

**All Media Associates, Inc., and Alexander Andrews, Its Operating Receiver in Bankruptcy and Detroit Local No. 289, Graphic Arts International Union, AFL-CIO. Case 7-CA-11799**

October 24, 1975

**DECISION AND ORDER**

BY CHAIRMAN MURPHY AND MEMBERS  
JENKINS AND PENELLO

Upon a charge and first amended charge filed on February 18, 1975, and March 21, 1975, respectively, by Detroit Local No. 289, Graphic Arts International Union, AFL-CIO, herein called the Union, and duly served on All Media Associates, Inc., the General Counsel of the National Labor Relations Board, by the Regional Director for Region 7, issued a complaint on March 27, 1975, against All Media Associates, Inc. On May 14, 1975, an amended complaint was issued against All Media Associates, Inc., and its Operating Receiver in Bankruptcy Alexander Andrews, herein collectively referred to as Respondent, alleging that All Media had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge, complaint, and notice of hearing before an Administrative Law Judge were duly served on the parties to this proceeding.

The amended complaint alleges in substance that, at all times since August 1973 and continuing to date, the Union has been the representative of All Media's employees in an appropriate unit for purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment and that, since August 1973, the Union and All Media have been parties to successive collective-bargaining agreements encompassing the unit employees, the most current agreement, by its terms, was and is in effect until August 31, 1976.

With respect to the unfair labor practices, the amended complaint alleges in substance that commencing on or about February 18, 1975, and at all times thereafter, All Media did refuse, and continues to refuse, to bargain with the Union by unilaterally (1) laying off and/or terminating its employees, Richard Hetu, Beverly Nash, Sue Caporale, Joanna Darwish, Beverly Gallinat, and Gail Sivori, and refusing to bargain with the Union about the effect of those layoffs and/or terminations and (2) subcontracting the work normally and usually performed by unit employees to Associated Newspapers, Inc. The amended complaint further alleges that at all times

since March 6, 1975, pursuant to an appointment by the United States District Court for the Eastern District of Michigan, Southern Division, under Chapter XI of the Federal Bankruptcy statutes Operating Receiver in Bankruptcy, Alexander Andrews has managed and/or participated in the preservation of assets, payment of liabilities, and the day-to-day operations, including labor relations policies, of All Media.

Respondent did not file an answer to the amended complaint.

On July 7, 1975, counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment. Subsequently, on July 15, 1975, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent did not file a response to Notice To Show Cause.

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

Upon the entire record in this proceeding, the Board makes the following:

**Ruling on the Motion for Summary Judgment**

Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, provides as follows:

The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

The amended complaint duly served on Respondent states that, unless an answer is filed by the Respondent within 10 days of service of the amended complaint, "all the allegations of the amended complaint shall be deemed to be admitted true and may be so found by the Board."

The Motion for Summary Judgment alleges that the counsel for the General Counsel notified Respondent by letter requesting that an answer to the amended complaint be filed and extended the filing

time for the answer. Copies of these letters are attached to the Motion for Summary Judgment as exhibits and are uncontroverted by Respondent. Also attached is an exhibit to the Motion for Summary Judgment and uncontroverted by Respondent is a June 4, 1975, letter from Alexander Andrews advising counsel for the General Counsel that he would not appear in these proceedings. Additionally, the Regional Director for Region 7 by affidavit also attached as an exhibit has certified that as of July 2, 1975, no answer had been filed in this matter by Respondent.

As indicated above, no response to the Notice To Show Cause has been filed and it appears that the Respondent has been duly informed of the charges alleged in the complaint herein, and has not filed an answer to the amended complaint.

