

In the Matter of W. E. LIPSHUTZ, DOING BUSINESS AS THE MONARCH
COMPANY and AMALGAMATED CLOTHING WORKERS OF AMERICA, CIO

Case No. 10-C-1458.—Decided June 29, 1944

DECISION

AND

ORDER

On January 31, 1944, 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 he cease and desist therefrom and take certain affirmative action, as set forth in a copy of the Intermediate Report attached hereto. Thereafter, the respondent and counsel for the Board filed exceptions to the Intermediate Report and briefs in support of their exceptions. Oral argument was held before the Board in Washington, D. C., on May 2, 1944.

The Board has reviewed the rulings on motions and on objections to the admission of evidence made by the Trial Examiner at the hearing and finds that, with the exception noted below, no prejudicial error was committed. The rulings, other than the one hereinafter discussed, are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, except insofar as they are inconsistent with our findings and order hereinafter set forth.

1. We agree with the Trial Examiner's conclusion that the respondent engaged in conduct which is violative of Section 8 (1) of the Act.

In one of his addresses to the employees shortly after the commencement of the Union's organizational campaign at the respondent's plant in July 1943, Lipshutz stated that he would rather close the plant or operate it with 20 "loyal" employees than permit the C. I. O., or the War Labor Board, or any other organization¹ "to run his business."²

¹ At that time the Union, as part of its organizational campaign, was making an issue, among other things, of the respondent's failure to pay the employees for a 10-minute rest period, which matter was then the subject of a dispute before the Wage and Hour Division

56 N. L. R. B., No. 312.

Shortly thereafter, he told a few employees that "before he would operate under the union shop . . . he would move to Villa Rica and leave just enough work up here for about 2 days a week for the union hands to do."³ These remarks plainly constituted threats of economic reprisal to combat the Union's organizational efforts and were clearly violative of Section 8 (1). The other anti-union statements by Lipshutz found by the Trial Examiner,⁴ if not *per se* unlawful, were at least an integral part of a course of conduct engaged in by the respondent for the purpose, and which had the effect, of interfering with, restraining, and coercing his employees in the exercise of the rights guaranteed in Section 7 of the Act. Moreover, the aforementioned unlawful activity of the respondent during the Union's organizational drive in 1943 was but a repetition of the anti-union tactics employed by the respondent in 1937, when the Union first attempted to organize his employees. As found by us in *Matter of W. E. Lipshutz*,⁵ the respondent at that time also threatened to close the plant or to change its location if it were unionized, and made other anti-union remarks which were violative of the Act. It is thus clear, and we find, that the respondent's aforementioned activities during the Union's second organizational drive, in 1943, were part of a course of conduct⁶ followed by the respondent for the purpose of defeating the Union, and which interfered with, restrained, and coerced his employees in violation of Section 8 (1) of the Act. We further find that the coercive effect of the totality of the respondent's conduct in his efforts to defeat the Union was not removed by Lipshutz's remarks to the employees during the Union's second organizational drive that they were free to join or not to join the Union and that membership therein would not adversely affect their employment with the respondent.

2. We do not agree with the Trial Examiner's finding that certain advice given by Lipshutz to employees Grizzel and Wood on how they

of the United States Department of Labor, as well as of the respondent's delay in granting the employees a wage increase, application for the approval of which was then pending before the War Labor Board.

³ We have examined with particular care the conflicting testimony on whether Lipshutz made the foregoing remark, and we find, upon the entire record, that it was made by him substantially as outlined above.

⁴ Lipshutz in effect denied making the foregoing statement, which was attributed to him by employee West. We find West to be the more trustworthy witness.

⁵ Since, as hereinafter indicated, we are making no determination as to the validity of the respondent's no-solicitation rule as applied to union solicitation at the plant on the employees' own time, we do not rely, in support of our finding that the respondent violated Section 8 (1), upon the respondent's threats to discharge employees for engaging in such solicitation. Nor, in view of the varying versions in the testimony of several employees concerning the exact nature of the remark, do we rely upon Lipshutz's alleged statement to employees, as found by the Trial Examiner, that "if his hands were not tied" he would "kick out" certain employees who were making statements in support of the Union's organizational drive which Lipshutz characterized as "lies."

