

In the Matter of THE GLOBE COMPANY and JOSIAH SHAPIRO, ET AL.

*Case No. 13-C-2117.—Decided December 22, 1943*

## DECISION

AND

## ORDER

On November 10, 1943, the Trial Examiner issued his Intermediate Report in the above-entitled proceeding, finding that the respondent had engaged in and was engaging in certain unfair labor practices, and recommending that it cease and desist from the unfair labor practices found and take certain affirmative action, as set out in the copy of the Intermediate Report attached hereto. Thereafter the respondent filed exceptions to the Intermediate Report and a supporting brief. No request for oral argument before the Board at Washington, D. C., was made by any of the parties. The Board has considered the rulings of the Trial Examiner at the hearing and finds that no prejudicial errors were committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the respondent's brief and exceptions, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

## ORDER

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 the respondent, The Globe Company, Chicago, Illinois, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in any labor organization of its employees, by discharging or refusing to reinstate any of its employees, or by discriminating in any other manner in regard to their hire or tenure of employment or any term or condition of their employment;

(b) 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 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 Act.

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

(a) Offer Josiah Shapiro and Frank Guziak immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights and privileges;

(b) Make whole Josiah Shapiro and Frank Guziak for any loss of pay they have suffered by reason of the respondent's discrimination against them, by payment to each of them of a sum of money equal to the amount which he normally would have earned as wages during the period from April 1, 1943, to the date of the respondent's offer of reinstatement, less his net earnings during said period;

(c) Post immediately in conspicuous places throughout its plant in Chicago, Illinois, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a) and (b) of this Order; (2) that the respondent will take the affirmative action set forth in paragraphs 2 (a) and (b) of this Order; and (3) that the respondent's employees are free to become or remain members of any labor organization, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and that the respondent will not discriminate against any employee because of his membership or activity in behalf of any labor organization, or because he has engaged in such concerted activity;

(d) Notify the Regional Director for the Thirteenth Region in writing, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

#### INTERMEDIATE REPORT

*Mr. Robert T. Drake, for the Board.*

*Fyffe & Clarke, by Mr. John Harrington, of Chicago, Illinois, for the respondent.*

#### STATEMENT OF THE CASE.

Upon an amended charge filed on October 13, 1943, by Frank Guziak,<sup>1</sup> the National Labor Relations Board, herein called the Board, by the Regional Director for the Thirteenth Region (Chicago, Illinois), issued its complaint, dated October 13, 1943, against The Globe Company, Chicago, Illinois, 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 and notice of hearing were duly served upon the respondent and upon Josiah Shapiro and Frank Guziak.

With respect to the unfair labor practices, the complaint alleged in substance: (1) that the respondent, on or about April 1, 1943, discharged Josiah Shapiro

<sup>1</sup> The original charge was filed April 8, 1943, and signed by Josiah Shapiro, et al.

and Frank Guziak and has at all times since refused to reinstate said employees to their former or substantially equivalent employment because they engaged in concerted activities with other employees for the purpose of collective bargaining and other mutual aid and protection, (2) that by said acts the respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

On or about October 22, 1943, the respondent filed its answer wherein it admitted certain allegations in the complaint concerning the nature of its business and the discharge of Shapiro and Guziak on or about the date alleged in the complaint, but denied that Shapiro and Guziak were discharged or refused reinstatement because they engaged in concerted activity with other employees for the purpose of collective bargaining and other mutual aid and protection.

Pursuant to notice, a hearing was held on October 25 and 26, 1943, at Chicago, Illinois, before J. J. Fitzpatrick, the undersigned Trial Examiner duly designated by the Chief Trial Examiner. The Board and the respondent 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 on the issues was afforded all parties. At the conclusion of the hearing, Board's counsel moved to amend the complaint to allege that the respondent was incorporated under the laws of the State of Illinois,<sup>2</sup> and to conform the pleadings to the proof as to formal matters. There was no objection and the motion was granted. At that time also, counsel for the Board and the respondent presented oral arguments. The parties were advised of their right to file briefs with the undersigned at the close of the hearing. The respondent has filed a brief.

