

In the Matter of C. PAPPAS COMPANY, INC. (GLORIA FOOD STORES, GLORIA CHAIN STORES AND C. PAPPAS RETAIL STORES), EMPLOYER and RETAIL, WHOLESALE, DEPARTMENT STORE UNION, NEW ENGLAND JOINT BOARD, CIO, PETITIONER

Case No. 1-RC-722.—Decided December 15, 1948

DECISION

AND

ORDER

Upon a petition duly filed, a hearing was held before Robert E. Greene, a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organizations named below claim to represent certain employees of the Employer.

3. The Petitioner in agreement with Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, Local 592, herein called the Intervenor, seeks a unit comprising the employees of the Employer's stores in Metropolitan Boston. The Employer contends that the only appropriate unit consists of all its employees in all its stores wherever located.

The Employer is a Massachusetts corporation engaged in the distribution of liquor, beer, and wine, and the sale of imported food-stuffs at wholesale and retail. At present, the Employer maintains 21 stores in approximately 17 municipalities in and nearby the city of Boston. Of these stores, the Petitioner and Intervenor seek a unit which would include those located in Lynn, Revere, Beverly, Medford, Everett, Hyde Park, East Boston, and Newton, Massachu-

*Reynolds, Murdock, and Gray.

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setts, and would exclude those located in Brockton, Shrewsbury, Lawrence, Franklin, Leominster, Grafton, Fitchburg, Milford, and Plymouth, Massachusetts.

The stores designated above by the Petitioner as being the basis of an appropriate unit do not fall into any distinguishable geographic area, can hardly be said to constitute Metropolitan Boston, inasmuch as Beverly which is approximately 30 miles north of Boston is sought to be included whereas Lawrence and Brockton, both in the same direction although closer, would be excluded from such unit. Nor does it appear that the Employer operates on a district or area system, but rather that all of its operations are conducted as an integrated whole.

The Employer maintains a principal office in Boston from which it governs its operations wherever located upon the basis of an over-all management and personnel policy. It maintains one warehouse from which all stores are serviced. Purchases for all stores wherever located are made by one buyer for each category of goods. Each buyer operates out of the main office and circulates among all of the stores. All of the stores are under the supervision of one supervisor who works out of the main office and circulates among them. Although each store is under the direct supervision of the store manager, he does not have substantial independent authority to hire, promote, or discharge employees, as this function is carried out either by the supervisor or the buyers. Interchange of employees whenever necessary is accomplished without regard to geographic considerations. It appears further that the Employer maintains one pay-roll and vacation and hospitalization plan for all of its employees. All records relating to social security, withholding tax, and unemployment compensation deductions, are maintained in the main office.

The foregoing indicates that the Employer's operations are conducted as an integrated whole with all authority emanating from its main office. The uniformity of wages, hours of employment, vacation and hospitalization plans, its over-all personnel and management policy, as well as the common ultimate supervision, and the interchange of employees whenever necessary, all are factors favoring an over-all unit.¹ We conclude that the only basis for the proposed unit is the extent of the Petitioner's organization among the employees herein involved. However, the Act, as amended, precludes a finding on this basis alone.²

¹ *Matter of Westbrook Enterprises, Inc.*, 79 N. L. R. B. 1032; *Matter of Geneva Forge, Inc.*, 76 N. L. R. B. 497.

² Section 9 (c) (5) provides: "In determining whether a unit is appropriate for the purposes specified in subsection (b) the extent to which the employees have organized shall not be controlling."

Since it appears that the proposed unit is restricted to a portion of an over-all operation of the Employer, we find, in view of the over-all management and personnel policy, as well as the integrated operations of the Employer, and upon the entire record in this case, that a unit limited to the employees sought to be represented by the Petitioner is inappropriate for the purposes of collective bargaining.³

As we have found that the unit sought by the Petitioner is inappropriate, we also find that no question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the National Labor Relations Act. We shall, therefore, dismiss the petition.

ORDER

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives of employees of C. Pappas Company, Inc. (Gloria Food Stores, Gloria Chain Stores and C. Pappas Retail Stores), Boston, Massachusetts, filed by Retail, Wholesale, Department Store Union, New England Joint Board, CIO, be, and it hereby is, dismissed.

³ *Matter of Westbrook Enterprises, Inc., supra.*