

**Mann Manufacturing, Inc.¹ and El Paso Joint Board,
Amalgamated Clothing Workers of America, AFL-
CIO, Petitioner. Case 28-RC-2138**

June 30, 1971

DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS BROWN
AND JENKINS

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Gordon J. Jorgensen, Hearing Officer. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, and by direction of the Regional Director for Region 28, this case was transferred to the National Labor Relations Board for decision. Both the Employer and the Petitioner have filed briefs.

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.

Upon the entire record in this case, including the briefs filed herein, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the policies of the Act to assert jurisdiction herein.

2. The Employer contends that no evidence of probative value has been offered to support any finding herein that the Petitioner is a "labor organization" within the meaning of Section 2(5) of the Act. The Employer further contends that, if the employees within the unit petitioned for were allowed to become members of a local union within the purported amalgamation of four locals in El Paso, they would have no direct voice or participation with respect to the activities or policies of the Petitioner. There is testimony that the Petitioner is a subdivision of the National Union of Amalgamated Clothing Workers of America, which has been chartered by the Amalgamated to exercise functions of a labor organization on a local level; that the Petitioner is made up of an amalgamation of four locals in the El Paso area; and that these locals have been chartered by the national office to conduct business in the area over which the National Union has jurisdiction and to conduct itself in all phases as a labor organization representing employees in the collective-bargaining phase. In view of the foregoing, we find that the Petitioner is

a labor organization within the meaning of Section 2(5) of the Act. In our opinion, the fact that individual employees do not hold direct membership in the Petitioner does not negate such finding.²

3. No 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, for the following reason:

Petitioner seeks a unit of all employees (a total of about 72 employees) in the shipping department, including flashers, stockers, warehousemen, pullers, packers, checkers, shippers, folders, order expeditors, quality control employees located in the shipping department, print shop employees, and janitors located in the shipping department, and excluding office clericals, guards, professional employees, and supervisors as defined in the Act. As alternative units, the Petitioner would agree to proceed to an election if it is found that the quality control employees should be excluded from the unit sought, or if the print shop employees should be excluded from the unit. As an another alternative unit, the Petitioner would agree to proceed to an election in any other unit found to be appropriate for the employees working in the shipping department located at 7189 Merchant Avenue, El Paso, Texas, herein called the Overmeyer facility.

The Employer contends that any such unit limited to only a segment of its integrated facilities is clearly inappropriate. The Employer further contends that the units sought are too restrictive in scope and are based solely upon the extent of organization which, as a controlling factor in the Board's determination, is prohibited by the Act. The Employer contends that the only appropriate unit should include all production and maintenance employees in all of its facilities in El Paso, Texas, excluding office clericals, guards and supervisors, as defined in the Act.

The record shows that the Employer is engaged in the manufacture of jeans, slacks, and shorts for men, boys, and girls. The Employer employs a total of approximately 1,211 employees in all of its facilities. At the time of the hearing herein, all of the manufacturing operations were housed in separate building complexes located within the city limits of El Paso, Texas. In 1969, the Employer erected two buildings at its Gateway location, known as Gateway 1, which housed the Employer's engineering operations, and the Gateway 2 facility. On July 1, 1970, the Gateway 2 facility collapsed, necessitating the immediate removal, on a temporary basis, of the pressing operations to the Gateway 1 location, and of the shipping operations to the prem-

² *Halliburton Company*, 142 NLRB 644, 645.

In view of the finding that the unit sought by Petitioner is inappropriate, Chairman Miller finds it unnecessary to resolve the issue of Petitioner's status as a labor organization.

¹ The Employer's name appears as amended at the hearing.

ises at the Overmeyer location, which the Employer leased on a month-to-month basis pending completion of repairs. There is testimony in the record that, at the time of the hearing, the Gateway 2 location was nearing completion, with an anticipated reopening date of April 1, 1971. When completed, the shipping department operations from the temporary Overmeyer facility, as well as the pressing operations from Gateway 1 facility, will return to the reconstructed Gateway 2 facility. There is also testimony in the record that on April 1, 1971, or as soon after as possible, there will be an adjustment of locations to a total of six facilities, namely, Chihuahua Street, Myrtle Street, and Mills Street, all three of which facilities will contain the sewing operations; Gateway 1, which facility will house the engineering operations; Gateway 2, which facility will house the pressing and shipping operations; and Commerce Street, which facility will house the offices, piece goods, cutting, and knee patch operations.

