

Wells Fargo Bank and Office and Professional Employees Local No. 3, affiliated with the Office and Professional Employees International Union, AFL-CIO, Petitioner. Cases 20-RC-7921 and 20-RC-7922

November 3, 1969

DECISION, ORDER, AND DIRECTION OF
ELECTION

BY CHAIRMAN MCCULLOCH AND MEMBERS
FANNING AND BROWN

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before David F. Sargent, Hearing Officer. Following the hearing, pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, this case was transferred to the National Labor Relations Board for decision. Thereafter, briefs were filed by the Employer and the Petitioner, and an *amicus curiae* brief was filed by California Bankers Association in support of the Employer, all of which have been duly considered.

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 no prejudicial error. The rulings are hereby affirmed.

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 Petitioner is a labor organization claiming 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 Sections 9(c)(1) and 2(6) and (7) of the Act.

4. The Employer is a corporation duly organized and existing under the banking laws of the State of California, and is engaged in a commercial and general banking business in the State of California, operating its head office in San Francisco and 233 branch offices throughout the State.

Office and Professional Employees Local No. 3, Office and Professional Employees International Union, AFL-CIO, herein called Petitioner or Union, filed two separate representation petitions seeking separate bargaining units of the Employer's employees, in Case 20-RC-7921, the Union seeks a single unit of employees at the Employer's Brentwood branch bank, and in Case 20-RC-7922, a separate unit of employees in the POD manual department, located at the Employer's Data

Processing Center, a seven-story building, wholly occupied by the Employer at 50 First Street, San Francisco, California.

The Employer contends that neither of the above units sought is an appropriate unit and asserts that the only appropriate unit is one embracing the entire bank, including all branch banks. Alternatively, the Employer argues that, as to the Brentwood Branch petition, the appropriate unit would be one consisting of the Division in which Brentwood is located, or the District in which it is located, or perhaps the cluster (an operational grouping of branch banks) of which it is a part. It is the Employer's alternative position in Case 20-RC-7922 that the unit sought must be enlarged to include all the office clericals in the Center, except the cash control department, the personnel department, the resident auditors, the American Express Unit, the business services representatives, the stock transfer unit, the bank payroll accounting and data processing administration.

There is no prior bargaining history as to any Wells Fargo Bank in the State of California.

The Employer's Operation

Wells Fargo has 233 branch banking operations in 127 cities, located in four divisions, ranging from Bakersfield to the northernmost tier of California counties. Bank headquarters is at 464 California Street, in the city and county of San Francisco, where basic corporate policy at its highest level is formulated.

The main office on California Street contains the marketing division, a training staff, a cashier's department, and a personnel office. The job classification and salary program is administered from this headquarters. The personnel department handles salary administration, benefit programs, transfers, promotions, employment, and college recruiting. Benefits like vacations, medical life insurance, sick leave, profit sharing are uniform throughout the system. The personnel office sets minimum standards for hire and checks employment applications with respect to references and fingerprints and maintains master personnel files. Hiring, however, is largely done at the Division level and the Division maintains files of applications for employment; requests for personnel from the branches usually go to the Division personnel officer. However, some branch banks in outlying areas may do some of their hiring directly.

The branch banks of Wells Fargo are structured into districts and operating divisions. The Brentwood Branch, the subject of a petition herein, is in the San Mateo district along with eleven other branch banks. The San Mateo district and five other districts are in the Peninsula Division which contains a total of approximately 66 branch banks.

The branch banks (with some exceptions) are in direct communication by means of a Telex

communications network with the Employer's Data Processing Center located at 50 First Street, in San Francisco. The branch banks send in daily reports to the Center and receive reports in return. Records involving the status of savings and checking accounts, loans, and Christmas Club accounts are also maintained at the Center, and employees at the branch banks may check the status of an account directly with the Center. In 1966, a number of branch banks within the Peninsula Division were grouped together for operational purposes and designated as a "cluster" under the direction of an experienced operations officer who reports directly to a vice president in the Division. The Division monitors the operations of the branch banks, administers the overall personnel policies of the bank, and in general guides and supervises the operations of the branches to insure compliance with bank policies and procedures

petition in case 20-RC-7922

As noted earlier, in this petition seeks a unit of approximately 126 employees in a section known as POD manual, or Unit 792. That unit is located on the third floor and is housed with many others in a building at 50 First Street, San Francisco, called the Data Processing Center or simply Center. At the Center, there are approximately 1,000 employees, who work on seven floors plus a basement.

