

IN the Matter of HICKS EQUIPMENT COMPANY, EMPLOYER *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, CIO, PETITIONER

Case No. 34-RC-173.—Decided June 7, 1950

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before John K. Pickens, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Styles].

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

1. The Employer is engaged in buying, reconditioning, and selling used Ford motors and other automobile parts at Charlotte, North Carolina. A provision of an agreement between the Employer and Ford Motor Company provides that the Employer maintain an adequate stock of reconditioned parts to supply the needs of certain North Carolina Ford dealers. The agreement contains no franchise or agency and covers no specified geographical territory. The Employer operates within a radius of 150 miles in and about Charlotte, North Carolina, all within the State of North Carolina. The Employer purchases old motors from Ford dealers and salvage operators in North Carolina. Its reconditioning is conducted on an exchange basis, the dealer exchanging an old motor for each reconditioned motor.

During the year ending July 31, 1949, the Employer purchased raw materials valued at over \$466,000, approximately 10 percent of which was purchased outside the State of North Carolina. Of the \$419,000 spent for purchases within the State, approximately \$150,000 was spent for the purchase of new automobile parts, 90 percent of which was Ford parts. Of these Ford parts, approximately 75 percent was obtained from Ford Motor Company Depot at Charlotte, and 25 percent was ordered through local Ford dealers in Charlotte. All parts pur-

¹ The Employer's motion to correct the transcript of the record in certain particulars set forth in the motion, to which the Petitioner makes no objection, is granted. The transcript is deemed corrected in accordance therewith.

chased from Ford Motor Company Depot at Charlotte are obtained by the Depot from vendors throughout the United States. There is no Ford Motor manufacturing plant in North Carolina. The remaining \$268,000 for purchases was expended for old motors and parts, obtained from local Ford dealers and salvage operators. Among its out-of-State purchases, valued at approximately \$47,000, the Employer bought cleaning and grinding materials, carburetor parts and gaskets, and generator and starter parts direct from out-of-State vendors. The Employer also received direct shipments of parts in small amounts, by parcel post or express, from Ford Motor Company at Dearborn, Michigan.

During the same period, the Employer sold finished products, valued in excess of \$530,000, the entire amount of which was sold within the State of North Carolina.

The Employer has approximately six competitors in North Carolina who are engaged in reconditioning motors. The Employer does not sell new or used automobiles, gas, oil, tires, or other accessories. It sells for cash or on credit, and does its own financing. It does not recondition bus or truck motors for any large manufacturing or transportation companies in the area.

The Employer contends that its operations are essentially local in character, that they do not affect commerce within the meaning of the Act, and that, in any event, the Board should not assert jurisdiction in this case. Although we do not agree that the Employer's business does not affect commerce, we agree that the operations of the Employer are essentially local in character, and that it would not effectuate the policies of the Act to assert jurisdiction in this case.² Accordingly, we shall dismiss the petition herein.

ORDER

On the basis of the foregoing findings of fact and upon the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Hicks Equipment Company, Charlotte, North Carolina, filed herein by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, CIO, be, and it hereby is, dismissed.

² *H. L. Boniface, d/b/a/ Motor Replacement Company*, 82 NLRB 690; and *Philip N. Koritzky, d/b/a/ Bangor Auto Body Shop*, 82 NLRB 688; cf. *The Fuller Automobile Company, d/b/a The Fuller Automobile Company and Fuller Manufacturing & Supply Company*, 88 NLRB 1452; *Lawrence Hollbrook, et al.*, 80 NLRB 679.