Upon the record thus made, and from his observation of the witnesses, the undersigned makes the following:

#### FINDINGS OF FACT

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

The Globe Company is an Illinois corporation, having its principal office and place of business in the City of Chicago, Illinois. It is normally engaged in the manufacture of machinery and equipment for sausage manufacturers and meat packers, but since about March 1, 1943, it has also been engaged in the manufacture of hatch beams for Maritime Commission ships.<sup>3</sup> During the 12-month period ending September 30, 1943, the respondent purchased materials in excess of \$50,000 in value, and during the same period sold products in excess of \$100,000 in value. During the first six months of the calendar year 1943 the respondent produced approximately 150 tons of products per day, of which about 90 percent was shipped to points outside the State of Illinois.<sup>4</sup>

##### II. THE UNFAIR LABOR PRACTICES

As heretofore found, the respondent normally manufactured machinery and equipment for meat packers and sausage manufacturers. However, about March 1, 1943, it contracted to manufacture hatch beams for Liberty ships. To fulfill

<sup>2</sup> The complaint alleged that the respondent was incorporated under the laws of the State of Delaware.

<sup>3</sup> At the time of the hearing the manufacture of hatch beams was the respondent's principal occupation.

<sup>4</sup> The above findings are based upon a stipulation of the parties and upon the respondent's answer which admitted the interstate character of its business as alleged in the complaint.

the contract, the respondent employed Daniel Grow, as hatch beam production superintendent, and about 495 additional workers.<sup>5</sup> It also built 10 jigs for superstructures to hold the component parts of the hatch beams until they were welded into one structure. After these preliminary arrangements had been made, the actual construction of the hatch beams began about March 5.<sup>6</sup> About 150 of the new employees who passed the Marine welding test were assigned to the necessary welding. Most of the 150 had little previous welding experience, but there were a few of them including Josiah Shapiro, Frank Guziak, and Anton Tadin, who were competent experienced welders. The base pay of the welders was \$1.15 an hour for 8 hours. When the actual welding of the hatch beams began, about March 5, an incentive rate was announced whereby the 5 welders on each jig received \$1.44 per hour, provided the jig crew welded 12 hatch beams during the 8-hour shift. None of the jig crews was able to meet this quota, and about March 26 the respondent lowered the quota to 8 hatch beams per jig per shift.

The working hours of the first shift<sup>6</sup> were from 7 a. m. to 3 p. m. with a 15 minute lunch period from 12 a. m. to 12:15 p. m.<sup>7</sup> During the noon lunch period on March 31, about 15 or 20 of the welders on the first shift who usually lunched together including Shapiro, Guziak and Tadin, discussed the new 8-beam quota which by that time had been tried out for several days. All present agreed that this was impossible to make and thereby secure the higher hourly rate, due to poor set-ups on the jigs and frequent delays in securing materials. As a result of this discussion, none of the welders returned to work at 12:15 but waited until Beam Superintendent Grow<sup>8</sup> returned from his lunch when they proposed to voice their grievance about the quota to him as a group. Grow returned to the plant about 12:30 and inquired of the welders why they were not working. After some confusion, due to the fact that all the welders tried to talk at once, Tadin, who was immediately in front of Grow, explained that the welders, after several days trial, were convinced that they could not make the quota and wanted it further revised. Grow instructed the welders to return to their work immediately and select one person from each jig to act on a committee to later meet with management and adjust the grievance. On this assurance from Grow, all the welders returned to their work about 12:30 or 12:35 and most of the jigs at the same time selected a representative or spokesman. Tadin was selected as spokesman for jig No. 1. About 1 p. m. Grow came to his jig and Tadin again outlined the complaint of the welders. After taking Tadin's name Grow went to the other jigs. When he reached jig No. 5, where Guziak was the selected spokesman, the following took place, according to the uncontroverted and credited testimony of Guziak:

I was working at my jig and I saw Mr. Grow walking towards me, so I stepped away from the jig and he walked up to me. Well, his first words were, "Why did you call the men out?" That is, off the job, and I said, "I didn't call anybody off the job." I says, "Don't blame me for that. I don't know half of these guys." He said, "Well, what is your grievance?" I said, "The same as the other fellows." I said, "We are working like horses and

<sup>5</sup> The method of production was as follows: an "I" beam, measuring approximately 20 feet in length, was divided length-wise down the center. Its upper portion was then cut cross-wise near each end so that the ends could be depressed. The upper and lower portions were then braced by cross bars and placed in a jig for welding.

<sup>6</sup> The respondent worked 3 hatch beam shifts.

<sup>7</sup> Apparently the workers brought their lunch and ate it in the plant.

