

In the Matter of ALABAMA MILLS, INC. and UNITED TEXTILE WORKERS
OF AMERICA, AFFILIATED WITH THE A. F. L.¹

Case No. 10-R-1293.—Decided October 11, 1944

Martin, Turner & McWhorter by *Mr. H. A. McWhorter* of Birmingham, Ala., for the Company.

Mr. M. B. Scarborough, of Birmingham, Ala., for the Union.

Mr. Samuel G. Hamilton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Textile Workers of America, affiliated with the A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Alabama Mills, Inc., Clanton, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before T. Lawry Whittaker, Trial Examiner. Said hearing was held at Clanton, Alabama, on September 7, 1944. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Alabama Mills, Inc., is a Delaware corporation, operating 10 textile mills in the State of Alabama, with its headquarters at Birmingham, Alabama. Only the mill located at Clanton, Alabama, is involved in

¹ Name as amended at the hearing.

this proceeding. During the past 12 months the Company purchased raw materials, consisting of cotton, machinery, parts, equipment and supplies, valued in excess of \$90,000, of which about 75 percent came from points outside the State of Alabama. During the same period the Company manufactured finished products, consisting of cotton textile products, valued in excess of \$700,000, of which almost all were sold, shipped, and delivered to points outside that State.

The Company admits, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Textile Workers of America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of the Trial Examiner, made on the record, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.²

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union seeks a bargaining unit consisting of all employees of the Company's Clanton mill, including roller shop employees and watchmen, but excluding overseers, drink-stand operators, office and clerical employees, deputized guards, and supervisory employees. The Company agrees with the position of the Union, except that it would exclude the roller shop employees and the watchmen.

Roller shop employees. There are five roller shop employees. The roller shop is located on the mill premises, being part of the same building in which the waste house is located, and receives steam from the mill power house. The machinery in the roller shop is maintained by a mill overseer, who is a master mechanic. The Company employs one guard who admits both employees of the mill and of the roller shop through the main office. Pay checks are made out for the mill

² The Trial Examiner stated that the Union submitted 156 application for membership cards bearing apparently genuine signatures, and that there were 269 employees in the unit alleged in the petition to be appropriate.

and the roller shop by the cashier of the Clanton mill and they are distributed to all employees on the same day.

The Company points out that the supervisor of the roller shop is responsible to the general superintendent at Birmingham and not to the superintendent of the Clanton mill, that the roller shop prepares the rolls for all mills of the Company including the Clanton mill, and that the Clanton mill is charged for work done for it. The Company also claims that there are differences in certain conditions of employment at the roller shop and the mill.

With respect to the difference in supervision, the roller shop and the mill are both parts of a single corporate entity and the ultimate control of all the policies of the Company as they relate to the employees of the roller shop and the mill would appear to rest in the same hands. While there are some differences in conditions of employment, the roller shop employees cover rolls with leather and an employee in the mill covers rolls with cork, thus indicating a similarity of functions for both the mill and the roller shop, and there is no question but that the rolls covered in the roller shop are used by the Clanton mill. Working conveniences are about the same. Moreover, two of the employees now in the mill could replace two of the five employees in the roller shop, one with no preliminary training. Both the shop and the mill employ semi-skilled workers, the mill some highly skilled workers as well. We shall include the five roller shop employees in the unit.

Watchmen. There are three unmilitarized watchmen in the plant, who, in connection with their duties of firing the boiler, also turn keys in clocks, and watch over the premises. They are armed but do not wear uniforms. Apparently, they merely perform the customary duties of watchmen in addition to firing the boiler: Accordingly, we shall include them in the appropriate unit.³

We find that all employees of the Company's Clanton mill, including roller shop employees and watchmen, but excluding overseers, drink-stand operators, office and clerical employees, deputized guards, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-

³ *Matter of Hamrick Mills*, 44 N. L. R. B. 238, 240.

roll period immediately preceding the date of the Direction herein subject to the limitations and additions set forth in the Direction. The Union's request that it appear on the ballot as "United Textile Workers of America, Local 84, affiliated with the A. F. L.," is hereby granted.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Alabama Mills, Inc., Clanton, Alabama, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Tenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by United Textile Workers of America, Local 84, affiliated with the A. F. L., for the purposes of collective bargaining.

Mr. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.