

In the Matter of THE EGRY REGISTER COMPANY and UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, DISTRICT COUNCIL No. 7, LOCAL No. 806

*Case No. C-586.—Decided May 23, 1938*

*Autographic Register and Supplies Manufacturing Industry—Settlement:* based on stipulation providing for reinstatement and back pay—*Order:* based on stipulation.

*Mr. W. J. Perricelli*, for the Board.

*Estabrook, Finn & McKee*, by *Mr. Hubert A. Estabrook*, of Dayton, Ohio, for the respondent.

*Mr. K. M. Kirkendall*, of Dayton, Ohio, for the United.

*Mr. S. G. Lippman*, of counsel to the Board.

## DECISION

AND

## ORDER

### STATEMENT OF THE CASE

Upon charges and amended charges duly filed by the United Electrical & Radio Workers of America,<sup>1</sup> herein called the United, the National Labor Relations Board, herein called the Board, by Philip G. Phillips, Regional Director for the Ninth Region (Cincinnati, Ohio), issued a complaint dated April 27, 1938, against The Egru Register Company, Dayton, Ohio, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1) and (3), and Section 2 (6) and (7), of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, accompanied by notice of hearing, were duly served upon the Company and the United.

On April 30, 1938, the respondent filed its answer to the complaint admitting that it was engaged in interstate commerce within the meaning of the Act, and denying that it had committed any of the unfair labor practices alleged in the complaint. On May 2, 1938, the respondent filed a motion with the Regional Director that the com-

<sup>1</sup>The correct name of the United is United Electrical, Radio and Machine Workers of America, District Council No. 7, Local No. 806.

plaint be made specific in certain details. The Regional Director denied the motion. The ruling of the Regional Director is hereby affirmed.

Pursuant to notice a hearing was held in Dayton, Ohio, on May 5, 6, 7, and 9, 1938, before Charles W. Whittemore, the Trial Examiner duly designated by the Board. The Board, the respondent, and the United were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all the parties. On May 9, 1938, the Board, the respondent, and the United entered into the following stipulation:

It is hereby stipulated and agreed by and between The Egly Register Company, W. J. Perricelli, Attorney, National Labor Relations Board, and the United Electrical, Radio and Machine Workers of America, District Council No. 7, Local No. 906, that:

#### A. JURISDICTIONAL FACTS

I. The Egly Register Company of Dayton, Ohio, hereinafter called the respondent, is and has been since June 1, 1928, a corporation, organized and existing under and pursuant to the laws of the State of Ohio, having its principal offices and place of business at Dayton, Ohio.

II. The respondent is and has been at all times mentioned herein in the business of manufacturing, selling and distributing autographic registers, supplies and systems therefor.

III. The respondent operates a manufacturing plant at Dayton, Ohio, hereinafter called the Dayton plant, and has agents taking orders for respondent's products in most of the states in the United States, in England, France, Cuba and Brazil, and in many other foreign countries. The Egly Register Company, respondent herein, operates a subsidiary plant in Toronto, Ontario, Canada.

IV. During the period between June 1, 1937, and January 1, 1938, the respondent manufactured and processed at the Dayton plant and caused to be sold in both interstate and foreign commerce finished autographic registers and supplies and systems therefor in excess of \$500,000.00 in volume.

V. Of the goods so manufactured, processed and sold in the above mentioned period, over 80% was shipped to destinations other than the State of Ohio in the United States of America, and in foreign countries.

VI. That the goods so shipped as above mentioned were shipped by rail, interstate carrier, or ocean transportation.

VII. During the above mentioned period the company purchased the following principal raw materials, to-wit: autographic registers and parts therefor, printing ink, carbon paper, paper and necessary sundry supplies for use in its manufacturing and processing of the articles previously described, the sources of these raw materials all being within the United States; approximately  $33\frac{1}{3}\%$  of the raw materials is purchased outside of the State of Ohio. Delivery of raw materials is made to the Dayton plant by interstate carrier or otherwise.

VIII. The percentage of goods above mentioned as having been shipped from the Dayton plant by the respondent to points located in other states other than the State of Ohio, and the percentage of goods purchased and above mentioned as having been shipped to the Dayton plant of the respondent from points located outside the State of Ohio, is substantially equivalent to shipments to and from the Dayton plant in similar periods since the effective date of the National Labor Relations Act.

IX. The respondent employs approximately 200 people who are approximately all engaged in the manufacturing, processing and distributing of the goods of the respondent mentioned in the previous paragraph.

#### B. LABOR ORGANIZATION AND EMPLOYEE STATUS

X. The United Electrical, Radio, and Machine Workers of America, District Council No. 7, Local #806, affiliated with the Committee for Industrial Organization, is a labor organization within the meaning of Section 2, Subdivision (5) of the Act.

XI. Hugo Schwieterman, Alfred Degen and George Gary are employees of the respondent within the meaning of Section 2, Subdivision (3) of the Act.