No good cause to the contrary having been shown, in accordance with the rule set forth above, the allegations of the amended complaint are deemed to be admitted and are found to be true. We shall, accordingly, grant the Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE RESPONDENT

All Media Associates, Inc., is and has been at all material times herein a Delaware corporation and has maintained its principal office and place of business at 24830 Michigan Avenue, Dearborn, Michigan, where it is engaged in the business of contracting to do advertising, editorial work, and publication of newspapers for police forces, postal groups, and similar self-interest publications. During the year ending December 31, 1974, a representative period, All Media Associates, Inc.'s gross revenue exceeded \$1 million and it derived revenues exceeding \$500,000 from advertising nationally sold products and received such revenues from points outside of Michigan.

Since March 6, 1975, and at all times thereafter, Operating Receiver in Bankruptcy Alexander Andrews, pursuant to an appointment by the United States District Court for the Eastern District of Michigan, Southern Division, under Chapter XI of the Federal Bankruptcy Statutes, has been the Operating Receiver for All Media Associates, Inc., and has managed and/or participated in the preservation of assets, payment of liabilities and the day-to-day operations, including All Media Associates, Inc.'s labor relations policies.

We find, on the basis of the foregoing, that Respondent is, and has been at all times material

herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

##### II. THE LABOR ORGANIZATION INVOLVED

Detroit Local No. 289, Graphic Arts International Union, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

##### III. THE UNFAIR LABOR PRACTICES

###### A. *The Union's Representative Status*

###### 1. The unit

The following employees of the Respondent constitute a unit appropriate for collective-bargaining purposes within the meaning of Section 9(b) of the Act:

All employees performing work in the Composition Department including proofreaders, key liners, keyboard operators, photo and camera operator employees, excluding guards and supervisors and confidential employees as defined in the Act, and employees in other departments.

###### 2. The majority status of the Union

At all times since August 1973 and continuing to date, the Union has been and is now the exclusive representative of all employees in the above unit for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment. Since August 1973 the Union and All Media have been parties to successive collective-bargaining agreements encompassing the unit employees. The most current agreement, by its terms, was and is in full effect until August 31, 1976.

###### 3. The refusal to bargain

Commencing on or about February 18, 1975, and at all times thereafter, All Media did refuse, and continues to refuse, to bargain with the Union by unilaterally (1) laying off and/or terminating its employees, Richard Hetu, Beverly Nash, Sue Caporale, Joanna Darwish, Beverly Gallinat, and Gail Sivori, and refusing to bargain with the Union about the effects of those layoffs and/or terminations and (2) subcontracting the work normally and usually performed by unit employees to Associated Newspapers, Inc.

Accordingly, we find that the Respondent has, since February 18, 1975, and at all times thereafter, refused to bargain collectively with the Union as the

exclusive representative of the employees in the appropriate unit, and that, by such refusal, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

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

The activities of Respondent, set forth in section III, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship 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 Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act, we shall order that it cease and desist therefrom, and, upon request, bargain collectively with the Union as the exclusive representative of all employees in the appropriate unit concerning the effects of any layoffs and/or terminations and subcontracting out on unit employees and, if an understanding is reached, embody such understanding in a signed agreement.

We shall also order Respondent to make its employees, Richard Hetu, Beverly Nash, Sue Caporale, Joanna Darwish, Beverly Gallinat, and Gail Sivori, whole for any loss of earnings suffered because of the Respondent's unlawful layoffs and/or terminations. Backpay shall be based on the earnings each would have received from the date of his or her layoff and/or termination to the date Respondent begins to bargain with the Union concerning the effects of the layoffs and/or terminations, less any net interim earnings, and shall be computed on the basis set forth in *F. W. Woolworth Company*, 90 NLRB 289 (1950), and *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

#### CONCLUSIONS OF LAW

1. All Media Associates, Inc., and Alexander Andrews, Its Operating Receiver in Bankruptcy, is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Detroit Local No. 289, Graphic Arts International Union, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. All employees performing work in the Composition Department including proofreaders, key liners, keyboard operators, photo and camera operator employees, excluding guards and supervisors and confidential employees as defined in the Act, and employees in other departments constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

4. Since August 1973 the above-named labor organization has been and now is the exclusive representative of all employees in the aforesaid appropriate unit for the purpose of collective bargaining within the meaning of Section 9(a) of the Act.

