

**Bauman Chevrolet, Inc. and International Association of Machinists and Aerospace Workers, District No. 63, AFL-CIO. Case 6-CA-4165**

October 30, 1968

**DECISION AND ORDER**

BY CHAIRMAN McCULLOCH AND MEMBERS  
FANNING AND ZAGORIA

On July 22, 1968, Trial Examiner David London issued his Decision in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Trial Examiner's Decision. Thereafter, the General Counsel and Respondent each filed exceptions to the Trial Examiner's Decision and a brief in support thereof.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Trial Examiner's Decision, the exceptions and briefs, and the entire record in this case, and hereby adopts the findings,<sup>1</sup> conclusions, and recommendations of the Trial Examiner, except as modified herein.

The Trial Examiner found that following the Union's initial demand for recognition on January 19, 1968, the Respondent engaged in a course of conduct consisting of coercive interrogations and threats of retribution in violation of Section 8(a)(1) of the Act, and he concluded that the Respondent's refusal to recognize and bargain with the Union was motivated by a rejection of the collective-bargaining principle or a desire to gain time in which to undermine the Union's majority and violated Section 8(a)(5).<sup>2</sup> The Respondent urges that even if the violations of Section 8(a)(1) found by the Trial Examiner are sustained by the Board, the violations are not sufficient to justify the 8(a)(5) finding or a bargaining order. We do not agree with this contention, and for the reasons set forth below we adopt the conclusion of the Trial Examiner that the Respondent violated Section 8(a)(5) of the Act.

We find, as discussed by the Trial Examiner, that following the demand for recognition the Respondent engaged in the following violations of Section 8(a)(1):

(a) Nuzum, Respondent's General Manager, coercively interrogated employee Aducci concerning his participation in the organizing campaign and threatened Aducci that the business might close as a result;

(b) Bauman, Respondent's President, coercively interrogated employee Trujillo concerning union meetings and as to whether Trujillo had signed an authorization card;

(c) Bauman threatened employee Folden that organizing a union might result in closing the business,

(d) Bauman coercively interrogated employee Aducci as to "what started all of this";

(e) Bauman threatened seven employees in the body shop that retribution might result from organizing a union.

In addition, there is uncontroverted evidence establishing that the Respondent engaged in other violations of Section 8(a)(1). In particular, (1) Bauman interrogated employee Aducci as to whether he made the call to the Union, and created the impression of surveillance by his remark to Aducci that "In the other shop they think you did;" (2) Bauman interrogated employee Thomas as to what he believed the Union could do for him; and (3) Bauman coercively questioned Aducci as to whether Bauman had actually threatened to close the business if the organizing were successful and rebuked Aducci for not stating that Bauman had not made such a threat. Considering these numerous violations, the conclusion is warranted that the Respondent's refusal to recognize and bargain with the Union was prompted by a rejection of the collective-bargaining principle, and a desire to gain time in which to undermine the Union's majority.<sup>3</sup>

Moreover, the evidence is clear that the Respondent had no good-faith doubt of the Union's majority. When the Union demanded recognition on January 19, 1968, the Respondent's officials examined the authorization cards and agreed that the Union represented a majority of the employees. Thereafter, the Respondent ignored two written requests by the Union to meet and bargain, but at no time until the hearing more than 4 months later did the Respondent ever express a desire for an election or a doubt of the Union's majority status. For this additional reason, we find the Respondent violated Section 8(a)(5).

<sup>1</sup> The Respondent has excepted to certain of the Trial Examiner's credibility findings. As we are not persuaded that a clear preponderance of all the relevant evidence shows that that the Trial Examiner's resolution of credibility issues was incorrect, we find insufficient basis for disturbing his credibility findings. *Standard Dry Wall Products, Inc.*, 91 NLRB 544, enfd. 188 F.2d 362 (C.A. 3).

<sup>2</sup> *Joy Silk Mills v. N.L.R.B.*, 185 F.2d 732 (C.A.D.C.), cert. denied 341 U.S. 914.

