

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
(San Francisco Airport and Burlingame, California)

ALAMO RENT-A-CAR

Employer

and

TEAMSTERS LOCAL 665,
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, AFL-CIO

Petitioner

20-RC-17501

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. 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. 1/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer. 2/
4. 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. 3/
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 4/

All full-time and regular part-time service agents, service agent lead persons, shuttlers, PDI/fleet control employees, RDL/best friend employees and PSR/best friend employees employed by the Employer at its San Francisco International Airport and Burlingame, California locations; excluding all other employees, guards^{5/} and supervisors^{6/} as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll

OVER

period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **TEAMSTERS LOCAL 665, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO**

LIST OF VOTERS

In order to insure 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 (1966); **NLRB. Wyman-Gordan Company**, 394 U.S. 759 (1969). Accordingly, it is hereby directed that with 7 days of the date of this Decision 3 copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. **North Macon Health Care Facility**, 315 NLRB No. 50 (1994). In order to be timely filed, such list must be received in the Regional Office, 901 Market Street, Suite 400, San Francisco, California 94103, on or before **April 1, 1999**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, 1099-14th Street, NW, Washington, DC 20570-0001**. This request must be received by the Board in Washington by **April 8, 1999**.

Dated: March 25, 1999

at San Francisco, California

/s/ Joseph P. Norelli
Acting Regional Director, Region 20

1/ The parties stipulated, and I find, that the Employer, a Florida corporation with a facility in Burlingame, California, is engaged in the retail rental of automobiles. During the calendar year immediately preceding the hearing in this case, the Employer earned gross revenue in excess of \$500,000. During the same period, the Employer purchased and received goods valued in excess of \$5,000, which originated from points located outside the State of California. Based on the foregoing stipulation, it is concluded that the Employer is engaged in commerce and that it will effectuate the purposes of the Act to assert jurisdiction herein.

On the first day of the hearing, the Employer's representative asserted that the Employer had recently been purchased by Republic Industries Corporation, a company which also owns National Car Rental System, Inc., herein called National. On the second day of hearing, the Employer's City Manager Steve Raffio confirmed this assertion but could not confirm whether the Employer's name had been changed. However, the Employer's counsel affirmed that the name of the Employer remains as described in the caption herein and agreed to a stipulation of facts supporting the Board's assertion of jurisdiction over the Employer. In these circumstances, I find no basis for declining to assert jurisdiction over the Employer.

2/ With regard to the labor organization status of the Petitioner, the Petitioner's President testified that the Petitioner currently has collective-bargaining agreements with National, Avis Rent-A-Car System, Inc., herein called Avis, Budget Rent-a-Car of San Francisco, herein called Budget, and Hertz Corporation, herein called Hertz. These agreements cover hours of work, wages and benefits, and other terms and conditions of employment for employees such as service agents and auto transport drivers employed by these other car rental agencies. The grievance procedures set forth in these agreements provide that a representative of the Petitioner is to represent employees involved in grievance proceedings. Based on the foregoing, it is concluded that the Petitioner is a labor organization within the meaning of the Act.

3/ No party contends that there is a contract bar to this proceeding.

4/ The Petitioner seeks to represent a unit comprised of all full-time and regular part-time service agents, gate guards, PDI/fleet control employees, shuttlers, RDL/Best Friends and PSR/Best Friends employees employed by the Employer at its Burlingame and San Francisco Airport (herein called "SFO") facilities; excluding all other employees, guards and supervisors as defined in the Act. Contrary to the Petitioner, the Employer contends that the only appropriate unit is one that includes all employees employed at its Burlingame, SFO and downtown San Francisco locations. The petitioned-for unit consists of approximately 80 employees.

Stipulations. The parties stipulated, and I find, that SFO Operations Managers Tony Ismajani, Fazneh Yountchi and Jimmy O'Conner and Burlingame Maintenance Manager Henry Singh are supervisors under the Act based on their authority to responsibly direct employees under their supervision.

Background. The Employer operates a rental car agency 24 hours a day, 7 days a week at the four San Francisco area locations at issue herein located at SFO, Burlingame, and on Bush Street and Folsom Street in downtown San Francisco. About 200 persons, including approximately 160 non-managerial employees work at these locations. These employees include service agents, shuttlers, rental agents, RDL/best friends (herein called RDLs), PSR/best friends (herein called PSRs), PDI/fleet control employees (herein called PDIs), mechanics, mechanics' helpers, parts/inventory employees, administrative clerks, cashiers, telephone operators, custodians and leads.