<sup>8</sup> Inasmuch as Charles Bonfield was plant superintendent, to avoid confusion, Grow will sometimes be referred to herein as beam superintendent.

we can't make the rate. Naturally we can't make over a dollar and fifteen cents an hour." So that was all.<sup>9</sup>

Shapiro was spokesman for No 3 jig. When he reached that jig, the following transpired according to Grow's credited testimony :

He [Shapiro] emphatically stated that he couldn't make the eight beams and I remember his specifying that he wanted the rate cut to six per day per crew. He was the first that I recall to specify a cut and how much it should be.

While Grow's duties required him to circulate freely among the various jigs and he talked to some of the other spokesmen that afternoon, the record is not clear as to what other welders he interviewed or whether spokesmen were actually selected for all the eight jigs.<sup>10</sup>

About 2:30 in the afternoon, Grow returned to Tadin and told him to go to Plant Superintendent Charles Bonifield's office and explain the grievance. Tadin at first demurred to this suggestion, stating that he understood a committee was to represent the welders. Grow replied that the committee was not necessary, that Tadin could represent the welders and report to them the results of his interview with Bonifield. After talking to Shapiro, and upon the latter's assurance that the arrangement was satisfactory, Tadin accompanied Grow to Bonifield's office. Grow introduced Tadin to Bonifield and then left. Tadin restated the grievance to Bonifield whereupon the latter stated that he had had time studies made of the beam production which showed that the beams could be welded at the rate of one per hour for each crew, or even in less time than that; that the job was just being started, and there were a number of things to be ironed out, and little improvements to be added which would speed production. He further stated that if the crews could not make one beam per hour because of delays beyond their control, they would be paid for the time they had to wait but the piece work rate would be computed only on actual time spent at welding. Bonifield then gave the time study figures to Tadin and asked him to return to the welders and explain the situation as he had outlined it and Tadin promised to do so.<sup>11</sup>

Tadin concluded his interview with Bonifield just a few minutes before the 3 o'clock quitting time for the first shift. He immediately returned to the plant and the welders on his jig and a few others gathered around to hear his report. As Tadin began to explain the time study figures and what Bonifield had stated, the shift whistle blew. On hearing the the whistle, some of the welders began to leave for the dressing room, whereupon Tadin called out that he would see them the next morning.

During the change from the first to the second shift, Shapiro again told Grow that the quota was too high and should be reduced. Grow replied that one of the crews on the second shift was welding one beam per hour. Shapiro was skeptical as to the quality of the welding being done by this crew, so, at Grow's suggestion he remained at the plant for a short while to watch the welding being

<sup>9</sup> Grow was not asked and did not testify specifically as to this conversation with Guziak. He testified, however, that in the afternoon of March 31 during the course of his work he was "circulating around through the welders at all times . . ."

<sup>10</sup> Although ten jigs were constructed by the respondent, only 8 of the jigs were being operated at this time.

<sup>11</sup> The above finding is based upon a reconciliation of the testimony of Bonifield and Tadin as to this interview. Welder Winterberger testified that provision for piece rate pay because of delay was made prior to March 31. It is clear that Winterberger was confused or in error in this testimony, because nowhere in the testimony of the respondent's witnesses (Grow and Bonifield) does there appear any such contention.

done on the jig in question. After inspecting the work Shapiro admitted to Grow that the welding seemed to be all right. As he left, Shapiro told Grow "we will see about it in the morning."

About 3:30 o'clock that afternoon, Grow reported to Bonifield that the men were still dissatisfied with the quota and wanted it reduced to 6 hatch beams, that he had heard Tadin talking to the welders after the Bonifield interview and Tadin seemed to have changed his attitude;<sup>12</sup> that a few of the experienced welders were dissatisfied with the quota arrangement and were influencing the less experienced welders and that Tadin, Shapiro and Guziak were the loudest in expressing this dissatisfaction.

On April 1 when Tadin, Guziak, and Shapiro reported for work they were stopped at the gate by the guard. Bonifield met Shapiro near the gate and gave him his pay envelope. When Shapiro asked the reason Bonifield replied that he was being discharged because he was "disgruntled and dissatisfied" and "creating a lot of unnecessary dissension." Bonifield then offered to give Shapiro a recommendation so that he could get another job. Guziak was informed of his discharge and paid off by the gate guard, who stated that he was following instructions. Tadin after having been paid by Inspector Roy Busse, saw Grow at the gate and asked him the reason for his discharge. Grow told him that it was "either you or me." Tadin also saw Bonifield that morning and asked why he was discharged. Bonifield replied that he was letting Tadin go because he could not let 3 men "disrupt the whole organization."<sup>13</sup>

On the morning of April 1, Grow told a number of the welders, including Alexander R. Winterberger, that the 3 men were discharged because they were agitators; that it was either he or the 3 agitators; but that things would be ironed out as far as the beams were concerned.