<sup>3</sup> *N.L.R.B. v. Quality Markets, Inc.*, 387 F.2d 20 (C.A. 3).

## ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby adopts as its Order the Recommended Order of the Trial Examiner, as modified herein, and orders that the Respondent, Bauman Chevrolet, Inc., Wilksburg, Pennsylvania, its officers, agents, successors, and assigns, shall take the action set forth in the Trial Examiner's Recommended Order, as so modified:

Substitute the attached notice as an appendix for the one recommended by the Trial Examiner.

## APPENDIX

## NOTICE TO ALL EMPLOYEES

This Notice is Posted by Order of the  
National Labor Relations Board

After a trial at which all sides had the chance to give evidence, the National Labor Relations Board found that we, Bauman Chevrolet, Inc., violated the National Labor Relations Act, and ordered us to post this Notice.

The Act gives all employees these rights:

- To engage in self-organization
- To form, join, or help unions
- To bargain collectively through a representative of their own choosing
- To act together for collective bargaining or other aid or protection; and
- To refrain from any or all of these things.

WE WILL NOT do anything that interferes with these rights.

WE WILL NOT ask you whether you are a union member of, or are helping International Association of Machinists and Aerospace Workers, District No. 63, AFL-CIO, or any other union.

WE WILL NOT threaten you with a sale of our business or with other harm because of your membership in or support of a union.

WE WILL NOT create the impression of spying on your organizing activities.

WE WILL recognize International Association of Machinists and Aerospace Workers, District No. 63, AFL-CIO, as the only collective-bargaining representative of our employees in the bargaining unit which is

All service department employees, new and used car department employees, and parts department employees, at our Wilksburg, Pennsylvania, facilities, excluding salesmen, office clerical employees, and supervisors as defined in the Act.

WE WILL bargain, on request, with International Association of Machinists and Aerospace Workers,

District No. 63, AFL-CIO, on wages, hours and conditions of employment, and any agreement we reach will be put in writing and signed.

BAUMAN CHEVROLET, INC  
(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.

Any questions concerning this Notice may be directed to the Board's Regional Office, 1536 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, Telephone 412-644-2969.

## TRIAL EXAMINER'S DECISION

## STATEMENT OF THE CASE

DAVID LONDON, Trial Examiner Upon a charge filed and served February 12, 1968, by International Association of Machinists and Aerospace Workers, District No. 63, AFL-CIO ("the Union"), the General Counsel of the Board, on March 25, 1968, issued the complaint herein alleging that Bauman Chevrolet, Inc ("Respondent") had engaged in unfair labor practices within the meaning of Section 8(a)(1) and (5) of the National Labor Relations Act, as amended ("The Act"). In substance, the complaint alleges that Respondent (1) engaged in specified conduct interfering with, restraining and coercing its employees in the exercise of rights guaranteed in Section 7 of the Act, and (2) that since on or about January 19, 1968, refused to recognize and bargain with the Union as the duly designated collective-bargaining representative of an appropriate unit of its employees with respect to rates of pay, wages, etc. By its answer, Respondent denied the commission of any unfair labor practices.

The hearing herein was conducted at Pittsburgh, Pennsylvania on May 20-21, 1968, at which the General Counsel and Respondent appeared by counsel and were afforded full opportunity to examine and cross-examine witnesses, and to introduce evidence upon the issues of the case. Briefs filed by the General Counsel and Respondent have been fully considered

Upon the entire record in the case<sup>1</sup> and my observation of the demeanor of the witnesses who testified, I make the following:

## FINDINGS AND CONCLUSIONS

## I. THE BUSINESS OF RESPONDENT

During all times relevant herein, Respondent was and is a Pennsylvania corporation engaged in the retail sale and servicing of new and used motor vehicles at its place of

<sup>1</sup> Motions made during the hearing, on which ruling was reserved, are disposed of in accordance with the findings and conclusions that follow.

business in Wilksburg, a suburb of Pittsburgh, Pennsylvania. During the year preceding the issuance of the complaint herein, Respondent's gross sales were in excess of \$500,000, and received goods and products directly from outside the Commonwealth of Pennsylvania valued in excess of \$50,000. The complaint alleges, the answer admits, and I find that Respondent is, and during all times relevant was, engaged in commerce within the meaning of the Act.

