

### Order

IT IS HEREBY ORDERED that the petition filed in this case be, and it hereby is, dismissed.

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LOUIS ROSE COMPANY and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW-CIO). *Case No. 7-CA-633. June 13, 1952*

### Decision and Order

Upon a charge duly filed August 13, 1951, and an amended charge filed November 5, 1951, by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO), herein called the Union, the General Counsel of the National Labor Relations Board, herein called the General Counsel, by the Regional Director for the Seventh Region, issued a complaint dated December 19, 1951, against Louis Rose Company, herein called the Respondent, alleging *inter alia* that the Respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (a) (1) and Section 8 (a) (5) of the Act. Copies of the complaint, the charge, and notice of hearing were duly served upon the Respondent and the Union.

With respect to the unfair labor practice, the complaint alleges, in substance, that on or about July 27, 1951, and on numerous occasions thereafter, the Respondent refused, and now refuses, to bargain collectively with the Union as a representative of an appropriate unit of its employees. On December 31, 1951, the Respondent filed an answer admitting, among other allegations, the allegation that it refused, and refuses, to bargain. In further answer the Respondent alleged that it is not engaged in commerce within the meaning of the Act and is therefore not subject to the Act.

Thereafter all parties entered into a stipulation which set forth an agreed statement of facts. The stipulation provides that the parties thereby waived their rights to a hearing and to the taking of testimony before a Trial Examiner of the National Labor Relations Board. The stipulation further provides that, upon such stipulation and the record as therein provided, the Board may make findings of fact, conclusions of law, and may issue its Decision and Order as if the same facts had been adduced in open hearing before a duly authorized Trial Examiner of the Board.

The aforesaid stipulation is hereby approved and accepted and made a part of the record in this case. In accordance with Section 203.45 of National Labor Relations Board Rules and Regulations,

this proceeding was duly transferred to and continued before the Board.

Upon the basis of the aforesaid stipulation, and the entire record in this case, the Board, having duly considered the briefs filed by the Respondent and the Union, makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE RESPONDENT

Respondent is a Michigan corporation having its principal office and place of business in Detroit, Michigan. Respondent is principally engaged in selling new and used motor vehicles and motor vehicle parts and accessories and in servicing and repairing motor vehicles. It is an authorized Chrysler dealer and sells, under a sales agreement with the Chrysler Corporation, De Soto and Plymouth automobiles and parts and accessories. During the fiscal year of September 30, 1951, it purchased from the Chrysler Corporation new motor vehicles valued at approximately \$325,711.76 and parts and accessories valued at approximately \$233,538.69. During the same fiscal period Respondent also purchased used motor vehicles valued at approximately \$650,747.71. It sold new and used motor vehicles valued at approximately \$3,509,693.88 and parts and accessories valued at approximately \$208,059.07. All such sales and purchases were made within the State of Michigan.

Chrysler Corporation, a Delaware corporation with its general offices located in Detroit, Michigan, manufactures automobiles and their parts and accessories. It has plants located in the States of Michigan, Ohio, Indiana, and California. Chrysler Corporation annually purchases raw materials and fabricated parts valued at over \$250,000,000, of which approximately 45 percent is shipped to its Michigan plants from points outside the State of Michigan. It annually sells automobile products valued at over \$600,000,000; approximately 75 percent is shipped to customers outside the State of Michigan. Its products are distributed almost exclusively through dealers, of whom the Respondent is one, located in various States of the United States and throughout the world. Chrysler Corporation controls and to a large extent determines, through exclusive sales agreements with its dealers including Respondent, the suggested price, schedules of discount, and terms of purchases for which the Chrysler Corporation products handled by said dealers are sold, and the general method and geographical area in which the entire businesses of its dealers are conducted.

On the basis of these facts, we conclude that the Employer functions as an essential element in a Nation-wide system devoted to the manu-

facture and distribution of automobiles. We find, therefore, that under the Board's well-established doctrine the Respondent is engaged in commerce within the meaning of the Act, and that it will effectuate the policies of the Act to assert jurisdiction over the Respondent.<sup>1</sup>

## II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO) is a labor organization as defined in Section 2 (5) of the Act.

