

In the Matter of SCHACHT RUBBER MANUFACTURING COMPANY and
UNITED RUBBER WORKERS OF AMERICA, LOCAL NO. 130

Case No. C-615.—Decided July 18, 1938

Rubber Goods Manufacturing Industry—Settlement: stipulation providing for reinstatement and payment of back pay—*Order.* entered on stipulation.

Mr. Colonel C. Sawyer, for the Board.

Bowers, Feightner & Bowers, by *Mr. Lee M. Bowers* and *Mr. Eben Lesh,* of Huntington, Ind., for the respondent.

Mr. Floyd Robinson, of Mishawaka, Ind., for the Union.

Mr. Langdon West, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

United Rubber Workers of America, Local No. 130, herein called the Union, on June 8, 1937, filed a charge and, on January 11, 1938, filed an amended charge with the Regional Director for the Eleventh Region (Indianapolis, Indiana), alleging that Schacht Rubber Manufacturing Company, Huntington, Indiana, herein called the respondent, had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

On February 8, 1938, the National Labor Relations Board, herein called the Board, pursuant to Article II, Section 37 (b), of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued its order consolidating this case and *Matter of Schacht Rubber Company* and *United Rubber Workers of America, Local No. 138* (case No. C-616). On March 15, 1938, the Board revoked its Order of Consolidation, dated February 8, 1938, because a typographical error appeared therein, and duly issued another order of consolidation in these same two proceedings.

On March 19, 1938, the Board, by the said Regional Director, issued and duly served its complaints and accompanying notices of hearing against the respondent and the Schacht Rubber Company, alleging that they had engaged in and were engaging in unfair labor

practices affecting commerce within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the Act.

On March 29, 1938, the said Regional Director granted the respondent's motion, filed on March 23, 1938, to sever the proceedings for the purposes of hearing. The Board, by order dated May 14, 1938, severed the proceedings.

On March 29, 1938, the Board, by the said Regional Director, issued and duly served its amended complaint and notice of hearing thereon against the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the Act.

With respect to the unfair labor practices, the amended complaint alleged, in substance, that the respondent, by threats, by circulating antiunion petitions among its employees, by spying on union meetings, and by other acts, interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act; and that the respondent terminated the employment of six named employees and at all times thereafter refused to reinstate two of them because they were members of the Union and had engaged in concerted activities for the purposes of collective bargaining and other mutual aid or protection.

Pursuant to notice, a hearing was held at Huntington, Indiana, on March 31 and April 1, 1938, before William P. Webb, the Trial Examiner duly designated by the Board. All parties participated in the proceeding. The Board and the respondent were represented by counsel and the Union by its international representative. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded all parties.

During the hearing, by agreement of the parties, the respondent filed its answer to the amended complaint, in which it admitted the allegations concerning the nature and scope of its business but denied the allegations of unfair labor practices.

On March 31, 1938, counsel for the Board and counsel for the respondent and the representative of the Union entered into a stipulation setting forth the facts concerning the nature and scope of the respondent's business and the terms of an order which the Board could enter in the case upon its approval of the stipulation. On April 1, 1938, this stipulation was admitted and made part of the record in the case without objection from any party. Thereupon the hearing was closed.

During the course of the hearing the Trial Examiner made several rulings on motions in addition to those mentioned above. The Board has reviewed the rulings made by the Trial Examiner and those made

by the Regional Director prior to the hearing and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On May 21, 1938, the Trial Examiner filed his Intermediate Report, in which he recommended that the Board approve the above-mentioned stipulation and issue the order provided for therein. On May 23, 1938, after having duly considered the provisions of the said stipulation, the Board issued its order approving the said stipulation and transferring the case to the Board for the purpose of entry of a decision and order by the Board pursuant to the said stipulation.

Upon the entire record in the case the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent is an Indiana corporation, having its principal office and place of business in Huntington, Indiana. It is engaged in the manufacture, sale, and distribution of mechanical rubber goods.

All raw materials used by the respondent in the operation of its business during the year 1937, which were valued at \$266,256.89, were shipped from points outside the State of Indiana. During the same year the respondent produced mechanical rubber goods valued at approximately \$750,000, about 95 per cent of which were shipped to customers located outside the State of Indiana.

We find that the above-described operations of the respondent constitute a continuous flow of trade, traffic, and commerce among the several States.

II. THE BASIS OF SETTLEMENT

The above-mentioned stipulation provides as follows:

It is hereby stipulated and agreed by and between Schacht Rubber Manufacturing Company, by Lee M. Bowers of the firm of Bowers, Feightner & Bowers of Huntington, Indiana, representing the Respondent herein and the Regional Director of the Eleventh Region of the National Labor Relations Board by Colonel C. Sawyer, trial attorney for said region, if approved by the National Labor Relations Board, as follows:

1. Schacht Rubber Manufacturing Company operating a rubber goods manufacturing plant at Huntington, Indiana, is an Indiana corporation, incorporated October 11, 1909, and doing business in said State of Indiana.

2. Schacht Rubber Manufacturing Company is engaged in the manufacture, sale and distribution of mechanical rubber goods at its said plant in the City of Huntington, Indiana.