The SFO Facility. The Employer's SFO facility is located in the new airport rental car building located adjacent to the SFO airline terminal. The Employer opened its SFO facility on January 1, 1999. It rents between 300 and 1,000 vehicles a day at this location. Prior to January 1, 1999, all of the Employer's operations for the airport were run out of its Burlingame facility. At SFO, the Employer operates a rental booth on the first floor of the rental car terminal building. Its managers' office is also located in this area. Outside of the rental car building and about 100 yards away from the rental area is a garage with a car wash facility operated by the Employer. On the fourth floor the Employer has a "ready line" where customers pick up their rental cars. Customers return their rental vehicles in the same area.

At SFO, the Employer employs rental agents, about 19 service agents, RDLs, PSRs, shuttlers, administrative clerks, cashiers, telephone operators, custodians, and leads. No mechanics, mechanics' helpers or PDIs are employed at the SFO facility.

The Burlingame Facility. The Burlingame facility is located about 3 miles (a 5 minute drive) from the SFO facility. As indicated above, prior to January 1, 1999, the Employer's operation for SFO was run entirely out of its Burlingame facility. Currently, the Burlingame facility consists of a car wash and an annex building. No cars are rented at the Burlingame facility. All of the Employer's SFO employees park in the parking lot at the Burlingame facility and take the Employer's shuttle bus from there to SFO which runs every 15 minutes.

At the Burlingame facility, the Employer employs 3 service agents, approximately 5 PDIs and an undisclosed number of mechanics, mechanics'

helpers and parts/inventory employees. The Employer receives new vehicles into its fleet at Burlingame and they are handled by the PDI employees. The new vehicles are used by the Employer at its SFO and downtown San Francisco locations.

The Downtown San Francisco Facilities. The two downtown San Francisco facilities are located on Bush Street and on Folsom Street. They are about 10 miles from the Employer's SFO facility and have separate supervision from the Burlingame and SFO facilities. The San Francisco facilities are both rental and drop off points for the Employer. Most of the cars rented from the downtown locations are returned to SFO and a drop off fee is charged to the customer. At the downtown San Francisco facilities, the Employer employs service agents, RDLs, PSRs, rental agents and lead agents. The record reflects that a shuttler from the Bush Street facility has taken cars to and from the Burlingame facility. The mechanics' shop at Burlingame handles the repair and preventative maintenance work on rental cars from the downtown San Francisco facilities.

As noted above, the Petitioner does not seek to represent employees at either of the downtown San Francisco facilities.

Employees At SFO.

Service Agents. The service agents at all of the Employer's facilities perform similar work. At the time of the hearing, approximately 19 service agents worked at SFO. Prior to January 1, 1999, all service agents performing work for SFO customers worked at the Employer's Burlingame facility. Since that date, the service agents have worked on the first floor of the SFO facility outside the rental car terminal building in the garage/car wash area described above. The service agents wash and vacuum the rental cars; fill the gas tanks; check the tires; and park the rental cars so that they can be taken to the fourth floor ready line by the shuttlers. Sometimes, when work is busy, service agents will also drive the rental vehicles to the fourth floor where the ready line is located.

The service agents at SFO punch a time clock that is located next to the office on the first floor of the rental car terminal building.

Shuttlers. The 12 or 13 shuttlers employed at SFO move rental cars between the car wash on the first floor and the ready line on the fourth floor of the SFO rental car terminal building and they move returned rental cars to the car wash area to be cleaned. At the ready line, they park the cars in numbered spaces and turn on the flashers so that the RDLs are alerted to input the car into the Employer's computer system with their hand-held computers. The shuttlers also transport cars to and from the Burlingame location, taking cars that need to be serviced to the mechanics' shop there and driving new cars

that have been delivered to Burlingame to SFO for rental by customers. According to the Employer's City Manager Steve Raffio, who oversees the Employer's San Francisco operations, because the shuttlers work in the ready line area, which is frequented by customers, they often answer customer questions such as where a car is located; how to operate it; and requests to switch cars. Raffio testified that in the latter circumstance, while the shuttlers are authorized to switch cars for a customer, they usually refer the customer to a rental agent to handle such matters.

RDLs. RDLs work on the fourth floor of the SFO rental car terminal building. They use hand-held computers to input information about the rental cars that are on the ready line into the Employer's computer system for use by the rental agents.

PSRs. PSRs also work on the fourth floor of the SFO rental car terminal building. They use hand-held computers to close out rental contracts when a customer returns a car. They input such information as vehicle identification numbers, car mileage and gas readings into the computer system and they check for damage to the vehicle. They also take credit card payments for outstanding charges and they direct customers to a nearby cashier's booth if customers need to pay cash in order to close out their accounts.

Gate Guards. The gate guards are a subcategory of the service agent classification. The gate guards work at the exit gate house and use a hand-held computer to log in the cars leaving SFO. They are responsible for ensuring that the cars are in the custody of the person to whom the car has been rented. Other employees have at times worked as gate guards, including regular service agents, RDLs, and PSRs. The gate guards wear the same type of uniform as the RDLs and PSRs. Service Agent Danny Elvena testified that he had worked as a gate guard about twice a month. The record does not disclose the number of regular gate guards or how frequently other non-gate guard employees other than Elvena had worked as gate guards. Elvena testified that the only training given to him for the gate guard position concerned how to punch in numbers on a computer. Neither party contends that the gate guards are statutory guards under the Act who should be excluded from the unit.