## III. THE UNFAIR LABOR PRACTICE

### A. *The appropriate unit and representation of a majority therein*

In accordance with the Board's certification, the parties stipulated, and the Board finds, that a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act consists of:

All mechanics, partsmen, washrack men, bumpers, and painters employed at the Respondent's establishment located at 5454 Cass Avenue, Detroit, Michigan, excluding salesmen, office and clerical employees, guards, and supervisors as defined in the Act.

The stipulation recites that on May 3, 1951, pursuant to the Board's Decision and Direction of Election in Case No. 7-RC-1266, a majority of these employees of Respondent in the bargaining unit described above, in an election by secret ballot, designated the Union as their representative for the purpose of collective bargaining with the Respondent. The stipulation further recites that on May 15, 1951, the Board issued its certification of representatives, copies of which were duly served upon the parties, certifying the Union as the exclusive representative of all employees in the afore-mentioned unit for the purpose of collective bargaining. In view of this stipulation we find, contrary to the Respondent's denial in its answer to the complaint, that the Union at all times since the Board's certification has been and is now the exclusive representative of these employees for the purposes of collective bargaining.

### B. *The refusal to bargain*

The stipulated facts show that on or about July 27, 1951, the Union, by its duly authorized representative, requested the Respondent to recognize the Union as the exclusive representative for the employees in the certified bargaining unit and to meet with the Union for the

<sup>1</sup> *N. L. R. B. v. Ken Rose Motors, Inc.*, 94 NLRB 868, 193 F. 2d 769; *N. L. R. B. v. Conover Motor Co.*, 93 NLRB 867, 192 F. 2d 779; *Avedis Baxter and Ben Baxter, d/b/a Baxter Bros.*, 91 NLRB 1480.

purposes of negotiating a collective bargaining contract. On August 1, 1951, Respondent, through its attorney, advised the Union by letter that it would refuse to bargain with the Union because Respondent is not engaged in interstate commerce within the meaning of the Act. Respondent has continued its refusal to bargain and asserts that it will so continue unless and until an appropriate court of appeals of the United States orders it to bargain with the Union.

In view of our finding in Section I, above, that the Respondent is engaged in interstate commerce and that it will effectuate the policies of the Act for the Board to take jurisdiction in this case, we find that the Respondent, in refusing to bargain with the Union, violated Section 8 (a) (5) and Section 8 (a) (1) of the Act, as alleged in the complaint.

#### IV. THE EFFECT OF THE UNFAIR LABOR PRACTICE UPON COMMERCE

The activities of the Respondent set forth in section III, above, occurring in connection with its operations as described in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE REMEDY

Having found that the Respondent has refused to bargain collectively with the Union as the representative of the majority of the employees in an appropriate unit, we shall order that the Respondent, upon request, bargain collectively with the Union as the exclusive statutory representative of all the employees in the unit herein found appropriate.

Upon the basis of the above findings of fact and upon the entire record in this case, the Board makes the following:

#### CONCLUSIONS OF LAW

1. International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO) is a labor organization as defined in Section 2 (5) of the Act.

2. By refusing on or about July 27, 1951, and thereafter, to bargain collectively with International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO) as the exclusive representative of all the employees in the appropriate unit, the Respondent has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8 (a) (5) and 8 (a) (1) of the Act.

3. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

### Order

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the Respondent, Louis Rose Company, Detroit, Michigan, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO) as the exclusive representative of its employees in the above-described appropriate unit.

(b) In any other manner interfering with the efforts of International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO) to negotiate for or represent the employees in the aforesaid unit as their exclusive bargaining agent.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO) as the exclusive representative of all employees in the appropriate unit, and embody any understanding reached in a signed agreement.

(b) Post at its Detroit, Michigan, establishment, copies of the notice attached hereto and marked "Appendix A."<sup>2</sup> Copies of such notice, to be furnished by the Regional Director for the Seventh Region, shall, after being duly signed by the Respondent's authorized representative, be posted by the Respondent immediately upon receipt thereof, in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that such notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for the Seventh Region, in writing, within ten (10) days from the date of this Decision and Order what steps the Respondent has taken to comply herewith.

CHAIRMAN HERZOG and MEMBER PETERSON took no part in the consideration of the above Decision and Order.

<sup>2</sup> In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be inserted before the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