#### C. CONSENT TO THE ENTRY OF BOARD ORDER

XII. The respondent shall permit and consent, and hereby and herein does permit and consent, to the entry, by the National Labor Relations Board, of the following

#### ORDER

Upon the pleadings, the transcript of the record in this matter, and pursuant to Section 10, Subdivision (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, The Egly Register Company, and its officers, agents, successors and assigns, shall

## 1. Cease and desist from:

(a) Discouraging membership in the United Electrical, Radio and Machine Workers of America, District Council No. 7, Local #806, or any other labor organization of its employees, by discharging, refusing to reinstate, or otherwise discriminating against its employees in regard to hire or tenure of employment or any term or condition of employment;

(b) Offering, soliciting, entering into, continuing, enforcing or attempting to enforce any contracts of employment with its employees executed with the design, intent or purpose of interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join or assist labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join or assist labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

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

(a) Offer to Hugo Schwieterman, Alfred Degen and George Gary and to each of them immediate and full reinstatement to their former positions with all rights and privileges previously enjoyed, and make whole said employees for any loss of pay they have suffered by reason of their discharge by payment to each of them, respectively, of a sum of money equal to that which each would normally have earned from the date of his discharge to the date of such offer of reinstatement computed on the basis of their respective weekly wages, less any amounts earned subsequent to the date of discharge.

(b) Pay to Hugo Schwieterman, Alfred Degen and George Gary the sum set after each of their names:

Alfred Degen.....	\$654. 75
George Gary.....	\$654. 75
Hugo Schwieterman .....	\$701. 73

which is the calculated and agreed upon sum and referred to in Paragraph 2 (a) herein.

(c) Furnish the Regional Director of the Ninth Region of the National Labor Relations Board satisfactory proof of the payment aforesaid in Section 2, Sub-section (b) of this order within thirty (30) days after such payment is made.

(d) Post notices in conspicuous places through its Dayton plant stating that:

(1) The respondent will cease and desist in the manner aforesaid; and (2) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting.

(e) Notify the Regional Director for the Ninth Region of the National Labor Relations Board in writing within ten (10) days from the date of this order what steps the respondent has taken to comply herewith.

#### D. CONSENT TO ENFORCEMENT ORDER

XIII. In the event an order of the Board is entered hereon and it becomes necessary in order to enforce its terms and provisions to file a petition for enforcement of the Board's order in the Sixth Circuit Court of the United States Circuit Court of Appeals by the National Labor Relations Board, the respondent, The Egly Register Company herein consents and agrees that an enforcement order of the said court, embodying the terms and provisions of the Board's order, may be entered upon the Board's order, without further notice of the application by the Board for such enforcement order.

#### E. STIPULATION SUBJECT TO BOARD APPROVAL

XIV. All stipulations herein made and the terms and provisions thereof are made subject to the approval of the National Labor Relations Board.

On May 12, 1938, the Board, pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, directed that the proceeding be transferred to and continued before it. The Board hereby approves the foregoing stipulation and the terms and provisions thereof.

#### ORDER

Upon the pleadings, the transcript of the record in this matter, including the stipulation set forth above, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor.

Relations Board hereby orders that the respondent, The Egry Register Company, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discouraging membership in the United Electrical, Radio & Machine Workers of America, District Council No. 7, Local No. 806, or any other labor organization of its employees, by discharging, refusing to reinstate, or otherwise discriminating against its employees in regard to hire or tenure of employment or any term or condition of employment;

(b) Offering, soliciting, entering into, continuing, enforcing or attempting to enforce any contracts of employment with its employees executed with the design, intent or purpose of interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

2. Take the following affirmative action to effectuate the policies of the National Labor Relations Act:

(a) Offer to Hugo Schwieterman, Alfred Degen and George Gary and to each of them immediate and full reinstatement to their former positions with all rights and privileges previously enjoyed, and make whole said employees for any loss of pay they have suffered by reason of their discharge by payment to each of them, respectively, of a sum of money equal to that which each would normally have earned from the date of his discharge to the date of such offer of reinstatement computed on the basis of their respective weekly wages, less any amounts earned subsequent to the date of discharge;

(b) Pay to Hugo Schwieterman, Alfred Degen and George Gary the sum set after each of their names:

Alfred Degen .....	\$654. 75
George Gary .....	\$654. 75
Hugo Schwieterman .....	\$701. 73

which is the calculated and agreed upon sum and referred to in paragraph 2 (a) herein;

(c) Furnish the Regional Director of the Ninth Region of the National Labor Relations Board satisfactory proof of the payment

aforesaid in section 2, subsection (b) of this order within thirty (30) days after such payment is made;

(d) Post notices in conspicuous places throughout its Dayton plant stating that (1) the respondent will cease and desist in the manner aforesaid; and (2) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting;

(e) Notify the Regional Director for the Ninth Region of the National Labor Relations Board in writing within ten (10) days from the date of this order what steps the respondent has taken to comply herewith.