The manufacturing process originates in the production control department which consists of three areas, namely, piece goods, purchasing, and scheduling. Piece goods are normally picked up by long range trucks that go into the southeastern part of the country. These goods are received in bales and are stored in bins in the piece goods area located at the Myrtle Street facility. A small piece of each bolt of cloth is taken in order to determine the proper shade for matching in the manufacturing of the garments. Upon receiving a cutting report from the production control department, the appropriate amount of cloth is issued and delivered to the cutting department. After determining the desired style, patterns are marked on paper for use as a guide to the cutters. Prior to the actual cutting, the material is set on a table by spreaders. After the material is cut, it is bundled and piece rate tickets are placed thereon. The bundles are then tied and loaded on flats for delivery by a local truck-driver to the sewing plant facilities.

The sewing plant facilities are normally manned by a total of from 30 to 40 employees. After the garments have been sewed, they are then inspected by quality control inspectors that work for the quality control department in various departments throughout the operation. The inspected garments are then tied in bundles and placed in baskets for delivery to the pressing department. As previously noted, the pressing department was temporarily located at the Gateway 1 facility but, upon completion of the reconstruction of the Gateway 2 facility, will be again located in the Gateway 2 facility. In the pressing department the garments are handled by leggers, who have the duty of pressing the legs of the garments, and are also handled by toppers, who have the duty of pressing the tops of the garments. If the garments are to be of the permanent type, they are placed on a conveyor and sent through an oven.

After the required pressing duties have been accomplished, the garments are folded and sent to the shipping department for flashing, which function is the attachment of the advertisement label to a garment. After the garments have been flashed they are then placed into stock bins by stockmen.

The distribution phase involves the processing of orders from the allocation section for garments. A puller takes the order, removes the garments from the stock bins, places them on carts, and then delivers them to the checking section for verification by a checkman as to the accuracy of the order delivered by the puller. The checkmen then deliver the garments to the packing section where the garments are placed into cartons and sealed. The cartons are finally moved to the shipping department for addressing, shipment scheduling, storing if necessary, or lining up for local pickups. The deliveries of finished garments are made by local truck-drivers coming in from sources to pick them up for commercial shipping. At this point, the deliveries are either made by local trucks that come from different sources to pick up the garments to be shipped commercially or the orders are set aside to be shipped out on long distance trucks to the east coast area of the country.

The record shows that at the time of the hearing herein the pressing department employees delivering goods to the Overmeyer facility are in daily contact with the shipping department employees and, as previously indicated, there is evidence that the pressing department and the shipping department employees will be reunited in the reconstructed Gateway 2 facility. Employees of the merchandising department are in contact with the shipping department employees about once a week for the purpose of processing samples and to facilitate orderly and periodical production and delivery of garments to the sales force. It appears that there are duties performed by pressing department employees that are similar to duties performed by some of the shipping department employees. Temporary assignments into the shipping department are given to employees from other departments in the conducting of inventory or in the relabeling of merchandise.

In addition to the similarity of duties performed by employees in departments other than the shipping department unit sought, the record shows that within a period of a little more than 1 year prior to the hearing herein there were 21 permanent transfers of employees into, and 2 out of, the unit sought herein.

In view of the foregoing, and all the facts disclosed in the record, we are persuaded that the requested group does not possess a degree of functional distinctness and autonomy which would warrant a finding that they have a separate community of interest sufficient to entitle them to separate representation. We find, therefore, that the unit sought is too narrow in scope to be

appropriate.³ Accordingly, as the Petitioner does not seek a unit broader than one limited to the shipping department employees, we shall dismiss the petition herein.

ORDER

It is hereby ordered that the petition in Case 28-RC-2138 be, and it hereby is, dismissed.

³ *Farah Manufacturing Company, Inc.*, 185 NLRB No 92