## II THE LABOR ORGANIZATION INVOLVED

The Union is, and has been at all time material herein, a labor organization within the meaning of Section 2(5) of the Act.

## III THE ALLEGED UNFAIR LABOR PRACTICES

At the hearing, the parties stipulated that the following employees of Respondent constitute an appropriate collective-bargaining unit within the meaning of Section 9(b) of the Act. All service department employees, new and used car department employees, and parts department employees at Respondent's Wilksburg, Pennsylvania, facilities, excluding salesmen, office clerical employees and guards, professional employees and supervisors as defined in the Act. It was further stipulated that on January 19, 1968, there were 32 employees in that unit.

On January 19, 1968,<sup>2</sup> Theodore C. Bold, the Union's business representative, accompanied by Ralph E. McFarland, an organizer for the Union, went to Respondent's premises and introduced themselves to Jerry Nuzum, Respondent's "general manager," and Raymond Baldwin, its used car manager. Following the introductions and Nuzum's statement that he had been "expecting" this visit, Bold told Nuzum that he represented a majority of the employees in the unit described above and asked whether Nuzum had any doubt concerning that representation. Without apparently waiting for an answer, Bold removed from his pocket 18 cards purporting to be signed by employees designating the Union as their bargaining representative and told Nuzum that he had proof of the Union's majority. Nuzum asked to see the cards and Bold handed the 18 cards to him. Nuzum "looked at them, one by one, individually, and passed them, one by one, to [Baldwin] who also looked at them individually." After the cards were returned, Bold asked Nuzum and Baldwin if the cards exhibited to them were 18 in number and constituted the majority of Respondent's employees and both men answered affirmatively. Bold thereupon took "a recognition agreement" from his pocket and asked Nuzum if he would like to sign it. Nuzum, without reading the agreement, replied that he would not sign it, that he would have to await instructions from William L. Bauman, president and principal stockholder of Respondent, who was then in Florida.

The foregoing findings pertaining to the January 19 meeting are based on the composite testimony of Bold and McFarland which I unhesitatingly credit. Much of it was corroborated by Nuzum and Baldwin. The only material respect in which Nuzum's testimony varies from that of Bold and McFarland,

but which I do not credit, is as follows. Nuzum testified that immediately after Bold identified himself and told him that he represented the majority of Respondent's employees, he (Nuzum) told Bold that he did "not believe that [Bold] represented a majority of [Respondent's] employees." Nuzum further testified, however, that at that point Bold pulled some cards out of his pocket, stated that he had proof of his claimed majority, and asked Nuzum whether he would like to see the cards and that he replied affirmatively. Nuzum further testified that he hesitated for a moment but then took the cards following which he and Baldwin "glanced through the cards" and handed them back. Nuzum admitted that it was at this point that Bold asked: "Now, will you recognize that we are the bargaining agent for your employees" and that his only reply thereto was that he had "no authority to recognize or negotiate with anyone, Mr. Bauman will have to do that," and he would notify both Bauman and his attorney. *After examining the cards*, Nuzum made no claim or assertion that he entertained any doubt concerning the Union's majority status. Indeed, insofar as the record discloses, he had no reason to entertain such a doubt. His refusal to examine and sign the recognition agreement tendered him was based solely on the claimed lack of authority to grant such recognition.

Bauman returned from Florida on January 22 or 23 at which time Nuzum "told him what had transpired" at the meeting with Bold on January 19. On January 23, Respondent received the Union's letter of January 22 again asserting its status as majority representative of Respondent's employees and renewing its demand for recognition and bargaining. Though the demand was repeated by the Union's letter of January 31, Respondent has steadfastly ignored that demand. Thus, notwithstanding that at no time after Nuzum and McFarland on January 19 examined the 18 cards designating the Union, until the hearing herein, 4 months later, was there any challenge of the authenticity of those cards, nor was there any doubt proclaimed by anyone in behalf of Respondent concerning the Union's majority status.