The morning of April 6, Shapiro reported his discharge to a field examiner for the Board at the Regional Office in Chicago. That afternoon, he saw Bonifield at the plant and asked for his job back, stating that he had reported the discharge to the Board and had been advised to apply for his job; that he expected to get his job back and also back pay for the time lost. Bonifield rejected Shapiro's application for reinstatement. During the discussion Grow came into the office and told Shapiro that there did not seem to be any discontent and "the boys were all going along fine" until Shapiro became "one of the prime agitators and disturbers of the work."<sup>14</sup>

Neither Shapiro nor Guziak have since been reinstated. Both are otherwise employed but want their jobs back with the respondent. The respondent does not question the qualifications of either as experienced welders.<sup>15</sup> Grow testified that as Guziak was "unruly and hard to handle" and because of complaints by his "fellow workers," Grow found it necessary "at different times" to move him from one jig to another. This general statement was in no way corroborated. Guziak's testimony is credited that he was transferred once from jig No. 1 to

<sup>12</sup> Grow testified that after Tadin left Bonifield's office the latter called Grow in and told him that he had satisfied Tadin; that after talking to Bonifield he [Grow] noted the welders gathered around Tadin and that he got the impression "from the loud talking" and Tadin's statement that he would see the welders in the morning that Tadin had changed his mind.

<sup>13</sup> Bonifield testified that his talks with both Tadin and Shapiro on April 1 were about the same.

<sup>14</sup> Grow did not deny this testimony of Tadin's. Bonifield testified that he turned down Shapiro's application because the latter was too dictatorial and demanding, and refused to secure a release from his then employer (Shapiro had secured another position) and Shapiro could not give him "at least one good reason" why he should be rehired.

<sup>15</sup> Grow testified that Shapiro was an "excellent" and Guziak was a "good" welder.

No. 5 and was made crew leader of the latter jig. Tadin was rehired on April 6, on his application of about April 5. At that time he asked Grow why he had been discharged. Grow replied that he was "the loudest one in the crowd," in talking about the welders' grievance; that when he, Tadin, was explaining to the welders at 3 p. m. on March 31, the result of his talk with Bonifield, he heard Tadin say that he would see welders the following morning and got "the impression" that on the next morning the welders were going to "start a strike or some sort of trouble" in the plant.<sup>16</sup> Bonifield testified, and his undenied testimony in this respect is credited, that when Tadin applied for reinstatement he admitted that he had been "wrong" in his previous activities, apologized for them, and promised Bonifield that if he was put back to work the respondent would never have occasion to regret it.

From the end of the first week in March, when actual production of hatch beams started, until March 26, 468 hatch beams were manufactured. During the last 5 days in March 477 beams were made. After April 1, the jigs on the various shifts usually made their quota of 8 beams. On occasions when the quota was not made because of delay in furnishing material, the respondent paid the quota rate to the welders involved. Production increased steadily thereafter and by the end of May the respondent was meeting its schedule of about 5565 beams a month. It continued thereafter to meet a similar schedule of monthly beams. Even after June or July, when the number of welders was reduced from around 150 to 100, because of the elimination of the third shift, the schedule was met and the welders on the 10 jigs then operating easily made their quota of 8 beams per shift and usually more.

#### Conclusions

The respondent contends that the unsatisfactory production of hatch beams in March was because Superintendent Grow was not getting proper cooperation from the welders. It concedes that at the beginning of the beam production there was difficulty in making quota, because of the newness of the project and the inexperience of the employees, but insists the difficulty of inexperience was eliminated after a few days of welding and that thereafter, as expressed by Plant Superintendent Bonifield, production was held up because experienced welders like Tadin, Guziak, and Shapiro "would not get in there and pitch" due to their dissatisfaction with the incentive rate of pay; and this dissatisfaction was communicated to the less experienced welders thereby unduly retarding efforts to meet the production schedule in war work. In support of this contention, the respondent points to the steady increase in its production of hatch beams after April 1 when the disturbing influences had been eliminated. Undoubtedly the three discharges had the effect of eliminating the voicing of further protests by the welders to management because of fear of further reprisals. It is, however, a reasonable assumption that the welders as they gained further experience were able to make the required quota without difficulty. The respondent's production records sustain this latter view.<sup>17</sup> Thus in the early days of production, from about March 5 to March 26, only 458 beams were produced. That the efficiency

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<sup>16</sup> These facts as testified to by Tadin were admitted by Grow. Grow further testified relative to April 1, "I heard there might be a repetition of the day before, that the men would talk it over and hold up production."