Rental Agents. Rental agents work on the first floor inside the SFO rental car terminal building and they use computers to prepare the rental contract for the customer. The Employer's City Manager, Steve Raffio, testified that the rental agents are supervised by shift managers, one of whom is Robert Peterbough. According to Raffio, Peterbough and the other shift supervisors do not supervise the service agents, RDLs or PDRs. The record does not contain any further evidence regarding Peterbough's duties and responsibilities.

Administrative Clerks. The Employer employs approximately 3 administrative clerks at SFO who work inside the rental car terminal building on the fourth floor about 100 yards north from where the ready line is located. The administrative clerks answer employee questions regarding benefits, missing paychecks, and other matters; issue new and replacement uniforms to employees; and hand out paychecks. Raffio testified that the supervisor of the administrative department is Julie Singh who supervises the administrative clerks, cashiers and telephone operators. However, the record does not contain any other evidence regarding Singh's duties and responsibilities.

Cashiers. Cashiers are administrative employees who work at a booth on the fourth floor of the rental car terminal building near the area where rental cars are returned. The cashiers handle outstanding charges on a rental contract such as payments for filling the gas tank when the car is returned.

Employees At the Burlingame Facility.

As indicated above, since January 1, 1999, when the Employer's rental operations were shifted to the new SFO car rental terminal, no cars have been rented out of the Burlingame facility. Currently, the Burlingame facility consists of an annex and a car wash. At Burlingame, there are 2 to 3 service agents who work in car wash/gas area about 30 to 50 feet away from the mechanics' shop. They perform work similar to that performed by service agents at the SFO and downtown facilities. They wash and vacuum the new cars that are delivered to the Burlingame locations and the cars from other locations that have been brought to Burlingame to have repair work done. Two of these service agents previously (i.e., from January 1, 1999, until two weeks prior to the hearing) worked as service agents at SFO, and the other had worked as a bus operator for the Employer at SFO until January 1, 1999, when such bus operations for customers ceased. The former bus operator currently shuttles employees of the Employer from Burlingame to SFO each morning using a small shuttle bus and then performs regular service agent work at Burlingame for the remainder of the day.

The Burlingame facility has only one time clock and break room that the service agents, PDIs, mechanics and mechanics' helpers utilize.

PDI/Fleet Employees. The PDI classification is a subcategory of the service agent classification. The Employer takes new car deliveries at its Burlingame location and its 5 PDI employees perform pre-delivery inspections on these new vehicles and prepare them for rental. Their job includes inputting information about the new car into the computer system, removing the plastic covers and shields from the car; putting on the license plates; and preparing key tags. PDI Jose R. Diaz testified that he also helps the service agents wash and vacuum the cars. Diaz testified that when his janitor job at the Burlingame office was eliminated in January 1999, he was transferred into the position of PDI.

Mechanics and Mechanics' Helpers. The Employer's mechanics work only at its Burlingame facility in a separate mechanics' shop. Their job is to repair cars and to perform preventative maintenance. The record does not disclose whether the mechanics are licensed or certified; their level of training; or the types of tools they use. The mechanics are overseen by Luis Lopez, who has worked for the Employer as a mechanic for about 15 years.

The mechanics' helpers work with the mechanics. They perform such functions as changing tires, etc. They are not licensed mechanics.

Parts (Inventory) Clerk. The record discloses that there is at least one parts/inventory clerk, Cherry Ho, who works in the mechanics' building at the

Burlingame facility. Ho inputs information into the computer system on new cars; fleet controls; parts invoices; and parts inventory. She also shuttles cars and customers to SFO from the Burlingame location on a daily basis and has substituted as a service agent and a rental agent. Ho earns \$7.50 an hour. She testified that she began cross-training for the position of rental agent at SFO the day prior to the hearing.

Shuttler. There is one shuttler who moves cars between the Burlingame and SFO facilities.

Employees at San Francisco. The Employer employs service agents, RDLs, PSRs, rental agents and lead agents at its two San Francisco locations. They perform work similar to that performed by employees in the same classifications at SFO and Burlingame.