At the hearing, 22 cards, dated January 17 or January 18, designating the Union as collective-bargaining representative and purporting to be signed by 21 employees in the 32 member unit were received in evidence.<sup>3</sup> Bold testified that 12 of these cards, General Counsel's Exhibit 4-a to 4-1 inclusive, purporting to bear the signature of 12 employees in the unit, were individually handed to him at a meeting with the men on January 17 by the employees whose purported signature appears thereon. Though Bold admitted that he did not actually see any of these employees sign or date the card, "the Board, with court approval has held . . . that cards are properly authenticated through witnesses who testify to receiving a signed card from the signatory employee." *McEwen Manufacturing Company*, 172 NLRB No. 99; *Marlene Industries Corporation*, 171 NLRB No. 118; *Hunter Engineering Company*, 104 NLRB 1016, 1020, enf'd. 215 F.2d (C.A. 8). In any event, 7 of these 12 employees testified that they signed and dated their cards.

Five cards, General Counsel's Exhibit 6-a, b, c, d, and f, purportedly signed by members of the unit, were identified by David Folden, a member of the unit, who testified credibly

<sup>2</sup> Unless otherwise specified, all reference to dates herein are to the year 1968.

<sup>3</sup> Two cards were signed by Stephen Bachner, G.C. Exhs. 4(e) and 8(d), only one of which is counted in establishing the Union's majority status.

that he saw each signatory to these five exhibits sign and date the card bearing his signature. An additional card, Exhibit 6—e, was properly authenticated by the signer thereof. Four cards, General Counsel's Exhibit 8—a, c, d and e were identified by William Johns, a member of the unit who testified credibly that he received these cards from the signers thereof, all of them members of the unit involved, and saw each of them sign their card.

The principal objection urged by Respondent to the admissibility of the cards authenticated only by others than the signatories thereof is that the "best . . . and proper person to identify [them] would be the person who signed the card rather than" the witness who saw the signatory attach his signature. Though it may be conceded that the "best" method of establishing the authenticity of the card is as Respondent suggests, it does not follow that it is the *only* method, or that the course pursued by the General Counsel is improper. *At the very least*, "the General Counsel adequately made out a *prima facie* showing by the testimony he did present to support the admissibility of the cards as evidence of the Union's majority. And, absent rebutting evidence, Respondent made no effort to adduce any, the cards . . . must be given probative force." *Northwest Engineering Company*, 158 NLRB 624, 629. Nor is there any merit to the contention that with respect to some of the cards the record fails to expressly establish that the signatories read the card before attaching his signature. The signatures having been properly authenticated, and there being no proof to the contrary, it may reasonably be assumed that each signer read the card before he signed it.

The record discloses that the 21 cards relied on by the General Counsel were of two types. Seventeen were of the type reproduced at the top of Exhibit A hereto attached [Appendix A omitted from publication] and the remainder were of the type reproduced on the lower part of said Exhibit. In his closing argument, Respondent contended that the card of James Weixel, of the type reproduced on the upper part of Exhibit A, "should be disregarded for the purpose of establishing majority status, inasmuch as the printed material on that card established an alternative procedure in connection with a representation claim, either to support a demand for recognition or an NLRB election, and that James Weixel had no knowledge of that alternative position by virtue of not reading the card or having the card read to him."<sup>4</sup> Though, during the hearing, the objection pertaining to the dual purpose of the card was urged only with respect to the card of Weixel, Respondent, in its brief, urges that I consider this variance in the cards with respect to the 16 other cards which make similar reference to an election. Having done so, I conclude that all of these cards are valid designations of the Union as collective-bargaining representative by the signatories thereto.