3. Schacht Rubber Manufacturing Company purchased all raw materials used during the past year in the manufacture of said mechanical rubber goods, a total of \$266,256.89, from outside the State of Indiana. Said raw materials are all purchased from jobbers, manufacturers and brokers in various parts of the United States, and are shipped to said Schacht Rubber Manufacturing Company by truck, railroad freight and express.

4. Approximately 95 per cent of the mechanical rubber goods so manufactured by Schacht Rubber Manufacturing Company in the approximate sum of \$750,000 is sold and shipped to customers outside of the State of Indiana. The remaining 5 per cent is sold and shipped to customers in the State of Indiana.

5. Approximately 10,000 to 15,000 pounds of mechanical rubber goods are shipped daily from the plant at Huntington, Indiana, to customers, by truck, railroad freight and express.

6. Sales are made by mail order, no salesmen being employed. Sales are made directly to the customers. No advertising medium is used by Schacht Rubber Manufacturing Company.

It is stipulated and agreed by all the parties, that neither of the parties to this stipulation are to be precluded from proving or introducing evidence as to the other or additional facts concerning any and all matters relating to commerce hereinabove stipulated.

It is further agreed and stipulated by the parties hereto that, if approved by the National Labor Relations Board, an order may forthwith be entered by said Board as follows:

1. Respondent, Schacht Rubber Manufacturing Company, will cease and desist:

(a) From in any manner interfering with, restraining or coercing its employees in the exercise of the rights 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;

(b) From discouraging membership in the United Rubber Workers of America, Local No. 130 or in any other labor organization of its employees; by discharging, threatening, or refusing to reinstate any of its employees for joining any labor organization of its employees;

(c) From in any other manner discriminating against any of its employees in regard to hire and tenure of employment or any term or conditions of employment for joining any labor organization of its employees.

2. Respondent, the Schacht Rubber Manufacturing Company, will take the following affirmative action to effectuate the policies of the National Labor Relations Act:

(a) Offer to Harry Swartz and Dick Erickson immediate and full reinstatement, to their former positions without prejudice to any rights and privileges previously enjoyed by them.

(b) Make whole the following employees by paying them for loss of time suffered by reason of their discharge, said loss of time shown opposite their respective names, as follows:

	<i>Hours</i>
Harry Swartz.....	350
James Barton.....	216
Herman Simon.....	168
Arthur Rudig.....	168
Raymond Emley.....	250
Dick Erickson.....	80

That payment for the time lost as above set out shall be at the hourly rate in force when said employees were discharged.

(c) Post and keep visible, on the bulletin board in respondent's plant, for a period of thirty (30) days after acceptance of this stipulation by the National Labor Relations Board a notice stating:

(1) That the respondent will cease and desist in the manner aforesaid;

(2) That the respondent's employees are free to join or assist any labor organization for the purpose of collective bargaining with the respondent and the respondent's employees are free to join or assist the United Rubber Workers of America, Local No. 130.

(3) That the respondent will not discriminate against any member of any labor organization of its employees or any person assisting such labor organizations.

(d) File with Regional Director of the Eleventh Region, within ten (10) days after acceptance of this stipulation by the National Labor Relations Board, a report in writing, setting forth in detail the manner and form in which the respondent has complied with the foregoing requirements.

It is understood and agreed by and between the parties hereto that, on acceptance of this stipulation by said National Labor Relations Board, this shall be and constitute a full and complete settlement and adjustment of any and all complaints, charges and any and all other matters between the United Rubber Workers of America, Local No. 130, and this respondent to the date of this stipulation.

ORDER

Upon the basis of the above findings of fact and stipulation and upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that Schacht Rubber Manufacturing Company, Huntington, Indiana, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) In any manner interfering with, restraining, or coercing its employees in the exercise of their rights 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;

(b) Discouraging membership in the United Rubber Workers of America, Local No. 130, or in any other labor organization of its employees, by discharging, threatening, or refusing to reinstate any of its employees for joining any labor organization of its employees;

(c) From in any other manner discriminating against any of its employees in regard to hire and tenure of employment or any term or condition of employment for joining any labor organization of its employees.

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

(a) Offer to Harry Swartz and Dick Erickson immediate and full reinstatement, to their former positions without prejudice to any rights and privileges previously enjoyed by them;

(b) Make whole the following employees by paying them for loss of time suffered by reason of their discharge, said loss of time shown opposite their respective names, as follows:

	<i>Hours</i>
Harry Swartz.....	350
James Barton.....	216
Herman Simon.....	168
Arthur Rudig.....	168
Raymond Emley.....	250
Dick Erickson.....	80

Payment for the time lost as above set out shall be at the hourly rate in force when said employees were discharged;

(c) Post and keep visible, on the bulletin board in respondent's plant, for a period of thirty (30) days after acceptance of this stipulation by the National Labor Relations Board a notice stating

(1) that the respondent will cease and desist in the manner afore-

said; (2) that the respondent's employees are free to join or assist any labor organization for the purpose of collective bargaining with the respondent and the respondent's employees are free to join or assist the United Rubber Workers of America, Local No. 130; (3) that the respondent will not discriminate against any member of any labor organization of its employees or any person assisting such labor organizations;

(d) File with the Regional Director of the Eleventh Region, within ten (10) days after acceptance of this stipulation by the National Labor Relations Board, a report in writing, setting forth in detail the manner and form in which the respondent has complied with the foregoing requirements.