Supervision. Employer Regional Vice President Tony Juliano, is the head of all employees of the Employer in the Bay Area. City Manager Steve Raffio oversees the Employer's San Francisco operations, which are comprised of its SFO, Burlingame and two downtown San Francisco locations. Each of these individual locations has its own separate on-site management. In this regard, the parties stipulated, and I have found, that at SFO, Operations Managers Tony Ismajani, Fazneh Yountchi and Jimmy O'Conner are statutory supervisors. The downtown San Francisco locations each have their own separate supervisor whose name was not disclosed in the record. With regard to supervision at the Burlingame facility, the parties have stipulated, and I have found, that Maintenance Manager Henry Singh is a statutory supervisor who supervises all Burlingame employees, including the service agents, PDI employees, parts/inventory employees, mechanics and mechanics' helpers. Singh has no authority over employees at any other facility. Nor does the record disclose that the supervisors at the SFO or the downtown San Francisco locations have authority over employees at any other locations.

The Service Agent Leads. City Manager Raffio testified that with respect to the petitioned-for employees, prior to the summer of 1998, the Employer had a three-tiered supervisory structure with a manager, supervisor; and lead persons. About 8 months prior to the hearing in this case, the Employer eliminated the supervisors and retained only the operations managers and lead persons at the SFO and Burlingame facilities. At SFO, Service Agent Leads Carlos Salavarría, Oscar Dimahdahl, Pedrom Mouhdan and Julio Lopez now oversee the service agents, RDLs and PSRs. Salavarría and Dimahdahl were formerly classified by the Employer as supervisors. Although Raffio testified that he believed that Salavarría's pay was reduced when he went from being a supervisor to a lead person, the record does not contain any documentation in this regard.

The record disclosed that at the time of the hearing, the service agent leads reported to the Operations Managers at SFO and spent most of their work time overseeing the service agents, shuttlers, RDLs and PSRs. They are responsible for ensuring that the operation runs smoothly; they answer questions of employees and customers; they direct service agents to pick up cars; they check the computer each morning to ensure that the cars that are needed are available; and they sometimes help to clean and move cars. They also put soap in the car wash and they make sure that the car wash is working properly.

The service agent leads report any problems with employees to the operations managers at SFO and they have served as witnesses when disciplinary meetings with employees are held. According to City Manager Raffio, the leads do not possess any independent authority to hire, fire or discipline employees beyond giving them oral counselings. Decisions regarding the issuance of written warnings are decided by the operations managers after an independent investigation is made of the underlying circumstances involved. Suspensions and terminations require the involvement of the City Manager and an independent investigation is conducted. The record does not disclose that the service agent leads have any role in scheduling employees; evaluating them; or making recommendations regarding promotions. Nor does the record contain any other evidence establishing that the leads possess authority of a supervisory nature over the service agents, shuttlers, RDLs, PSRs or any other employees. The service agent leads are hourly paid and do not have any special benefits as a result of their position. The Petitioner contends that the service agent leads are supervisors within the meaning of the Act and the Employer takes the opposite position. As there is insufficient evidence in the record to establish that the service agent leads are statutory supervisors, they will be included in the unit.

At the Burlingame facility, lead mechanic Luis Lopez, who has worked for the Employer as a mechanic for about 15 years, oversees the other mechanics. According to City Manager Raffio, Lopez has the same level of authority as Service Agent Lead Salavarría and has no authority to hire, fire or discipline employees. Lopez is also used as a witness by the Employer in disciplinary interviews. He is hourly paid and the record does not disclose that he receives any special benefits as a result of his lead position.

Permanent Transfers. Raffio testified that since May 1998, there have been only four transfers involving petitioned-for employees, including one shuttler, Dolores Perkins, who transferred to the position of telephone operator; one service agent, Salvador Diaz, who transferred to the position of mechanics'

helper; one service agent who transferred to the inventory department; and one RDL, George Rukab, who transferred to the position of rental agent.

With regard to transfers between locations, the record shows that two of the three service agents at Burlingame worked at SFO until about 2 weeks prior to the hearing. City Manager Raffio further testified that the week prior to the hearing, the Employer transferred 2 rental agents from SFO to its downtown locations. The record does not contain any other evidence of permanent transfers involving the downtown facilities and the SFO and Burlingame facilities.

Temporary Interchange. The record reveals that service agents at SFO sometimes temporarily perform shuttler work, PSR work and the work of gate guards. Service agent Danny Elvena testified that he had worked as a PSR and gate guard while working at SFO. RDLs and PSRs also shuttle cars and sometimes perform gate guard work at SFO.

The petitioned-for employees do not regularly substitute for the rental agents, administrative employees, mechanics or mechanics' helpers nor do employees from the latter groups regularly substitute for the petitioned-for employees. There are certain individual exceptions, such as Burlingame Parts Clerk Cherry who testified that she regularly shuttles cars to SFO and has substituted as a service agent and a rental agent. Service Agent Elvena further testified that while rental agents generally do not clean cars, he recalled that "a long time ago" (prior to the opening of the SFO operation), the rental agents had operated the car wash and shuttled cars when things were very busy at the Burlingame location. The record does not contain any other evidence regarding the rental agents' performance of such work.