To begin, there is not a scintilla of evidence that *any* employee was told that the card would be used *only* to get an election, a situation considered by the Board in *Cumberland Shoe Corporation*, 144 NLRB 1268, enf. 351 F.2d 917 (C.A. 6). Here, by signing the card in question each signatory agreed "that this card *may* be used *either* to support a demand for recognition or any NLRB election, *at the discretion of the Union*." By that grant of authority, each signatory did not

restrict its use for election purposes only. Instead, it vested the Union with *discretion* to use the card for that purpose if, in *its* judgment, not in the judgment or under direction of the signatory, it became advisable or necessary to do so. And where cards are solicited "for the dual purpose of (a) petitioning the Board for an election, and (b) authorizing the Union to represent the employees as their collective-bargaining agent, . . . [the cards are] valid designations of the Union as bargaining representatives of the employees." *Lenz Company*, 153 NLRB 1399, 1401-02; *The Shelby Manufacturing Company*, 155 NLRB 464; *General Steel Products, Inc.*, 157 NLRB 636, 644, and cases cited therein.

"The central inquiry in determining the effect to be given authorization cards is whether the employees by their act of signing clearly manifested an intent to designate the union as their bargaining agent. The starting point, in assessing that intent, is the wording of the card. Where the card on its face clearly declares a purpose to designate the Union, the card itself effectively advises the employee of that purpose, and particularly so where, as here, the form of the card is such as to leave no room for possible ambiguity," *Levi Strauss & Co.*, 172 NLRB No. 57, *McEwen Manufacturing Co.*, 172 NLRB No. 99.

Here, the forthright and unambiguous pronouncement at the top of all the cards, printed in bold contrasting *red* color almost ½ inch high: "YES, I WANT THE I.A.M." leaves no doubt as to the intent to designate the Union. The only implication that arises therefrom is that by signing the card each signatory clearly and unequivocally expressed his desire for representation by the Union and that if, in the judgment of the Union, an election became necessary, all the signatories would vote for the Union.

Respondent's final contention with respect to the cards, that the Union, in effect, withdrew its demand for recognition based on its designation cards by filing a petition for election and certification by the Board is equally without merit. The Board, with court approval, has repeatedly held that a "union does not withdraw or waive its demand [for recognition and bargaining] by seeking an election when the Employer makes it clear that it will not recognize the Union." *N.L.R.B. v. Elliott-Williams Co.*, 345 F.2d 460, 464 (C.A. 7), *N.L.R.B. v. Inter-City Advertising Co.*, 190 F.2d 420, 421 (C.A. 4); *N.L.R.B. v. Model Mill Co.*, 210 F.2d 829, 830 (C.A. 6), *N.L.R.B. v. Storack Corp.*, 357 F.2d 893, 895 (C.A. 7).

On the entire record I find that on January 17-18, 1968, a majority of the employees in the unit heretofore described designated the Union as their representative for the purpose of collective-bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment. In accordance with Section 9(a) of the Act, the Union thereby became the exclusive representative of all the employees in that unit for the purposes described immediately above.

It being undisputed that Respondent ignored the Union's letter of January 22 and January 31 asking for recognition and an appointment to negotiate a contract, I find that its failure and refusal to do so was not occasioned by *any* doubt, in good faith or otherwise, concerning the Union's majority status. Even if it be assumed, as Nuzum testified, that he told Bold that he did not believe that the Union represented a majority of the employees, "a good faith doubt is not established merely by an assertion but must have some reasonable or rational basis in fact." *N.L.R.B. v. Sinclair Co.*, 397 F.2d 157 (C.A. 1, 1968), citing *N.L.R.B. v. Superior Sales, Inc.*, 366

<sup>4</sup> David Folden, who obtained Weixel's card and saw him sign it, testified that he told Weixel that the card "was for union recognition" and denied that he told Weixel "that the card was for an election."

F.2d 229, 237 (C.A. 8). If, indeed, Nuzum entertained or expressed such doubt it was, according to his own testimony, dispelled when he took the cards tendered by Bold and "glanced" through them. Thereafter, neither he, nor anyone else in behalf of Respondent, expressed any such doubt.

