

**Frayn Printing and Graphic Communications Union
District Council No. 2, Local 747, AFL-CIO.
Case 19-CA-22037**

On the entire record, the Board makes the following

August 12, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

Upon a charge filed by the Union on April 16, 1992, the General Counsel of the National Labor Relations Board issued a complaint against Frayn Printing, the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file an answer.

On July 13, 1992, the General Counsel filed a Motion for Summary Judgment. On July 15, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all of the allegations in said Complaint shall be deemed to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that by letter dated July 1, 1992, the General Counsel notified the Respondent that unless an answer was received by the close of business July 7, 1992, a Motion for Summary Judgment would be filed.¹ To date, no answer has been filed by the Respondent.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

¹ Although it appears from an affidavit submitted by the General Counsel in support of the motion that the Respondent is involved in Chapter 7 bankruptcy proceedings, the institution of such proceedings does not deprive the Board of jurisdiction or authority to entertain and process an unfair labor practice case to its final disposition. Board proceedings fall within the exception to the automatic stay provision for proceedings by a governmental unit to enforce its police or regulatory powers. See *Phoenix Co.*, 274 NLRB 995 (1985).

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a Washington State corporation, maintains an office and place of business in Seattle, Washington, where it is engaged in the business of commercial printing. During the 12 months preceding issuance of the complaint, a representative period, the Respondent, in the course and conduct of its business operations, had gross sales and services valued in excess of \$500,000. During the same period, the Respondent, in the course and conduct of its business operations, sold and shipped goods or provided services from its facilities within the State of Washington to customers outside the State, or sold and shipped goods or provided services to customers within the State who, in turn, were directly engaged in interstate commerce, whose total value was in excess of \$50,000. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

Since at least 1972, and at all material times, the Union or its legal predecessor has been the designated exclusive collective-bargaining representative of the Respondent's employees in an appropriate unit, and has been recognized as such by the Respondent. Such recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective by its terms from September 1, 1989, to August 31, 1992. At all material times, the Union, by virtue of Section 9(a) of the Act, has been the exclusive collective-bargaining representative of the employees in the bargaining unit. The appropriate unit consists of:

Letterpress operators; operators and assistants; preparatory assistants/press helpers; camera negative assemblers; and bookbinders I, IA, II and III; and trainees to such positions; excluding guards and supervisors as defined in the Act.

Since on or about January 1992, the Respondent, without giving notice to or bargaining with the Union, repudiated its collective-bargaining agreement and unilaterally changed the unit employees' wages, hours, and working conditions by, inter alia, failing to pay employees for hours worked; failing to remit to the Union the union dues deducted

from employees' checks; failing to make health, welfare, and pension payments as required by the agreement; and failing to process grievances, all of which constitute mandatory subjects of bargaining. Further, since about April 1992, the Respondent has failed and refused to recognize and bargain with the Union as the exclusive bargaining representative of the unit employees. By engaging in such conduct, we find that the Respondent has violated Section 8(a)(5) and (1) of the Act, as alleged.

CONCLUSIONS OF LAW

By repudiating its collective-bargaining agreement and unilaterally changing the unit employees' wages, hours, and conditions of employment by, among other things, failing to pay employees for hours worked, failing to remit to the Union dues that were deducted from employees' paychecks, failing to make required health, welfare, and pension payments, and failing to process grievances, and by thereafter refusing to recognize and bargain with the Union, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

The Respondent shall be ordered to recognize and, on request, to bargain with the Union, and to comply with all the terms of its collective-bargaining agreement with the Union including, among other things, paying employees for hours worked that have not been paid since on or about January 1992, remitting to the Union the union dues that were deducted from employees' paychecks but which have not been forwarded since on or about the same date, with interest on such amounts to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and by making the health, welfare, and pension payments that have not been made since on or about January 1992.² The Respondent shall be required to make whole unit employees for any expenses they may have incurred as a result of the Respondent's failure to comply with its contractual obligations, as set forth in *Kraft Plumbing & Heating*, 252 NLRB 891 fn. 2 (1980), enf. mem. 661 F.2d 940 (9th Cir. 1981), with interest as prescribed in *New*

² Any additional amounts applicable to these payments shall be computed in the manner prescribed in *Merryweather Optical Co.*, 240 NLRB 1213 (1979).

Horizons for the Retarded, supra. Finally, the Respondent shall be required to process grievances pursuant to its collective-bargaining agreement with the Union.

ORDER

The National Labor Relations Board orders that the Respondent, Frayn Printing, Seattle, Washington, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to recognize and bargain with Graphic Communications Union District Council No. 2, Local 747, AFL-CIO, which is the exclusive designated collective-bargaining representative of the Respondent's employees in an appropriate unit, and repudiating its collective-bargaining agreement with the Union and unilaterally changing the unit employees' wages, hours, and working conditions by, among other things, failing to pay employees for hours worked, failing to remit to the Union the dues that have been deducted from employees' paychecks, failing to make health, welfare, and pension payments, and failing to process grievances. The appropriate bargaining unit consists of:

Letterpress operators; operators and assistants; preparatory assistants/press helpers; camera negative assemblers; and bookbinders I, IA, II and III; and trainees to such positions; excluding guards and supervisors as defined in the Act.

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

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

(a) Recognize and, on request, bargain with the Union as the exclusive designated bargaining representative of the unit employees, and comply with all the terms of its collective-bargaining agreement with the Union.

(b) Pay unit employees for hours worked that have not been paid since on or about January 1992, remit to the Union the union dues that were deducted from employees' paychecks but which have not been sent since on or about January 1992, with interest on such amounts to be paid as set forth in the remedy section of this decision, make the contractually required health, welfare, and pension payments that have not been made since on or about January 1992, and process grievances as required by its collective-bargaining agreement with the Union.

(c) Make whole unit employees for any expenses they may have incurred as a result of the Respondent's failure to comply with the terms of its collective-bargaining agreement, with interest as described in the remedy section of this decision.

(d) Preserve and, on 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 amounts due under the terms of this Order.

(e) Post at its facility in Seattle, Washington, copies of the attached notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 19, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(f) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

³ If 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

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to recognize and bargain with Graphic Communications Union District Council No. 2, Local 747, AFL-CIO, which is the designated exclusive collective-bargaining repre-

sentative of our employees, and WE WILL NOT repudiate our collective-bargaining agreement with the Union and unilaterally change our employees wages, hours, and working conditions by, among other things, failing to pay employees for hours worked, failing to remit to the Union the union dues that were deducted from employees' paychecks, failing to make health, welfare, and pension payments required by the contract, and failing to process grievances. The appropriate bargaining unit consists of:

Letterpress operators; operators and assistants; preparatory assistants/press helpers; camera negative assemblers; and bookbinders I,IA,II and III; and trainees to such positions; excluding guards and supervisors as defined in the Act.

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

WE WILL, on request, bargain with the Union as the exclusive designated collective-bargaining representative of our unit employees regarding any changes in the employees' wages, hours, and conditions of employment.

WE WILL comply with all terms of our collective-bargaining agreement by, among other things, making all health, welfare, and pension payments that have not been made since on or about January 1992; by paying employees, with interest, for hours they worked but for which they have not been paid since on or about January 1992; remitting to the Union, with interest, the union dues that were deducted from employees' paychecks but not sent to the Union since on or about the same date; and by processing grievances as required by our collective-bargaining agreement with the Union.

WE WILL make whole unit employees for any expenses they may have incurred as result of our failure to comply with all terms of our collective-bargaining agreement with the Union, with interest.

FRAYN PRINTING