Contacts Among Employees. The service agents at SFO have regular daily contact with the shuttlers who move the cars up to the fourth floor. The shuttlers, RDLs and PSRs all work on the fourth floor at SFO and have regular daily contact with one another. All SFO employees take the shuttle bus from the Burlingame parking lot and see each other while riding the bus. Burlingame employees see the SFO employees because they all park in the same parking lot at Burlingame.

The three service agents at the Burlingame facility do not have regular contact with other employees in the petitioned-for unit at SFO, except to the extent they shuttle cars or substitute for RDLs or PSRs at SFO. However, as noted above, until a couple of weeks prior to the hearing in the instant case, they all worked as service agents at SFO. The service agents do have regular contact with the PDIs at Burlingame who clean new cars for the Employer's fleet. The service agents and PDI employees work in a separate area from the mechanics at Burlingame but do share the same break room

and use the same time clock as the mechanics and mechanics' helpers. However, service agent Elvena testified that although he uses the same break room and time clock as the mechanics, his schedule and break times differ from those of the mechanics.

Rental agents and service agents at SFO seldom have contact with each other in performing their work and they usually take their breaks in different break rooms. An exception occurs if a customer requests a special vehicle that is not on the ready line and the rental agent calls the service agent to locate the vehicle requested and bring it directly to the customer.

City Manager Raffio testified that administrative clerks at SFO come into contact with every other job classification at SFO because they act as the Employer's human resources department, answering employee questions about benefits, missing paychecks, insurance or other issues and because they issue employee uniforms and hand out paychecks. In this regard, Dolores Perkins, a receptionist/telephone operator at SFO who previously worked as a shuttler, testified that she answers the phones; extends contracts for customers; and handles the lost and found for the Employer. Perkins testified that she takes her breaks both in the first and fourth floor break rooms at SFO and on her breaks, she sees both service agents and rental agents. She further testified that she deals with service agents, RDLs and PSRs with regard to lost items of customers every day. She also shuttles cars on a daily basis for the Employer but has not worked as an RDL.

City Manager Raffio further testified that cashiers come into contact with PSRs because if a customer does not fill a gas tank or there is some other issue with a customer's contract when a car is returned, the PSR at times escorts the customer to the nearby cashier's booth.

Further, with regard to contacts between employees at Burlingame, the record reveals that service agents use the same break room as mechanics and mechanics' helpers. Additionally, all employees at Burlingame punch the same time clock which is located in the mechanics' shop.

Wages and Benefits. All of the petitioned-for employees are hourly paid on a weekly basis. The service agents earn between \$6.25 to \$12 an hour. The rental agents earn between \$5.25 to \$10 an hour. Mechanics' wages range from \$7.25 to \$15.50. PSRs and RDLs earn \$6 to \$10.25 an hour. Shuttlers earn \$5.75 to \$6.00 an hour. Telephone operators earn on the average about \$6 an hour. Cashiers earn about \$6.50 an hour. Administrative clerks earn \$6.50 to \$11.50 an hour.

All employees are eligible to participate in a bonus plan which varies by department. The rental agents' bonus plan earns them on the average about 200 to 300% of their

earnings from wages. The bonus of the rental agents is based on their selling extra items, such as insurance and upgraded vehicles. The service agents, shuttlers, RDLs and other hourly employees receive monthly bonuses that are not related to their own sales but rather to overall productivity; that is, the overall number of cars rented. All employees, including those at the San Francisco locations, receive the same benefits under FamPact, which is the Employer's contract with employees setting forth their rights and benefits. FamPact applies to employees at all Employer locations.

Employer Rules. All employees are subject to the same Employer rules and regulations and grievance procedures.

Hours. Rental agents work staggered shifts 24 hours a day, with the predominant shifts beginning at 7 a.m. and 3 p.m. or 4 p.m. Mechanics work from 7 a.m. till 3:30 p.m. The main shift for the service agents is 7 a.m. to 3:30 p.m. with some agents working 6 a.m. to 2:30 a.m. Telephone operators work 8 a.m. to 4: 30 p.m.

Uniforms. Service agents wear a company-provided uniform that includes a blue T-shirt; jacket, pants and a hat. Rental agents have a different uniform, consisting of a khakis, a blue striped shirt, pants and no hat. Gate guards, RDLs and PSRs all wear the same uniform, a description of which is not set forth in the record. Mechanics wear blue uniforms.

Job Postings and Cross-Training. All jobs are posted within the company in all departments and on e-mail throughout company and all employees are invited to apply for other jobs in other classifications. About four or five employees within the classifications at issue herein have changed jobs as a result of these postings. The record discloses that the Employer encourages employees to learn other job skills and provides cross-training for those interested in doing so. However, the record does not disclose whether such training is mandatory for employees. Cherry Ho, a parts agent at the Burlingame office, testified that the day prior to the hearing in this case, she began cross-training at SFO in a rental agent position. She testified that she had previously had no cross-training in the nine months she had worked for the Employer. At the time of the hearing, the Employer was also cross-training two shuttlers as RDLs or PSRs.