Nor is there any merit to Respondent's contention that Nuzum was without authority to grant the requested recognition. Respondent's answer admits he was its "General Manager" and Bauman testified that during his absences from the city, which are frequent and prolonged, Nuzum "is in charge of the whole place,—he is the Boss."

On the entire record I find that Respondent's refusal to recognize and bargain with the Union was motivated, as will hereafter appear, by a rejection of the collective-bargaining principle or a desire to gain time to dissipate the Union's majority, thereby violating Section 8(a)(5) and (1) of the Act. *Joy Silk Mills v. N.L.R.B.*, 185 F.2d 732 (C.A.D.C.), cert denied 341 U.S. 914, *N.L.R.B. v. Big Ben Department Stores, Inc.*, 396 F.2d 786 (C.A. 2, 1968)

On January 19, the day that the Union demanded recognition by Respondent, employee John Aducci was called to Nuzum's office. According to Aducci's uncontradicted testimony this was the first time during his entire period of 22 years employment by Respondent that he was summoned to the manager's office concerning matters other than in connection with some phase of his work. After some inconsequential talk, Nuzum asked Aducci what was "new." Apparently concluding that Nuzum was referring to the designation of the Union by Respondent's employees,<sup>5</sup> Aducci asked Nuzum why he had been called and why Nuzum was not "talking to everybody that signed cards." Nuzum answered that all that he had to do was to talk to Aducci because without him, "it," i.e., the union movement, "could not have gotten off the ground." Nuzum further told him that the Company had lost \$93,000 in 1967 and that if it did not "proceed to make some money, [he] and Mr Bauman [were] going to retire to Florida."

Consideration of the entire incident, viewed in light of what follows, convinces me that Aducci was summoned to the office on January 19 for the purpose of ascertaining the extent of his activities in behalf of the Union and to subtly threaten that, if the movement was successful, Respondent's business would be closed *Mid-State Beverages*, 153 NLRB 135, 141.

Bauman returned from Florida on January 22 or 23. Andrew Trujillo, employed by Respondent for 25 years, testified that on the day Bauman returned, he approached Trujillo at his work bench and asked him whether he knew "anything about a meeting the employees had concerning a union." When Trujillo answered affirmatively, Bauman asked him whether he had signed "one of those cards" and Trujillo acknowledged that he had done so. Bauman, who was present in the hearing room and heard Trujillo's testimony, admitted that he had such a conversation with Trujillo and that it was "just about like he [testified]."

On the day Bauman returned from Florida, he approached employee David Folden and told him that his return was occasioned by a telephone call he received the night before. He further told him that the "first thing he did when he [returned] was to contact a Chevrolet representative at General Motors to find out who he could turn his business over

to, or sell it." Though Bauman also told him that Respondent had lost between \$70,000 and \$90,000 during the last 2 years, he added that he was, nevertheless, planning on building a new body shop and had bought the land for it. On the same day, Bauman asked Aducci "what started all this," an inquiry which could, in light of a statement to Folden at about the same time that he did not "understand why the men want to pay money and go union," have reference only to the union activities of Respondent's employees.

On the day, or the day following his return from Florida, while the seven men in the body shop were eating their lunch, Bauman asked to join the group. During that meeting, Bauman told the men that while in Florida he received "an urgent telephone call and had to come home right away." He added "When I got *wind of this*, the first thing I did when I got back, I called Chevrolet Motors, and talked to the representatives from Chevrolet Motors, and I asked them what I could do and what I couldn't do."

Although Bauman, during this meeting discussed Respondent's losses of the previous years, on the entire record I do not credit his testimony that his return to Pittsburgh was prompted by a *sudden discovery* that he had lost \$70,000 to \$90,000, or that his call to General Motors about a sale was occasioned by his losses in the operation of his business. Instead, I find that both were occasioned by the Union's demand for recognition. Nor do I credit his testimony that at the lunch meeting he told the men that unless there was an improvement in the business he "might have to liquidate." Instead, I credit the testimony of John Barbarino and Henry Zaccari that, though the business losses had been discussed, Bauman told the men on this occasion "that the *only* [reason] he would go out of business would be if his doctor told him to go out of business, or his wife said that he ought to get out." In light of this assurance, and there being no testimony that either his doctor or wife had told him to go out of business, I conclude that Bauman's reference to his call to General Motors about a sale of the business was intended as a veiled threat to the employees that if the Union became their collective-bargaining representative he would sell his business.

