

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights to self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized by Section 8(a)(3) of the National Labor Relations Act, as amended.

WE WILL, upon request, meet at reasonable times and bargain collectively with United Glass and Ceramic Workers of North America, AFL-CIO, as the exclusive bargaining representative of the employees in the aforementioned appropriate unit, and, if an understanding is reached, embody such understanding in a signed agreement.

All our employees are free to become, remain, or refrain from becoming or remaining members of any labor organization.

BARTLETT-COLLINS COMPANY,  
*Employer.*

Dated\_\_\_\_\_ By\_\_\_\_\_ (Representative) (Title)

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

Employees may communicate directly with the Board's Regional Office, Sixth Floor, Meacham Building, 110 West Fifth Street, Fort Worth 2, Texas, Telephone No. Edison 5-4211, Extension 2131, if they have any question concerning this notice or compliance with its provisions.

**The A. B. Hirschfeld Press, Inc. and Local 15, Amalgamated Lithographers of America.** *Case No. 27-RC-2165. December 20, 1962*

### DECISION AND ORDER

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

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 McCulloch and Members Rodgers and Leedom].

Upon the entire record in this case the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organizations involved claim to represent employees of the Employer.<sup>1</sup>
3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section

<sup>1</sup> The following labor organizations were permitted to intervene on the basis of their current contracts covering employees of the Employer: Offset Workers, Printing Pressmen & Assistants Union No 40, IPP & AU of N.A., AFL-CIO; Denver Photo-Engravers Union No 18, IPEU of N.A., AFL-CIO; Denver Typographical Union No 49, IPU, AFL-CIO, referred to herein respectively as Pressmen, Photo-Engravers, and Typographers. International Photo-Engravers Union of North America, AFL-CIO, was also allowed to intervene separately on its own behalf.

9(c)(1) and Section 2(6) and (7) of the Act, for the following reasons:

The Petitioner seeks to represent all employees of the Employer who are engaged in lithographic production work, consisting of offset pressmen, apprentices and assistants, offset preparatory employees, and employees who do pasteup and other noncreative art work. It urges that this is a traditional lithographic unit which the Board has consistently found appropriate. The Employer, the Pressmen, and the Photo-Engravers contend that the petition must be dismissed since the unit sought is not coextensive with an established multi-employer unit. The Petitioner, on the other hand, contends that, whatever the history of bargaining prior to 1960 may have been, the Employer has not been a part of any multiemployer group since that date, but has bargained on an individual employer basis with the Intervenors for the contracts presently in effect.

The Employer produces printed material using both letterpress and lithographic processes at its only plant at Denver, Colorado. It employs almost 200 employees in its printing and related operations, consisting of 6 production departments: art, whose employees are not represented by any union;<sup>2</sup> composing room, represented by the Typographers; camera and platemaking, represented by the Photo-Engravers; pressroom, which includes both letterpress and offset press employees, represented by the Pressmen; bindery and shipping and mailing, whose employees are represented by other unions which did not intervene herein.

There are approximately 35 commercial printing firms in the Denver area, many of whom are members of an association known as Printing Industries of Colorado, Inc. (PIC). For at least 15 years prior to the 1960 negotiations, these employers, whether or not members of PIC, have signed identical contracts with the Pressmen covering their letterpress and offset press employees, with the Typographers covering their composing room employees, and with the Bindery Workers Union covering bindery employees. Although it had not been a member of PIC for many years, the Employer has also signed such contracts. During the same period, the Employer's contracts with the Photo-Engravers, covering offset preparatory employees, have been separately negotiated on a single-employer basis.

The pattern of negotiations for the multiemployer contracts with the Pressmen prior to 1960 was as follows: PIC was not itself authorized to engage in collective bargaining but served as a means for organizing an employers' negotiating committee. It invited both its members and printing firms which were not members of PIC to attend a meeting at which a negotiating committee was selected. Al-

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<sup>2</sup> The 1960 Typographers contract provides that paste-makeup work utilizing reproduction proofs of type may not be covered by contracts with any other union.

though not all of the 35 printing firms attended the initial meeting and thus did not formally authorize negotiations in their behalf, there was no attempt by the Pressmen to negotiate individually with them. Once the contract was signed, an official of the Pressmen sent each employer an original contract for its signature. As soon as the negotiations with a particular union were completed, the committee disbanded. In 1956 and 1958, Edward Hirschfeld, president of the Employer, had attended the negotiation meetings, agreed to the appointment of an employers' committee, and agreed to be bound by any contract which that committee might reach. He also participated in some of the 1956 and 1958 negotiations on behalf of the committee.

In anticipation of negotiations for the 1960 contracts, PIC again called a meeting of all printing firms in the area. Instead of appointing a committee to negotiate on behalf of the employers however, it was decided that bargaining should be conducted by Mountain States Employers' Council (MSEC), an independent organization which represents employers and employer organizations in labor relations. It was announced at the initial meeting that MSEC would negotiate only on behalf of those employers who joined it and paid its fee.

Thirteen of the eligible firms joined MSEC and from among this number an advisory committee was appointed to assist the MSEC negotiator. Hirschfeld was among those who did not join.