The function of Unit 792 employees is to assist in the process of verifying the status of accounts. Unit 792 receives checks, deposit slips, monthly payment loan coupons, and other slips of paper, all called by the bank "items," sorts them, and by means of encoding machines imprints the "item" with a magnetic ink. The "items" are then sent to the 7th floor computer section where there is kept and continuously updated, a record of 650,000 customer checking and 750,000 savings accounts for the entire bank, save for 13 branches. This section takes the checks delivered to it by the receiving clerks in Unit 792, makes the necessary calculations in the computers, stores the information, and prepares a daily morning report showing the total overall financial position of the bank in all accounts, as well as that of each branch within the bank

"Items" are sent to Unit 792 from 119 branches in the chain. The remaining branches send material to seven other proof of deposit (POD) Manual Sections located in other California cities which serve as extensions of the third floor unit under discussion. These sections forward encoded "items" to 50 First Street daily, where they are sent directly to the seventh floor computer center.

Work connected with several other departments on other floors, such as medical billing services, and automated payroll preparation is also done in Unit 792.

Crediting of receipts for Standard Oil Company is handled by the sixth floor "lock box" section.¹

which also has the same machines used on the third floor, and work for this "lock box" section is done on both third and sixth floors. Several times per month as many as eight persons from Unit 792 go to work in the seventh floor POD Computer section and when work is heavy, people from the Manual Proof and Transit Difference Research, General Ledger and Savings departments come to POD Computer section to work.

Within the last 6 months, on 8 different occasions, 10 to 12 employees from Unit 792 have worked 4 hours in the "lock box," 2 machine operators have worked 3 times in the distribution department for 4 hours, 4 to 5 machine operators have worked 2 hours, 3 times on the seventh floor, 5 to 10 operators, for a minimum of 3 times per month have worked on the 4th floor San Francisco Accounts Services section, and 6 operators have worked 15 times, 4 hours each on the fifth floor, Monthly Payment Loans, disassembling wires from programming boards.

The employees in Unit 792 are usually college students working part-time from 1:30 p.m. until 8 or 8:30 p.m., Monday through Thursday, and until 4:30 p.m. on Friday. It is the only section which has this work schedule. The machine operators are paid a base salary, shift differential, overtime, and a bonus which is determined by the average monthly count, on a per hour basis, of the "items" which they process through machines. The bonus begins with production exceeding 1,125 "items" per hour. They are the only employees paid on this basis.

Seniority is bankwide, the vacation schedule being drawn up by departments. The third floor department manager keeps personnel records on each employee, showing his home address, telephone number, date of employment, warnings given him and information about his average production.

During the calendar year 1967, there were approximately 22 transfers out of Unit 792, and 4 transfers into the department.

Upon review of the above circumstances, we are of the opinion that the employees petitioned for in Unit 792 do not have a sufficient community of interest separate from that of other employees at 50 First Street Center, to warrant their establishment as a separate appropriate unit. We note particularly that there appears to be a substantial and continuing interchange of employees between Unit 792 and other departments in the computer center; that some of the same machines utilized in Unit 792 are also used by employees in other parts of the building and that work involving several other departments located on other floors, such as medical billing services and automated payroll preparation, is also performed in Unit 792. Accordingly, we shall dismiss the petition in Case 20-RC-7922.²

¹boxes as a daily deposit to the customers' accounts This is a business service usually initiated by a branch bank of the national division which operates out of the head office This work is all check processing and encoding is performed by lock box and POD Manual using encoders

²At the hearing, counsel for the Union indicated that the Union might be interested in representing employees in an alternative unit in the event Unit

¹The "lock box" section is responsible for opening, sorting, editing, and balancing customers remittances which are mailed to various post office

The Brentwood Branch (Case 20-RC-7921)

The Brentwood Branch Bank is located in South San Francisco, California, in a shopping center. The closest branch to Brentwood is South San Francisco Industrial, about a mile distant. San Bruno is the next branch and approximately the same distance away, and Millbrae is approximately 6 or 7 miles away. There are several other branches in San Mateo County, at varying distances away from the area serviced by the Brentwood Branch.