Bargaining History. There is no collective bargaining history at the locations herein at issue.

The record contains a copy of a petition filed on February 13, 1989, in Case 20-RC-16364, in which the Petitioner petitioned for a unit comprised of all full-time and regular part-time bus drivers and service agents employed by the Employer at its facility located in Burlingame, California; excluding all other employees, office-clerical employees, guards and supervisors as defined in

the Act. The parties thereafter entered into a Stipulated Election Agreement, in which the Employer and the Petitioner stipulated to a unit comprised of :

All full-time and regular part-time rental agents, service agents, rental agent supervisors, service agent supervisors, administrative supervisors, production supervisors, sales supervisors, cashiers and quality assurance employees employed by the Employer at its Burlingame, California facility; excluding city director, city manager, station manager, administrative controller, station manager production, station manager sales, guards and supervisors as defined in the Act.

The record discloses that this petition was withdrawn prior to an election being held.

The record also contains a Stipulation for Certification Upon Consent Election in Case 20-RC-15563, dated November 15, 1982, wherein Freight Checkers, Clerical Employees & Helpers Union, Local No. 856, IBT, AFL-CIO and the Employer stipulated to a unit that included all employees of the Employer at its Burlingame, California facility. However, this Stipulation did not result in a certification of Teamsters Local 856 as the collective bargaining representative of these employees. Indeed, none of the employees at issue herein have ever been represented for purposes of collective bargaining by the Petitioner or by any other labor organization.

Area Bargaining Pattern. The record contains several current collective-bargaining agreements between the Petitioner and other car rental agencies in the San Francisco Bay Area, including Avis, National, Budget and Hertz. These agreements show that the Petitioner represents bargaining units comprised of service agents and dispatchers at Avis; service agents and tire persons at National; and car washers, polishers/lubricators, tire service persons, tow persons, utility persons and car movers at Budget. The term utility person is described as all employees primarily engaged in manual work in shops, garages, and lots, but who are not covered by any other contract and are not described herein. At Hertz, the Employer represents a bargaining unit comprised of vehicle service attendants, tire service and auto transport drivers. (The Petitioner's President, Richard Rodriguez, testified that even though these contracts included courtesy bus drivers, the rental agencies at SFO no longer employ courtesy bus drivers). All of these contracts cover employees at both downtown San Francisco and SFO locations. None of them cover mechanics, mechanics helpers or rental agents. According to Rodriguez, the Petitioner has no contracts with car rental agencies that cover rental agents or mechanics.

Rodriguez further testified that all of these collective bargaining relationships have been in existence for 35 years or longer and that none have ever

covered rental agents or mechanics. Glenn Gandolfo, a business agent for Machinists Automotive Trades District Lodge 190, herein called the Machinists Union, testified that the Machinists Union represents mechanics at Hertz, Avis, and National at SFO and is currently attempting to organize the mechanics at the Employer's Burlingame facility. According to Rodriguez, Budget has no mechanics. According to Rodriguez and Teamsters Local 856 senior business agent and trustee Julie A. Wall, Teamsters Local 856 represents the rental agents at Hertz, Avis, National and Budget at SFO.

Rodriguez testified that he believed the Petitioner's constitution prohibited it from representing the rental agents because they are within the jurisdiction of Teamsters Local 856.

Analysis. As noted above, the Petitioner seeks to represent a unit comprised of all full-time and regular part-time service agents, gate guards, PDI/fleet control employees, shuttlers, RDL/Best Friends and PSR/Best Friends employees employed by the Employer at its Burlingame and SFO facilities while the Employer contends that the only appropriate unit is one that includes all of the employees at its Burlingame, SFO and downtown San Francisco locations.

Section 9(b) of the Act provides that the Board "shall decide in each case whether . . . the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof." As stated by the Board in Overnite Transportation Company, 322 NLRB 723 (1996), "It is well-settled . . . that there is more than one way in which employees of a given employer may be appropriately grouped for purposes of collective bargaining." In deciding whether a unit is appropriate, the Board first considers the union's petition and whether that unit is appropriate. See Overnite, supra; P.J. Dick Contracting, 290 NLRB 150, 151 (1988). If the petitioner's unit is not appropriate, the Board may consider an alternative proposal for an appropriate unit. P.J. Dick Contracting, supra. The Board does not compel a petitioner to seek any particular appropriate unit. Rather, the Board considers only whether the unit requested is an appropriate unit, not whether it is the optimum or most appropriate unit for collective bargaining. Overnite, supra and cases cited therein. As stated by the Board in Overnite, supra: "A union is, therefore, not required to request representation in the most comprehensive or largest unit of employees of an employer unless "an appropriate unit compatible with that requested unit does not exist." See also P. Ballantine & Sons, 141 NLRB 1103, 1107 (1963); accord: Ballentine Packing Co., 132 NLRB 923, 925 (1961).