5. By refusing on or about February 18, 1975, and at all times thereafter, to bargain collectively with the above-named labor organization as the exclusive bargaining representative of all the employees of Respondent in the appropriate unit by unilaterally laying off and/or terminating employees, refusing to bargain about the effects of the layoffs and/or terminations and subcontracting out of work performed by unit employees, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) of the Act.

6. By the aforesaid refusal to bargain, Respondent has interfered with, restrained, and coerced, and is interfering with, restraining, and coercing, employees in the exercise of the rights guaranteed to them in Section 7 of the Act, and thereby has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

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

#### ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, All Media Associates, Inc., and Alexander Andrews, its Operating Receiver in Bankruptcy, Dearborn, Michigan, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively concerning rates of pay, wages, hours, and other terms and conditions of employment, by unilaterally laying off and/or terminating unit employees, failing to bargain about the effects of layoffs and/or terminations, and subcontracting out of work performed by unit employees with Detroit Local No. 289, Graphic Arts International Union, AFL-CIO, as the exclusive bargaining representative of its employees in the following appropriate unit:

All employees performing work in the Composition Department including proofreaders, key liners, keyboard operators, photo and camera operator employees, excluding guards and supervisors and confidential employees as defined in the Act, and employees in other departments.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

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

(a) Upon request, bargain with the above-named labor organization as the exclusive representative of all employees in the aforesaid appropriate unit with respect to rates of pay, wages, hours, and other terms and conditions of employment, including layoffs and/or terminations of unit employees, the effects of any unilateral layoffs and/or terminations and any unilateral subcontracting out of work performed by unit employees and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Make Richard Hetu, Beverly Nash, Sue Caporale, Joanna Darwish, Beverly Gallinat, and Gail Sivori whole for any loss of earnings they suffered because they were unilaterally laid off and/or terminated from the date they were laid off and/or terminated to the date the Respondent bargains with the Union about the effects of the layoffs and/or terminations in the manner set forth in the section of this Decision entitled "Remedy."

(c) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its Michigan Avenue facility copies of the attached notice marked "Appendix."<sup>1</sup> Copies of said notice, on forms provided by the Regional Director for Region 7, after being duly signed by Respondent's representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where 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.

(e) Notify the Regional Director for Region 7, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith.

<sup>1</sup> In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a

Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

### NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

WE WILL NOT refuse to bargain collectively concerning rates of pay, wages, hours, and other terms and conditions of employment, by unilaterally laying off and/or terminating unit employees and refusing to bargain about the effects of layoffs and/or terminations and subcontracting out of work performed by unit employees with Detroit Local No. 289, Graphic Arts International Union, AFL-CIO, as the exclusive representative of the employees in the bargaining unit described below.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, upon request, bargain with the above-named Union, as the exclusive representative of all employees in the bargaining unit described below, with respect to rates of pay, wages, hours, and other terms and conditions of employment, including layoffs and/or terminations of unit employees, the effects of unilateral layoffs and/or terminations and unilateral subcontracting out of work performed by unit employees and, if an understanding is reached, embody such understanding in a signed agreement. The bargaining unit is:

All employees performing work in the Composition Department including proofreaders, key liners, keyboard operators, photo and camera operator employees, excluding guards and supervisors and confidential employees as defined in the Act, and employees in other departments.

WE WILL make Richard Hetu, Beverly Nash, Sue Caporale, Joanna Darwish, Beverly Gallinat, and Gail Sivori whole for any loss of earnings they suffered because they were unilaterally laid off or terminated.

ALL MEDIA ASSOCIATES,  
INC. AND ALEXANDER  
ANDREWS, ITS  
OPERATING RECEIVER IN  
BANKRUPTCY