The unit at the Brentwood Branch requested by the Petitioner consists of approximately 12 employees: one commercial note teller, one monthly payment loan teller, one 30-hour monthly payment loan teller, one electronic data processing clerk, four commercial and savings tellers, one 30-hour commercial and savings teller, one vault teller and one platform secretary. There is also a manager, an assistant manager, and a credit officer who have been stipulated out of any unit as supervisors. There is also an operations supervisor, whose status as a supervisor is in dispute, with the Employer contending that she is not a supervisor and the Petitioner contending that she is.

The work of all 12 employees is concerned directly with the customer or paper work connected only with the Brentwood Branch which services a specific geographical area. Except for the centralized accounting procedures, the employees have little personal contact with employees of other branches. They work directly under the branch manager and other branch supervisors and look to these supervisors for their direction and guidance.

The operations supervisor, Rose Dolder, whose supervisory status is in issue, has a desk behind the row of tellers, in one corner of the bank, where she spends 90 percent of her working time. Her duties are to oversee the operation of the operational section of the branch, the tellers, loan department and note cage. She does not have authority to hire or fire, but it appears she can make recommendations for discharge. She has been consulted about an employee performance report, and it was indicated that if she disagreed with the report, her word would be given some weight. Employees look to her for permission to extend their lunch hour. She is listed on the official bank directory as an "Authorized Signatory," a Branch officer, which permits her to sign certain documents brought to her by tellers, and to approve checks up to a certain amount.

The Branch Manager is in direct charge of the day-to-day operations of the Branch. He operates according to the overall directives and policies established in the Employer's main or Division office. He is the principal officer in the Branch and

is the liaison between the Branch and the Employer's Division and other operations. Thus, the Branch Manager prepares the Branch's annual budget, which is then reviewed by the various sections of the Division, after which it is forwarded to the head office in San Francisco for scrutiny by a committee, and ultimately, for approval by the President. On loans of less than \$1,000 he is given a free hand. But on loans of \$1,000 or more, he is required to send supporting evidence to justify his actions, and on large loans prior consultation with and approval of the Division or headquarters office is required. Thus, he plays a key role in the important loan functions of the Branch. Although all personnel actions are subject to final approval by the Division, the Branch Manager makes recommendations in regard to hiring, replacements, salary increases, transfers, and terminations, and it appears that such recommendations carry weight. The majority of the requests for additional personnel are generally approved at the Division level. Overtime is initially authorized at the Branch level, subject to post audit and established procedures. The Branch Manager schedules vacations for his employees, and also makes evaluations of employee performances. These evaluations are transmitted to the head office for inclusion in the master personnel file. The original is lodged with the Division office, but the Branch retains a rudimentary file, containing a history card of each employee and copies of the employee's periodic performance review.

While it is clear from the foregoing summary of facts that the Employer's banking operations are highly centralized and its procedures integrated, and that a bankwide unit would be an appropriate unit, we do not agree with the contentions of the Employer that the bankwide unit is the only appropriate unit in the circumstances here, or that the Division, District, or "cluster" organization of its operations so overshadow the identity of the Brentwood Branch that this Branch could not be a viable bargaining unit.³ For the reasons discussed hereafter, we are persuaded, in agreement with the request of the Petitioner, that the Brentwood Branch has a meaningful identity as a self-contained economic unit and that the centralized recording and overall administrative control do not militate against a finding that its employees are a homogeneous, identifiable group, with sufficient community of interest to comprise an appropriate bargaining unit.

As indicated above, although the Employer's personnel policies are centrally controlled, the Brentwood employees are separated both geographically and functionally in their day-to-day duties from employees of other branch banks, and other operations of the Employer. Their job functions and their workday interests are in terms of

³792 was not found to be an appropriate unit. However, in the brief it filed with the Board, the Union did not pursue the question of what alternative unit or units it might seek to represent. In these circumstances we do not consider it necessary to reach the question of what may constitute an appropriate unit.

In view of our dismissal of the petition, we find it unnecessary to pass on the supervisory status of the unit supervisors.

