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**Automotive Industries, Inc., Huron Division and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW). Case 8-CA-27586**

March 25, 1996

**DECISION AND ORDER**

BY CHAIRMAN GOULD AND MEMBERS BROWNING  
AND COHEN

Upon charges and amended charges filed by the Union on July 26, October 4, and December 11, 1995, respectively, the General Counsel of the National Labor Relations Board issued an amended complaint on January 19, 1996, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain following the Union's certification in Case 8-RC-15153. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint.

On February 22, 1996, the General Counsel filed a Motion for Summary Judgment. On February 26, 1996, 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 a response.

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

**Ruling on Motion for Summary Judgment**

In its answer the Respondent admits its refusal to bargain but attacks the validity of the certification on the basis of its objections to the election in the representation proceeding.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.

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On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

The Respondent, a Virginia corporation, with facilities in Huron, Ohio, is engaged in the manufacture of components for the automotive industry. In conducting its business operations, the Respondent annually purchases and receives goods valued in excess of \$50,000 directly from points outside the State of Ohio. 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**

**A. The Certification**

Following the election held on December 8, 1994, the Union was certified on June 9, 1995, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All production and maintenance employees employed at the Respondent's 1608 and 1710 Sawmill Parkway, Huron, Ohio facilities, including assemblers, custodians, electronic electrical repair persons, Kitting employees, Kitting data entry clerk, lead persons, machine operators, maintenance repair employees, maintenance tool and die employees, maintenance trainee, maintenance apprentice, material handler, molders, painters, PPS Tool and Die No. 1&2 employees, PPS Tool and Die apprentice, PPS helpers, quality control auditor and shipping and receiving clerk, but excluding all office clerical employees, supervisory relief employees, and all professional employees, guards and supervisors as defined in the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

**B. Refusal to Bargain**

Since June 9, 1995, the Respondent has failed and refused to recognize, meet with, and bargain with the Union. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

**CONCLUSION OF LAW**

By refusing on and after June 9, 1995, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit, 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 violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965).

## ORDER

The National Labor Relations Board orders that the Respondent, Automotive Industries, Inc., Huron Division, Huron, Ohio, its officers, agents, successors, and assigns, shall

## 1. Cease and desist from

(a) Refusing to bargain with International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) as the exclusive bargaining representative of the employees in the bargaining unit.

(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) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment, and if an understanding is reached, embody the understanding in a signed agreement:

All production and maintenance employees employed at the Respondent's 1608 and 1710 Sawmill Parkway, Huron, Ohio facilities, including assemblers, custodians, electronic electrical repair persons, Kitting employees, Kitting data entry clerk, lead persons, machine operators, maintenance repair employees, maintenance tool and die employees, maintenance trainee, maintenance apprentice, material handler, molders, painters, PPS Tool and Die No. 1&2 employees, PPS Tool and Die apprentice, PPS helpers, quality control auditor and shipping and receiving clerk, but excluding all office clerical employees, supervisory relief employees, and all professional employees, guards and supervisors as defined in the Act.

(b) Post at its facilities in Huron, Ohio, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 8, 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.

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

Dated, Washington, D.C. March 25, 1996

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William B. Gould IV, Chairman

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Margaret A. Browning, Member

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Charles I. Cohen,

(SEAL) NATIONAL LABOR RELATIONS BOARD

<sup>1</sup>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.

Section 7 of the Act gives employees these rights.

To organize  
To form, join, or assist any union  
To bargain collectively through representatives of their own choice  
To act together for other mutual aid or protection  
To choose not to engage in any of these protected concerted activities.

WE WILL NOT refuse to bargain with International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) as the exclu-

sive representative of the employees in the bargaining unit.

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 and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All production and maintenance employees employed at our 1608 and 1710 Sawmill Parkway, Huron, Ohio facilities, including assemblers, custodians, electronic electrical repair persons, Kitting employees, Kitting data entry clerk, lead

persons, machine operators, maintenance repair employees, maintenance tool and die employees, maintenance trainee, maintenance apprentice, material handler, molders, painters, PPS Tool and Die No. 1&2 employees, PPS Tool and Die apprentice, PPS helpers, quality control auditor and shipping and receiving clerk, but excluding all office clerical employees, supervisory relief employees, and all professional employees, guards and supervisors as defined in the Act.

AUTOMOTIVE INDUSTRIES, INC., HURON  
DIVISION