#### IV THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

Respondent's activity set forth in section III, above, occurring in connection with Respondent's operations 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.

Upon the basis of the foregoing findings of fact, and on the entire record in the case, I make the following

#### CONCLUSIONS OF LAW

1. By interrogating its employees concerning their union membership or activities and by threatening them with the sale of its business if the Union became their bargaining representative, Respondent interfered with, restrained and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act, thereby violating Section 8(a)(1) thereof.

2. All service department employees, new and used car department employees, and parts department employees employed at Respondent's Wilksburg, Pennsylvania, facilities, excluding salesmen, office clerical employees and guards,

<sup>5</sup> Nuzum admitted that he talked to three or four employees about the Union. Though he did "not directly" mention the Union, he testified that it may have been "implied."

professional employees and supervisors as defined in the Act, constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.

3. At all times on and after January 19, 1968, the Union has been and presently is the representative for the purposes of collective bargaining of the employees in the unit described above and, by virtue of Section 9(a) of the Act, has been and now is the exclusive representative of all the employees in said unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other terms and conditions of employment.

4. By refusing on or about January 19, 1968, and at all times thereafter, to bargain collectively with the Union in respect to rates of pay, wages, hours and other conditions of employment of the employees in the unit above-described, Respondent violated Section 8(a)(5) and (1) of the Act.

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

#### THE REMEDY

Having found that Respondent engaged in certain unfair labor practices, I recommend that it be required to cease and desist therefrom and that it take certain affirmative action outlined below which I find to be necessary to remedy and to remove the effects of the unfair labor practices and to effectuate the policies of the Act.

Upon the foregoing findings of fact, conclusions of law and entire record and, pursuant to Section 10(c) of the Act, I hereby issue the following:

#### RECOMMENDED ORDER

Bauman Chevrolet, Inc., its officers, agents, representatives, and assigns, shall

1. Cease and desist from

(a) Coercively interrogating its employees concerning their union membership or activities.

(b) Threatening its employees with a sale of its business or other reprisal if the Union, or any other labor organization, should remain or become their collective-bargaining representative.

(c) Refusing to recognize and bargain with International Association of Machinists and Aerospace Workers, District No 63, AFL-CIO, as the exclusive representative of its employees in the unit herein found appropriate.

(d) In any like or similar manner interfering with, restraining or coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action designed and necessary to effectuate the policies of the Act

(a) Upon request, bargain collectively with the above named Union with respect to rates of pay, wages, hours of employment and other terms and conditions of employment of the employees in the appropriate unit described above and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Post at its plants in Wilksburg, Pennsylvania, copies of the attached notice marked "Appendix B" [omitted from publication]<sup>6</sup> copies of such notice, on forms to be provided by the Regional Director for the Region 6, after being duly signed by an authorized representative of Respondent, shall be posted immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for the Region 6, in writing, within 20 days from the date of this Recommended Order, what steps the Respondent has taken to comply herewith.<sup>7</sup>

<sup>6</sup> In the event that the Recommended Order be adopted by the Board, the words "a Decision and Order" shall be substituted for the words "the Recommended Order of a Trial Examiner" in the notice. In the further event that the Board's Order is enforced by a decree of the United States Court of Appeals the words "a Decree of the United

States Court of Appeals Enforcing an Order" shall be substituted for the words "a Decision and Order."

<sup>7</sup> In the event that this Recommended Order be adopted by the Board, this provision shall be modified to read: "Notify said Regional Director, in writing, within 10 days from the date of this Order what steps the Respondents have taken to comply herewith."