

**Casa Cavanagh, Inc. and Union de Tronquistas de Puerto Rico, Local 901, Afiliada a la International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, Petitioner. Case 24-RC-4499**

May 17, 1972

### DECISION ON REVIEW

BY CHAIRMAN MILLER AND MEMBERS FANNING AND JENKINS

On December 30, 1971, the Regional Director for Region 24 issued a Decision and Direction of Election in the above-entitled proceeding in which he found appropriate the Petitioner's requested unit of all service and maintenance employees employed by the Employer at its stores in Puerto Rico, excluding therefrom sales employees on the grounds that their skills, duties, interests, and conditions of employment sufficiently differed from those of the nonselling employees to warrant their exclusion from the unit. Thereafter, the Employer filed a timely request for review of the Regional Director's decision on the grounds that he made findings of fact which are clearly erroneous and departed from established policy.

On January 24, 1971, by telegraphic order, the request for review was granted and the election stayed pending decision on review. Thereafter, the Employer filed a brief on review.

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

The Board has considered the entire record in this case with respect to the issues under review, including the brief on review, and makes the following findings:

In its petition, the Petitioner requested a unit of all service and maintenance employees at the Employer's Puerta de Tierra store. However, at the hearing it amended its unit request to service and maintenance employees at all five of the Employer's stores in Puerto Rico. As indicated, the Regional Director found the employerwide unit of such employees to be appropriate, rejecting the Employer's contention that the unit should include sales employees. In its request for review, the Employer argues that the appropriate unit herein should be either one of all employees at the three locations on the island of Old San Juan, or, as a minimum, a unit of all employees at the Puerta de Tierra store.

The Employer operates a chain of retail clothing, furniture, and gift stores on the island of Puerto Rico. There are 5 sales employees and 17 service and maintenance employees employed at the Puerta de Tierra

store on the island of Old San Juan. Also on the island of Old San Juan, within a mile of the Puerta de Tierra store, are the Cristo Street store (five sales employees, two service and maintenance employees) and the Caribe Hilton store (three sales employees, no service and maintenance employees). The Plaza Las Americas store, located in Metropolitan San Juan but 7 miles from the Puerta de Tierra store, employs 5 sales employees and 1 service and maintenance employee, and the Conquistador store, a distance of 30 miles from the Puerta de Tierra store, has 11 sales employees and no service and maintenance employees.

The Puerta de Tierra store consists of one building which is part warehouse and part store. Customers are allowed to go into any part of the building to look at goods that might be on display or stacked in the warehouse for sale. Salesmen accompany customers throughout both sections and warehousemen are instructed to help customers looking for particular merchandise. As in all the stores, salesmen may move merchandise, do light cleaning, or help mark goods. The record indicates that there is frequent communication among the sales personnel, warehouse clerk, display clerks, and warehousemen. The general manager directly supervises all service and maintenance employees and sales personnel. All employees have identical hours and fringe benefits. At the Puerta de Tierra store are employed six warehousemen, two drivers, two painters, one cleaning man, one carpenter/maintenance man, one warehouse clerk, one warehouse traffic clerk, one display clerk, two markers, one working foreman, one decorator, and five sales employees. The sales employees are paid an hourly wage plus a commission. The service and maintenance employees are paid on an hourly basis.

Upon the foregoing facts, we conclude that the integration of operations and close interrelationship between sales personnel and service and maintenance employees at the Puerta de Tierra store and warehouse preclude the establishment of an employerwide unit of service and maintenance employees. As above indicated, the Employer takes the position that the geographic scope of the unit herein should be limited to the employees at the three stores in Old San Juan or, as a minimum, to those at the Puerta de Tierra store and warehouse where most of the requested service and maintenance employees are located. While the evidence supports a finding that the three-store unit suggested by the Employer may be appropriate, the record facts do not rebut the presumption favoring a single-location unit. Inasmuch as the Petitioner originally sought a unit confined to the Puerta de Tierra location and has taken no position with respect to a unit encompassing the three Old San Juan stores, we find the following unit of employees to be appropriate herein:

All service and maintenance employees, including sales employees, at the Employer's Puerta de Tierra store and warehouse in San Juan, Puerto Rico, excluding all office clerical employees, guards, and supervisors as defined in the Act.<sup>1</sup>

Accordingly, the case is hereby remanded to the Regional Director for the purpose of conducting an election pursuant to his Decision and Direction of

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<sup>1</sup> As the record facts are insufficient to enable us at this time to determine the issue raised as to the supervisory status of the working foreman, we shall permit him to cast a challenged ballot.

Election, as modified herein, except that the eligibility payroll period shall be that immediately preceding the date of issuance.<sup>2</sup>

<sup>2</sup> 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 amended 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 24 within 7 days of the date of this Decision on Review. 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.