<sup>17</sup> The compilation of the production records submitted by the respondent was for the period only from March 27 to April 23, 1943. However, Bonifield testified that only 945 beams were produced and shipped in the month of March. He further testified, and all his testimony with reference to the production records is credited, that for some time prior to the hearing each jig was welding twelve beams a shift, although the quota still remained at eight.

of the welders increased with experience is further demonstrated by the fact that after July two shifts turned out as many if not more beams, than three shifts were able to produce before. It is found that the evidence does not support the respondent's contention that the poor March production was due to lack of cooperation on the part of the welders.

Furthermore, it is noted that after April 1 the respondent eliminated the welder's principal grievance that delay in furnishing or assembling material was handicapping them in making their quota—by paying the day rate for delayed time, but the incentive rate for actual welding time, provided they averaged one beam per hour while working. Although there is credible testimony that the welders on March 31 thought the quota of 8 beams was too high and wanted it reduced to 6 beams per day per jig, it is clear from the testimony of Shapiro, Winterberger, Guziak, and Tadin, who were the only employees that testified, that they were most concerned about the welders' inability to weld 8 beams a shift because of poor set ups and delays in furnishing material. With this major grievance adjusted it is reasonable to assume that the welders were satisfied and there is no evidence in the record to justify an assumption to the contrary. The actual discharges came about because Grow misinterpreted Tadin's statement to some of the welders when he was reporting to them the result of his interview with Bonifield, at the time the shift whistle blew on March 2, that he would "see them the next morning," and Shapiro's statement to Grow later the same afternoon that the welders would "see about it in the morning." Grow feared from these statements that the welders were contemplating a strike or other interference with production the next day and reported to Bonifield that the welders, led by Tadin, Guziak, and Shapiro were still dissatisfied.

Although the three dischargees had only started to work for the respondent in February or March 1943, they were all experienced and competent welders. Grow's testimony that Guziak was "unruly and hard to handle"; that "others" complained that he was not doing his share and that for this reason he moved Guziak to different jigs stands uncorroborated and is rejected, in view of Guziak's specific testimony that he was transferred only once from No. 1 to No. 5 jig, and was made crew leader on the latter jig. This testimony of Guziak's was not attacked, although the respondent's records would no doubt have shown his employee status. It is found that Guziak was transferred once to a different jig, and at that time was appointed leader of the new group or crew.

As there was no criticism as to the general qualifications of Shapiro and Tadin as welders it is clear and the undersigned finds that the three men were discharged on April 1 because of their activities with the other welders on March 31 relative to terms and conditions of employment. That these efforts of the welders amounted to concerted activity and mutual aid and protection as contemplated by the Act, seems to the undersigned to be beyond question. The welders were unorganized. Apparently the reduction of the quota from 12 to 8 beams per jig on March 26 was made by the respondent because it was convinced that at that time, due to the newness of the work and inexperience of the hatch beam workers, it was impossible to reach the 12 beam quota, and not because of any organized or concerted efforts on the part of the welders to secure such quota reduction. However, by March 31 the day shift welders, after several days' failure to meet the new quota, became discouraged and dissatisfied with their ability to do so because of poor set ups and delays in furnishing the required materials. They awaited the return of the beam superintendent to present their grievance to him. The respondent then requested that spokesmen be selected by the welders to discuss the grievance with it. The discharge of

Shapiro, Guziak, and Tadin promptly followed their selection and activities as such spokesmen in compliance with the request. This is a clear case of concerted activities. It is therefore found that the activities of the welders on or about March 31 constituted concerted activities for mutual aid and protection within the meaning of the Act.

The respondent's actions in discharging the three employees was prompted by its desire to get rid of the leaders in these activities is made crystal clear by the circumstances surrounding its prompt reinstatement of Tadin, when, as Bonifield testified, Tadin admitted that he was wrong in his activities and promised that if reinstated the respondent "would never regret it." It is found that on April 1, 1943, Guziak and Shapiro were discharged by the respondent and have since been refused reinstatement because they engaged in concerted activities for the purposes of collective bargaining and other mutual aid and protection. The discharge and refusal to reinstate these two employees for this reason constituted discrimination in regard to the hire and tenure of their employment, which discouraged the formation of or membership in a labor organization<sup>18</sup> since it constituted a warning that such activity would result in the discharge of the employees participating therein. It is therefore found that by such action the respondent discriminated with respect to the hire and tenure of employment of Frank Guziak and Josiah Shapiro, thereby discouraging membership in a labor organization. It is further found that the respondent has thereby interfered with, restrained and coerced its employees in the exercise of the rights guaranteed to them by Section 7 of the Act.<sup>19</sup>

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

The activities of the respondent set forth in Section II above, occurring in connection with the operations of the respondent as described in Section I above, have a close, intimate, and substantial relation 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.