The Scope of the Unit. In order to determine if employees who work at different locations should be included in the same bargaining unit, the Board examines such factors as the centralized control over daily operations and

labor relations matters, including the extent of local autonomy; the similarity of employee skills, functions and working conditions; the degree of employee interchange; the distance between locations; and bargaining history, if any exists. See NLRB v. Carson Cable TV, 795 F.2d 879 (9th Cir. 1986). Because the Petitioner is seeking a unit comprised of more than one location, there is no single-facility presumption of appropriateness applied in determining the scope of the unit herein. Rather, the above considerations are weighed to determine whether the petitioned-for unit of employees at Burlingame and SFO is an appropriate unit and, if it is not, whether the only appropriate unit is one that also includes employees at the downtown San Francisco locations as contended by the Employer.

In the instant case, the Employer's City Manager has centralized control over the petitioned-for employees at the SFO, Burlingame and downtown San Francisco locations, but each location has its own separate local supervision. The FamPact agreement applies to all of the Employer's employees and governs their terms and conditions of employment and employees at each of these locations perform similar work as do employees at the other locations.

With regard to the SFO and Burlingame locations, there are certain common factors which support their inclusion in the same unit which do not apply to the downtown San Francisco locations. Thus, prior to January 1, 1999, all of the operations now conducted at SFO had been conducted at the Burlingame facility. The Burlingame service agent employees had worked at SFO from January 1, 1999, until a couple of weeks prior to the hearing in this case. Prior to the opening of the SFO facility in January, 1999, these service agents had worked together with all the other service agents at Burlingame. All of the SFO employees share a common parking lot with Burlingame employees and take a shuttle bus each day from the Burlingame facility to SFO. These two locations are only 3 miles apart whereas the downtown San Francisco locations are about 10 miles away. Further, there is a significant degree of interchange between employees at these two locations which is not shown with regard to the downtown San Francisco locations. Finally, the SFO and Burlingame locations are highly integrated operations, with employees often shuttling cars between the two locations and a service agent at Burlingame driving the shuttle bus to take SFO employees to work each morning.

In these circumstances, even though employees at the downtown locations perform similar work and may be subject to similar terms and conditions of employment by being subject to FamPact and may have common overall management with the SFO and Burlingame facilities, I do not find that they must be included in the unit in order for it to be an appropriate unit. Nor do I find that the pattern of bargaining between the Petitioner and the other rental car agencies warrants the conclusion that the unit must include the downtown locations given the distance, separate local supervision and lack of evidence of interchange in the instant case.

Accordingly, I find that the petitioned-for unit that includes only employees at the SFO and Burlingame facilities is an appropriate unit.

Composition of the Unit. In determining whether composition of a petitioned-for unit is an appropriate unit, the Board examines whether the employees share a “community of interest.” *NLRB v. Action Automotive*, 469 U.S. 490, 494 (1985). This examination involves weighing various community of interest factors, including the:

Difference in method of wages or compensation; different hours of work; different employment benefits; separate supervision; the degree of dissimilar qualifications; training and skills; differences in job functions and amount of working time spent away from the employment or plant situs. . . the infrequency or lack of contact with other employees; lack of integration with the work functions of other employees or interchange with them; and the history of bargaining. *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 137 (1962); *Overnite*, supra, at 724.

Thus, the Board proceeds on a case-by-case basis in making its decision based on an examination of the facts presented in each case with regard to the foregoing factors. *Overnite*, supra. An examination of cases in the car rental industry shows that there is no standard bargaining unit in this industry and that the Board utilizes this same case by case approach. See, e.g., *The Hertz Corporation*, 319 NLRB 597 (1995) (where appropriate unit found was comprised of all rental representatives, reservationists, office clericals, courtesy bus drivers, shuttlers, and all garage attendants and combination workers [greasers, checkers tire persons]); *Budget Rent-a Car of New Orleans, Inc.*, 220 NLRB 1264 (1975) (appropriate unit comprised of garage employees); *Avis Rent-a-Car System, Inc.*, 280 NLRB 580 (1986) (appropriate unit comprised of shuttlers); *Avis Rent-Car System, Inc., Car Rental Division*, 237 NLRB 172 (1978) (appropriate unit comprised of garagemen and parking lot attendants); see also *M.H.T. Corporation, d/b/a Dollar Rent-a-Car*, 250 NLRB 361 (1980).

With regard to the difference in wages or compensation, the petitioned-for employees are all hourly paid and punch a time clock and receive similar benefits. They also have a common bonus system. While the rental agents, mechanics and other administrative personnel, such as cashiers, administrative clerks and telephone operators, are hourly paid as are petitioned-for employees, they have different wage rates from the petitioned-for employees. Thus, the mechanics, for example, have a substantially higher rate of pay than do most of the employees in the petitioned-for employees and the rental agents have a significantly different bonus system.

