricia K. Immel. Following the hearing, and pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations and Statements of Procedure, Series 8, as amended, and by direction of the Regional Director for Region 20, this case was transferred to the National Labor Relations Board for decision. Briefs have been timely 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.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

1. Scope Associates, a partnership, d/b/a Westbridge, with its principal office in Menlo Park, California, is engaged in renting rooms to, and providing meals for, students at Sacramento State College, in Sacramento, California. The Employer commenced operations in September 1967. In September and October 1967, it had total sales of \$99,374.19, and during the same period it paid interest of approximately \$20,000 to Bank of America in Palo Alto, California. The Employer's projected sales for the 12-month period from September 1967 through August 1968 are in excess of \$500,000, and during that same period the Employer will make interest payments of approximately \$120,000, of which amount \$50,000 will be in direct payments to Prudential Life Insurance Company in Newark, New Jersey. The parties agree, and we find, that the Employer is engaged in commerce within the meaning of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction in this case.¹

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.

4. The Petitioner seeks a maintenance unit of custodial employees at the Employer's Westbridge dormitory rental operation at Sacramento State College, including full-time maids and janitors, but excluding part-time janitors, desk clerks, and resident assistants. The Employer contends that the Petitioner's unit is inappropriate, and that an overall unit which includes all of these employees is alone appropriate.

The Employer owns and operates the Westbridge operation, which comprises a complex of 12 dormitory buildings and a dining hall. The Employer leases the dormitory rooms directly to students for a rental fee which includes dining hall meals,² utilities, linen service, and 24-hour telephone switchboard service. Ninety percent of the students use the dormitories for at least one semester.

The Employer's entire maintenance force consists of the following custodial employees: 8 maids, 1 janitor, and 7 to 13 student-janitors. The maids and janitor work full time and are hired through the California Department of Employment. The student-janitors are students referred to the Employer through the student placement bureau, who with a single exception regularly work for the Employer an average of 3 to 24 hours a week during each pay period and individually work the same number of hours each week. They are paid slightly less than the janitor. All of these custodial employees report to the maintenance supervisor.

The 22 desk clerks are students who work 3 to 20 hours a week and whose duties primarily relate to the 24-hour-a-day operation of a telephone switchboard for the benefit of students. They are referred to the Employer by the student placement bureau and report to the assistant manager.

The 11 resident assistants are students who help organize student government, check the cleanliness of rooms, and help students with their personal problems. They are referred to the Employer by the student placement bureau on the basis of their leadership qualities, are on call 5 to 6 hours a day while on the premises, and report to the manager.

There have been no interchanges or permanent transfers among the three above-described groups. All employees are hourly paid, and their wages differ by no more than 10 to 20 cents an hour. The Employer's policies with regard to vacations and insurance coverage have not yet been clearly established.

¹ *Karl Gerber, Max Taetle, Nathan Metz & Estate of Bernard Katz, Co-Partners d/b/a Parkview Gardens*, 166 NLRB 697

² The Employer subcontracts its dining hall meal service operations to an independent firm not involved in this proceeding

In these circumstances, and absent a request to bargain in a larger unit, we conclude that the Employer's separately supervised custodial employees, who comprise its entire maintenance force, constitute a homogeneous group with similar interests and working conditions and is therefore entitled to separate representation as an appropriate unit.³ We shall exclude desk clerks and resident assistants from the unit, in view of their dissimilar functions and conditions of work. As to the student-janitors, it appears that their employment is directly related to their living conditions, and their employer's principal activity is directly related to their total educational environment. In these circumstances, we shall exclude the student-janitors from the unit on the ground that part-time employees such as these,

¹ *Karl Gerber, Max Taetle, Nathan Metz & Estate of Bernard Katz, Co-Partners d/b/a Parkview Gardens, supra*

⁴ See *General Electric Company*, 109 NLRB 747, 748, *Sonoco Products Company*, 107 NLRB 82 Cf *Colecraft Mfg Co, Inc*, 162 NLRB 680

⁵ An election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 20 within 7 days after the date of this Decision and Direction of

whose major economic interest is in studies which prepare them for a different occupation or activity, do not have the same community of interest in their employment as do those who work full time and are dependent on their employment for a livelihood.⁴

Accordingly, we find that all maintenance employees at the Employer's Westbridge operations at Sacramento, California, including janitors and maids; but excluding desk clerks, resident assistants, student-janitors, all other employees, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

[Direction of Election⁵ omitted from publication.]

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. *Excelstor Underwear Inc*, 156 NLRB 1236