### IV. THE REMEDY

Since it has been found that the respondent has engaged in certain unfair labor practices, the undersigned will recommend that it cease and desist therefrom and take certain affirmative action in order to effectuate the policies of the Act.

It has been found that the respondent discriminated in regard to the hire and tenure of employment of Josiah Shapiro and Frank Guziak by discharging them on April 1, 1943, and thereafter refusing to reinstate either of them. It will therefore be recommended that the respondent offer Shapiro and Guziak immediate reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights and privileges and that the respondent make each of them whole for any loss of pay he has suffered by reason of his discharge by payment to him of a sum of money equal to the

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<sup>18</sup> A labor organization is defined in Section 2 (5) of the Act as "any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work." See also *Ryan Car Company, etc.*, 21 N. L. R. B. 139.

<sup>19</sup> The complaint does not allege that Tadin was discriminatorily discharged. Therefore, no finding in that respect is made as to him.

amount which he normally would have earned as wages from April 1, 1943, to the date of the offer of reinstatement less his net earnings,<sup>20</sup> during said period.

Upon the basis of the above findings of fact and upon the entire record in the case the undersigned makes the following:

#### CONCLUSIONS OF LAW

1. By discriminating in regard to the hire and tenure of employment of Josiah Shapiro and Frank Guziak, thereby discouraging its employees from engaging in concerted activities for the purpose of collective bargaining or other mutual aid or protection and from membership in a labor organization, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (3) of the Act.

2. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

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

#### RECOMMENDATIONS

Upon the basis of the foregoing findings of fact and conclusions of law, the undersigned recommends that The Globe Company, Chicago, Illinois, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in any labor organization of its employees by discharging any of its employees, or in any other manner discriminating in regard to their hire and tenure of employment, or any term or condition of employment;

(b) 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 organizations, to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid and protection as guaranteed in Section 7 of the Act.

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

(a) Offer to Josiah Shapiro and Frank Guziak, and each of them, immediate and full reinstatement to his former or substantially equivalent position, without prejudice to his seniority and other rights and privileges;

(b) Make whole Josiah Shapiro and Frank Guziak, and each of them, for any loss of earnings he may have suffered by reason of the respondent's discrimination against him by payment to him of a sum of money equal to that which he normally would have earned as wages during the period from the date of such discrimination to the date of the offer of reinstatement, less his net earnings during said period;

<sup>20</sup> By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N. L. R. B. 440. Monies received for work performed upon Federal, State, county, municipal or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N. L. R. B.*, 311 U. S. 7.

(c) Post immediately in conspicuous places in and around its plant in Chicago, Illinois, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is recommended that it will cease and desist in paragraph 1 (a) and (b) hereof; (2) that the respondent will take the affirmative action set forth in paragraph 2 (a) and (b) of these recommendations; and (3) that the respondent's employees are free to become or remain members of any labor organization, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection and that the respondent will not discriminate against any employee because of membership in or activity in behalf of any labor organization, or because he has engaged in concerted activity for the purpose of collective bargaining or other mutual aid or protection;

(d) Notify the Regional Director for the Thirteenth Region in writing within ten (10) days from the date of this Intermediate Report what steps the respondent has taken to comply herewith.

It is further recommended that unless on or before ten (10) days from the receipt of this Intermediate Report the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 33 of Article II of the Rules and Regulations of the National Labor Relations Board, Series 2—as amended, effective October 19, 1943—any party or counsel for the Board may within fifteen (15) days from the date of the entry of the order transferring the case to the Board, pursuant to Section 32 of Article II of said Rules and Regulations, file with the Board, Rochambeau Building, Washington, D. C. an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and four copies of a brief in support thereof. Immediately upon the filing of such statement of exceptions and/or brief, the party or counsel for the Board filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director. As further provided in said Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing within ten (10) days from the date of the order transferring the case to the Board.

J. J. FITZPATRICK,  
*Trial Examiner.*

Dated November 10, 1943.