

In the Matter of THE J. L. HUDSON COMPANY and UPHOLSTERERS'
INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 31, A. F. L.

Case No. 7-R-1849.—Decided November 13, 1944

Beaumont, Smith and Harris, by *Mr. Albert E. Meder*, of Detroit, Mich., for the Company.

Mr. L. K. Hougham, of Detroit, Mich., for the Union.

Mr. Philip Licari, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Upholsterers' International Union of North America, Local 31, A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The J. L. Hudson Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Cecil Pearl, Trial Examiner. Said hearing was held at Detroit, Michigan, on October 12, 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

The J. L. Hudson Company, a Michigan corporation having its principal offices and place of business in Detroit, Michigan, is engaged in the purchase and resale of various types of goods and commodities at a retail department store in Detroit, Michigan. During the fiscal year ending January 31, 1942, the Company purchased goods valued

at approximately \$43,000,000, of which in excess of 80 percent was shipped from points outside the State of Michigan. During the same period, the Company's total sales were in excess of \$71,000,000, of which 1.6 percent was shipped to points outside the State of Michigan. Also during the same period, the Company's sales through its mail order department were in excess of \$500,000, of which approximately 15 percent was sold to customers outside the State of Michigan. In the same fiscal period, the Company advertised its business and merchandise through newspapers, periodicals, radio, and direct mail, at a cost in excess of \$1,500,000. Several of said newspapers and periodicals are published outside the State of Michigan, and each of said radio stations has a coverage of, and carries advertising to, several States other than the State of Michigan. The business operations of the Company are approximately the same today as for the aforesaid fiscal period.

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

Upholsterers' International Union of North America, Local 31, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On June 27, 1944, the Union advised the Company that it represented a majority of certain of the Company's employees and wished to be recognized as its sole bargaining representative. On July 8, 1944, the Company refused to recognize the Union until it is certified by the National Labor Relations Board in an appropriate unit.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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 unit of all employees of the upholstery workroom, except for the clerk and the janitor assigned to the upholstery workroom, the assistant foreman and the foreman, and all other super-

¹The Field Examiner reported that the Union submitted 10 authorization cards, of which 9 were dated July 1944, and 1 was undated. He also reported that there were 23 employees in the alleged appropriate unit.

visory employees. The Company contends that a unit of all its employees is appropriate.

The Company operates a large retail store in Detroit, Michigan, and among its other activities, it is engaged in the reupholstering of furniture for its customers. In connection with its reupholstering activities, the Company employs 26 workers classified as upholsterers, sewers, cutters, cabinet makers, and finishers,² and one apprentice. They all work in the upholstery workroom which is located in one of the Company's warehouses. The workroom is part of the drapery department, the balance thereof being located in the retail store itself. The work of these employees is closely integrated. Thus, when a piece of furniture is brought into the upholstery workroom to be reupholstered, the apprentice removes the old upholstery, the cutters cut the new upholstery material, the sewers sew the new upholstery material, the cabinet maker restyles the furniture, the upholsters do the reupholstering, and the finishers refinish the frames. It appears that the employees in the upholstery workroom comprise a homogeneous group under separate supervision, and there is no interchange of employees between the upholstery workroom and that part of the drapery department located in the retail store or the Company's other departments. It also appears that these employees desire to be represented by the Union. In previous representation cases involving the Company, the Board rejected the Company's present contention with respect to the appropriate unit.³ In this proceeding no additional evidence has been presented to warrant a change in the position previously taken by the Board regarding the Company's contention.

We find that all employees of the Company's upholstery workroom, excluding the clerk and the janitor assigned to the upholstery workroom, the assistant foreman, the foreman, and all other 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 payroll period immediately preceding the date of the Direction of Elec-

² In *Matter of The J. L. Hudson Company*, 49 N. L. R. B. 273, the Board found to be appropriate a unit "of all paint sprayers, cabinet makers and furniture finishers employed on the third and sixth floors of the Company's warehouse No. 1, excluding supervisory and clerical employees . . ." However, the cabinet makers and finishers referred to in the present proceeding are not part of that unit.

³ See *Matter of The J. L. Hudson Company*, 49 N. L. R. B. 273; 54 N. L. R. B. 695; 56 N. L. R. B. 406.

tion herein, subject to the limitations and additions set forth in the Direction.

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 The J. L. Hudson Company, Detroit, Michigan, 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 Seventh 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 the 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 Upholsterers' International Union of North America, Local 31, A. F. L., for the purposes of collective bargaining.