In addition, most of the petitioned-for employees have similar or overlapping schedules. Mechanics, rental agents and other administrative employees have work hours which differ from those of most petitioned-for employees.

All of the petitioned-for employees at SFO have common supervision and all of the petitioned-for employees at the Burlingame facility have common supervision. The mechanics and mechanics' helpers have common supervision at Burlingame with the 3 service agents and PDIs working there.

Further, it appears that in repairing vehicles, the mechanics perform significantly different work requiring different skills than the work performed by the petitioned-for employees who are either cleaning or moving cars around or inputting information on cars into hand-held computers. Likewise, the work of the rental agents appears to require somewhat different skills in that their primary job is to greet customers and create rental agreements. The work of the other administrative employees such as the cashiers and administrative clerks also differs in that they are dealing almost entirely with personnel matters or working in a cashiers' booth.

While it appears that employees in all classifications have some degree of limited contact with each other such as when they ride on the shuttle bus to and from work or see each other in the break room, the record shows that the mechanics and mechanics' helpers work in their own area at Burlingame and the rental agents work in a separate area at SFO away from the other unit employees. Further, the record does not establish that there is a significant degree of transfer or interchange among mechanics, mechanics helpers, rental agents, administrative personnel and the rest of the employees in the petitioned-for unit.

Finally, there is no history of collective bargaining herein. In this regard, I do not find that the 1989 stipulation to a wall-to-wall unit by the parties provides a basis for a finding that the only appropriate unit is an overall unit. That stipulation did not result in a bargaining relationship and it occurred 10 years ago. Moreover, the area pattern of bargaining in the industry supports a unit limited to the petitioned-for classifications.

In sum, I find that based on an examination of the foregoing factors and particularly on the similar nature of the work performed by petitioned-for employees; the similarities in pay; their contact and interchange with each other; and the common supervision of the service agents, RDLs and PSRs at SFO and the common supervision of the service agents and the PDLs at Burlingame; and the pattern of bargaining of this industry in the Bay Area, that the petitioned-for unit is an appropriate unit for collective bargaining purposes.

In this regard, I do not find that the limited evidence of interchange and contact between rental agents, other administrative personnel and mechanics and unit personnel warrants a different conclusion nor does the fact that there is some overlapping supervision between groupings excluded and those included.

With regard to parts/inventory clerk Cherry Ho, it appears from the record that Ho has common supervision with other petitioned-for employees and has regular interchange and daily contact with them. On the other hand, she works in the mechanics' area at the Burlingame location and performs mostly computer input work. Further, at the time of the hearing she was cross-training for a rental agent position. Thus, on the whole, it does not appear that Ho shares a community of interest with the unit employees sufficient to warrant her inclusion in the unit.

Although the Employer asserted that it employs undisclosed number of custodians at its SFO and/or Burlingame facility, the record does not disclose sufficient evidence to determine whether they should be included or excluded from the unit. Accordingly, they will be allowed to vote subject to challenge.

Accordingly, an election is hereby ordered in the petitioned-for unit with the modifications noted above.

5/ As stated above, the Employer employs an undisclosed number of gate guards at SFO who work at a gate house making certain that the Employer's cars only leave the rental car terminal building with authorized customers. Although no party raised the issue of whether these individuals were guards who should be excluded from the unit, it appears from the record that they perform a security function in protecting the Employer's vehicles from theft. Therefore, although the record does not show that they carry weapons or receive any special training other than how to log in the vehicles that are exiting the lot, it appears that they are statutory guards who should be excluded from the unit. See Allen Service Co, Inc., 314 NLRB 1060, 1062 (1994); The Wackenhut Corporation, 196 NLRB 278 (1972); The Hertz Corporation, 20-RC-17463. Accordingly, even though neither party has raised this issue, I find that these employees are excluded from the unit as statutory guards.

6/ The parties stipulated, and I find, that SFO Operations Managers Tony Ismajani, Fazneh Yountchi and Jimmy O'Conner and Burlingame Maintenance Manager Henry Singh are supervisors under the Act based on their authority to responsibly direct employees under their supervision. Accordingly, they are hereby excluded from the unit.

The Employer asserts that Lead Mechanic Luis Lopez, Rental Agent Shift Supervisor Robert Peterbough and Administrative Department Supervisor should be included in the unit while the Petitioner contends that they are statutory supervisors who should be excluded from the unit. The record does not contain sufficient evidence to allow for a determination as to whether these individuals are statutory supervisors. However, in view of my determination that mechanics, rental agents and the administrative department personnel should be excluded from the unit, it is unnecessary to determine their status as statutory supervisors

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