

In the Matter of PLOUGH, INC. and UNITED GAS, COKE & CHEMICAL WORKERS, AFFILIATED WITH THE CONGRESS OF INDUSTRIAL ORGANIZATIONS

Cases Nos. 15 R-1176, 15-R-1202 and 15-R-1214, respectively.—Decided December 11, 1944

Mr. Clarence Clifton and Mr. Leo Goodman, of Memphis, Tenn., for the Company.

Mr. W. A. Copeland, of Memphis, Tenn., for the CIO.

Mr. Fred Olds, of East St. Louis, Ill., for No. 20047.

Mr. L. M. Fagan, of Memphis, Tenn., for the Machinists.

Mr. B. F. Brown, of Memphis, Tenn., for the Printing Trades.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by United Gas, Coke & Chemical Workers, affiliated with the Congress of Industrial Organizations, herein called the CIO, each alleging that a question affecting commerce had arisen concerning the representation of employees of Plough, Inc., Memphis, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Lawrence H. Whitlow, Trial Examiner. Said hearing was held at Memphis, Tennessee, on September 29, 1944. The Company; the CIO; Cosmetic Manufactory Employees Union, No. 20047, herein called No. 20047; International Association of Machinists, Local 14, herein called the Machinists; and Allied Printing Trades Union, representing Memphis Printing Pressmen's Union No. 18, Memphis Bookbinders' Local Union No. 171, and Memphis Typographical Union Local 11, herein called the Printing Trades, appeared, participated, and 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 preju-

dicial error and are hereby affirmed. All parties were afforded 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

Plough, Inc., is a Delaware corporation having its principal offices and place of business at Memphis, Tennessee, where it manufactures drugs and cosmetics at three plants, located at 491 South Main Street, at 705-735 South Fifth Street, and at Second and Gayoso Streets, respectively. The Company purchases annually for its plants raw materials valued in excess of \$1,000,000. The greater part of the Company's purchases comes to its plants from points outside Tennessee, and approximately 90 percent of its finished products are shipped to points outside the State.

We find that the Company is engaged in commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Gas, Coke & Chemical Workers is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Cosmetic Manufactory Employees Union, No. 20047; International Association of Machinists, Local 14; and Allied Printing Trades Union are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On July 1, July 30, and August 19, 1944, the CIO sent telegrams to the Company requesting recognition as bargaining representative of employees at the Company's plants. No answer was received by the CIO to any of these telegrams.

No. 20047 contends that it is the bargaining representative of employees at the Company's Second and Gayoso Streets plant and further contends that contracts between the Company and No. 20047 covering employees at this plant, constitute a bar to a determination of representatives for such employees at this time. We do not agree. On November 15, 1941, the Company and No. 20047 entered into a 2-year contract covering employee members of No. 20047 working at this plant. On April 7, 1943, the same parties entered into a further agreement extending the terms of the 1941 contract to November 13, 1945. Since the contracts are limited in coverage to members of the contract-

ing organization, we find that they constitute no bar to a determination of representatives for employees at this plant at this time.¹

A statement of a Board agent, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the units hereinafter found appropriate wherein it seeks certification.²

We find that questions affecting commerce have 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 UNITS

We find, in accordance with the stipulation of the parties, that the following groups of employees at the Company's plants constitute separate units appropriate for the purposes of collective bargaining,³ within the meaning of Section 9 (b) of the Act:

1. All employees of the Company at its 491 South Main Street plant, Memphis, Tennessee, excluding office and clerical employees, 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;

2. All employees of the Company at its 705-735 South Fifth Street plant, Memphis, Tennessee, excluding office and clerical employees, maintenance mechanics, employees in the printing and box departments,⁴ 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;

3. All maintenance mechanics at the Company's 705-735 South Fifth Street plant, Memphis, Tennessee, excluding all other employees at the plant 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;

4. All employees at the Company's Second and Gayoso Streets plant, Memphis, Tennessee, excluding office and clerical employees, maintenance mechanics, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect

¹ *Matter of Pennsylvania Greyhound Lines*, 3 N. L. R. B. 622, 646.

² The Union submitted 235 membership cards dated in June, July, and August 1944. Of these cards 86 purport to bear the signatures of employees at the Main Street plant; 100, signatures of employees at the Fifth Street plant; and 49, signatures of employees at the Second and Gayoso Streets plant. The cards were not checked against the Company's pay rolls. The Union alleges, without contradiction by the Company, that the respective units in the plants as listed include approximately 68, 130, and 200 employees.

³ The Company employs no maintenance mechanics at its 491 South Main Street plant. At its 491 South Main Street plant and at its Second and Gayoso Streets plant there are employed no employees eligible to membership in the Printing Trades.

⁴ Employees in the printing and box departments are represented by the Printing Trades and presently bargain with their employer through this labor organization.

changes in the status of employees, or effectively recommend such action; and

5. All maintenance mechanics at the Company's Second and Gayoso Streets plant, Memphis, Tennessee, excluding all other employees at the plant 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.

V. THE DETERMINATION OF REPRESENTATIVES

We find that the questions concerning the representation of employees of the Company can best be resolved by separate elections by secret ballot.

The Printing Trades claims to represent no employees in any of the units found appropriate above and we shall make no provision for it to participate in any of the elections which we shall now direct. The Machinists, substantially conceded by all parties to have an appreciable interest therein, is the only labor organization desiring to participate in the elections among the maintenance mechanics in units 3 and 5 described above. No. 20047 desires to participate with the CIO in the elections among employees in units 1, 2, and 4 described above, covering general employees at each of the Company's three plants. No. 20047 is presently the bargaining representative of its members at the Second and Gayoso Streets plant, and we shall provide that it participate in the election among employees at this plant. The record does not disclose that No. 20047 has any membership among employees at either of the other plants. The several plants of the Company are run as independent enterprises. There is no interchange of employees and no interdependence of operation among them. The CIO contends that No. 20047 should not therefore participate at these elections. Under these circumstances, we shall make no provision for No. 20047 to participate in the elections among employees at the South Fifth and South Main Streets plants.

Those eligible to vote in the separate elections, which we shall now direct shall be all employees in the respective units found appropriate above, who were employed during the pay-roll period immediately preceding the date of this Decision and Direction of Elections, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 Plough, Inc., Memphis, Tennessee, separate elections 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 Fifteenth 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 respective units described below, 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:

1. Among all employees in unit 1 described in Section IV, above, to determine whether or not they desire to be represented by United Gas, Coke & Chemical Workers, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining;

2. Among all employees in unit 2 described in Section IV, above, to determine whether or not they desire to be represented by United Gas, Coke & Chemical Workers, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining;

3. Among all employees in unit 3 described in Section IV, above, to determine whether or not they desire to be represented by International Association of Machinists, Local 14, A. F. L., for the purposes of collective bargaining;

4. Among all employees in unit 4 described in Section IV, above, to determine whether they desire to be represented by United Gas, Coke & Chemical Workers, affiliated with the Congress of Industrial Organizations, or by Cosmetic Manufactory Employees Union, No. 20047, A. F. L., for the purposes of collective bargaining, or by neither; and

5. Among all employees in unit 5 described in Section IV, above, to determine whether or not they desire to be represented by International Association of Machinists, Local 14, A. F. L., for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Elections.