³In view of our findings herein, and the fact that the Petitioner seeks only the Brentwood Branch unit, we find it unnecessary, and make no determination, whether or not the District, Division, or "cluster" groupings could be appropriate bargaining units.

the customers of the Brentwood Branch. Other than at the managerial level there appears to be little personal contact with employees of other branch banks. They look for supervision and work guidance to the Branch Manager and other immediate supervisors, and their progress and success on the job, it appears, depends primarily upon the evaluation of these immediate supervisors.

The record indicates that the Brentwood Branch has a stable core of employees. Transfer in and out of the Branch appears minimal. In 1966 and 1967, there were nine transfers into the Branch, and five transfers out of the Branch; the transfers out were officers, nonunit employees. There is no temporary interchange of employees with other Branch banks. The record also suggests that the Employer treats the Brentwood Branch as a separate economic entity. The Branches compete against each other to meet and exceed the quota of selling Christmas Club accounts, and rewards for exceeding the established quota are redistributed back to the employees of the Branch Bank. The employees of the Brentwood Branch also maintain a joint bank account which is used to finance Branch social functions.

We are also satisfied on the basis of the above, and the entire record, that the local Brentwood Branch Manager enjoys substantial autonomy in his direction and supervision of the Branch employees, and that his role as Manager in the operations of the Branch's activities is more than ministerial. Although employees are centrally hired, the Branch Bank has run an ad for a new job. Requests for job openings are given respectful consideration at the Division level. The Manager schedules vacations, and initiates overtime, subject to post audits. Significantly, the Branch Manager makes initial evaluations of the performances of employees, and this, in effect, gives the Manager, together with the other Branch supervisors who assist in the evaluation, major control over the direction, retention, and promotion of employees. He initially recommends promotions and demotions in many cases.

As described above, the Manager is the Employer's principal representative in the Branch, and is responsible for carrying out its policies and directives. He has direct contact with the customers in the Branch and the various problems which arise daily, and is the liaison between the Branch and other officers of the Bank. Through his duties in formulating the budget and loan transactions, he is required to apply discretion and initiative, and his job performance plays a direct part in the success of the Branch's operations.

From these facts we find that the Employer's Brentwood Branch functions sufficiently as a distinct entity to constitute a separate unit for collective-bargaining purposes. We are of the opinion that the employees share a community of

interest which distinguishes them from other employees of the Employer. We conclude that the Branch is a stable, identifiable unit with common working interests and common direct supervision. Thus, we conclude that the unit sought by the Titioner is an appropriate unit for collective bargaining.⁴ Accordingly, we shall direct an election among the employees petitioned for in Case 20-RC-7921, as provided below, with the exclusions and inclusions discussed hereafter.

The unit at Brentwood, as noted above, consists of commercial note tellers, monthly payment loan tellers, an electronic data processing clerk, commercial and savings tellers, and a secretary. The parties stipulated that the manager, assistant manager, and credit officer are supervisors and should not be included in the unit. The parties disagree as to the unit placement of Rose Dolder, the operations supervisor. We find significant that she responsibly directs the work of tellers, and that she has been consulted about an employee performance report, and it was indicated by her superiors that if she disagreed with the report, her opinion would be given weight; that it appears she can make recommendations for discharge; that the official Directory of the Wells Fargo Bank lists her as an officer under the title "Authorized Signatory," which permits her to sign certain documents brought to her by tellers and to approve checks up to a certain amount; that she possesses the same keys as other officers to oven locks, rather than keys possessed by rank-and-file employees, in those cases two keys are required to open locks; and that her current salary is considerably higher than that of rank-and-file employees. Accordingly, we find that she is a supervisor under the Act and exclude her from the unit.

We find that the following employees of the Employer herein constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees of the Employer's Brentwood Branch Bank at South San Francisco, California, excluding the operations supervisor, guards and supervisors as defined in the Act.

ORDER

It is hereby ordered that the petition filed in Case 20-RC-7922 be, and it hereby is, dismissed.

[Direction of Election⁵ omitted from publication.]

⁴In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercises 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 Company*, 394 U.S. 759. Accordingly, it is hereby directed that 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 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.

⁵See *Metropolitan Life Insurance Co.*, 156 NLRB 1408 (Decision on remand from 380 U.S. 438). See, e.g., *Haag Drug Company, Inc.*, 169 NLRB No. 111.