Faced with this variation in bargaining technique, the Pressmen wrote 17 of the firms who had not joined MSEC, asking each of them if MSEC was negotiating for it and whether it would be willing to abide by and sign the MSEC-Pressmen contract. Further, it advised these firms, among them Hirschfeld, that if they were willing to form a committee of their own it would be glad to meet with them. A few days later, McNally, secretary-treasurer of the Pressmen and chairman of its negotiating committee, personally contacted each of these 17 firms and asked if it would be willing to bargain as part of a group of employers who were not represented by MSEC. They all refused to organize or to join a group which would bargain with the Pressmen in opposition to MSEC, indicating that though they preferred not to join MSEC, they would nevertheless sign whatever contract the Pressmen eventually negotiated with it. Edward Hirschfeld specifically told McNally that he would not meet with him separately or as part of any newly established committee, but would be bound by the agreement which MSEC and the Pressmen were able to negotiate. Shortly thereafter, MSEC and the Pressmen reached agreement on a new 2-year contract. It was signed by those firms which had joined MSEC<sup>3</sup> and by each of the 17 firms including Hirschfeld, who were not MSEC members. The contract

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<sup>3</sup> One firm which had joined MSEC resigned but then signed the identical contract which had been negotiated.

listed the types of presses operated by the signatory members and included three presses which Hirschfeld alone, of all printers in the Denver area, operated.<sup>4</sup>

An essential element for establishing a multiemployer unit is the participation by a group of employers, whether members or nonmembers of an association, either personally or through an authorized representative, in joint bargaining negotiations unequivocally manifesting an intent to be bound by group, rather than by individual, action.<sup>5</sup>

Prior to the 1960 contract negotiations, the authorized representative of the employers was the committee selected under arrangements initiated by PIC, but in fact independent of it, since its members were not required to belong to PIC nor did PIC participate directly in its negotiations. As to the 1956 and 1958 negotiations, for which we have specific information in the record, the authorized representative of the multiemployer group, which consisted of all printing firms in Denver under contract with the Pressmen, was the negotiating committee of the employers who were selected at the meeting called by PIC. The firms attending the meeting orally agreed to be bound by any agreement reached by the employer committee, and all of the firms, whether or not they attended the meeting, separately signed a contract identical with the terms reached through the committee negotiations.

Without essential change, this was the practice which had been followed for at least 15 years, whereby each employer indicated his assent to negotiation and adoption of a uniform contract, by specific delegation to the negotiating committee or by failure to withdraw from the multiemployer group which was in contractual relationship with the Pressmen.

Only the method of selection and authorization of the employers' bargaining representative was changed in 1960. Although the initial meeting was again called by PIC and all members of the multiemployer group were invited, the bargaining functions on behalf of the group were turned over to MSEC and to those employers who were willing to affiliate with it formally. A majority of the employers, among them Hirschfeld, did not choose to join MSEC and were thereby deprived of the opportunity to become members of the committee which assisted the MSEC negotiator. Although MSEC intended to bargain only for its own members, the other printing firms in the area refused to take any steps to negotiate on their own, either independently or as members of a separately constituted group

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<sup>4</sup> The Pressmen then requested Hirschfeld to negotiate wage rates for those presses which were particular to its operations, but Hirschfeld refused to do so on the ground that the contract set the rates for all offset printing operations and that these rates could not be renegotiated

<sup>5</sup> *Morgan Linen Service, Inc.*, 131 NLRB 420.

but, on the contrary, notified the Pressmen that they would accept whatever agreement the negotiators would reach. Thus, the result of the 1960 negotiations was the continuation of the multiemployer group which, previously under PIC auspices, had for many years delegated to an employer committee the authority to reach agreement with the Pressmen which they bound themselves in advance to accept.

It is true that MSEC neither sought nor asserted the role of representative of all the printing firms which had previously signed contracts with the Pressmen. However, despite its apparent intention not to accept this function, it was nevertheless compelled in effect to perform such a function by the action of MSEC nonmembers who, when invited by the Pressmen to bargain individually or to form a separate group, refused to take either step but committed themselves to sign the agreement which MSEC negotiated.

Although the Board will not include in a multiemployer unit an employer who has not participated in joint bargaining directly or through an agent, even though it thereafter adopts the contract negotiated by the multiemployer group,<sup>6</sup> we find here that the employers who did not join MSEC specifically indicated by their conduct at the time of current negotiations that they intended to continue the long-standing pattern of bargaining with the Pressmen, as part of an informal multiemployer group. Thus, by their refusal to negotiate on any other basis, those firms which had not joined MSEC effectively delegated to it the authority to bargain on their behalf for a contract with the Pressmen. We find, under these circumstances, that the existing pattern of collective bargaining between the Pressmen and the multiemployer group which had in the past signed contracts with it, was not disrupted by the 1960 negotiations. The unit which Petitioner seeks, limited as it is to Hirschfeld's offset pressmen, is therefore inappropriate because it is not coextensive with the existing multiemployer unit.

As noted previously, Hirschfeld's offset preparatory employees are presently represented by Photo-Engravers in a single-employer unit. As the Petitioner recognizes, offset preparatory employees are part of an entity of employees engaged in the lithographic process and may not be represented apart from other employees also engaged in that process.<sup>7</sup> Thus, as the Employer's offset pressmen may not be severed from the established multiemployer unit represented by the Pressmen, and as the offset preparatory employees do not constitute an appropriate unit, we shall grant the Employer's motion to dismiss the petition.

[The Board dismissed the petition.]

<sup>6</sup> *Northern Nevada Chapter, National Electrical Contractors Association and Represented Employers*, 131 NLRB 550, 552.

<sup>7</sup> *A. B. Hirschfeld Press, Inc.*, 96 NLRB 1068.