⁶ 14 N. L. R. B. 1196

⁷ Cf. *N. L. R. B. v. Trojan Powder Company*, 135 F. (2d) 337 (C. C. A. 3), cert. den., 320 U. S. 768.

could recover their union membership cards, constituted a violation of Section 8 (1) of the Act. The record discloses that these two employees, having decided to withdraw from the Union, approached Lipshutz and asked him how they could recover their membership cards, and that Lipshutz, in reply to their inquiries, merely referred them to the persons who would be likely to have possession of such cards. We do not believe that Lipshutz's conduct in this respect interfered with, restrained, or coerced the employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. The Trial Examiner found that shortly prior to the hearing herein, Mayer, counsel for the respondent, while interviewing six employees, as a group, in the presence of Lipshutz and Forelady Brown, "asked some of them if they had joined the Union, who had solicited them on the premises, and whether or not they had observed any unrest in the plant," and the Trial Examiner concluded that the questioning of the employees about their union membership was not in furtherance of "the legitimate preparation of the respondent's defense" to the charges in this case and was violative of Section 8 (1) of the Act. We do not concur in the finding of the Trial Examiner that Mayer questioned some of these employees about their union membership. The preponderance of the evidence is that such information was volunteered by them, and we so find. We deem it unnecessary to determine whether, had Mayer in fact questioned the employees about their union affiliation, his conduct in that regard, under the circumstances presented herein, would have been violative of the Act.

4. Shortly after the commencement of the Union's membership campaign at the respondent's plant in July 1943, Lipshutz announced to the employees that there was to be no solicitation of membership in any organization on the premises of the respondent. Insofar as that rule prohibited union solicitation at the plant on the employee's own time, it was violative of the Act, unless special circumstances are shown to have existed indicating that the rule was necessary in order to maintain production.⁷

The respondent contended that the organizational activities of the Union on its premises resulted, among other things, in a loss of production, and that it was "in an effort to correct this condition and thereby protect respondent's business" that the respondent promulgated the rule. In attempting to prove this contention, counsel for the respondent asked Forelady Brown, who occupied a position similar to that of general manager and who was familiar with the volume of production before and after the commencement of the Union's organ-

⁷ *Matter of Peyton Packing Company*, 49 N. L. R. B. 828; *Matter of Carter Carburetor Corp.*, 48 N. L. R. B. 354, 140 F. (2d) 714 (C. C. A. 8); *Matter of Republic Aviation Corporation*, 51 N. L. R. B. 1186, 142 F. (2d) 193 (C. C. A. 2); *Matter of The Denver Tent and Awning Co.*, 47 N. L. R. B. 586; *Matter of North American Aviation*, 56 N. L. R. B. 959.

izational activities, what effect such activities had on production. The Trial Examiner sustained an objection to this question, on the ground that the records of individual production kept at the time and available to the respondent, and not Brown's personal observations, were "the best evidence." The Trial Examiner also rejected an offer by the respondent to prove, through the testimony of Brown, that the Union's activities at the plant had adversely affected production to a substantial degree. The respondent has excepted to the rulings of the Trial Examiner excluding the proffered evidence.

In the interest of avoiding unnecessary protraction of our hearings, testimony of individual employees on the effect of union solicitation on company premises upon their production, might normally be properly excluded, at least where reliable production records are available. However, in the instant case, the Trial Examiner had already admitted the testimony of individual employees on that subject which was unfavorable to the respondent's contention, and the testimony which the respondent sought to introduce to rebut that evidence, and which the Trial Examiner rejected, was by a person who was familiar with production throughout the plant. Under these circumstances, we are of the opinion, and we find, that the Trial Examiner's exclusion of the proffered testimony of Forelady Brown was prejudicial error. We shall therefore make no findings on whether the no-solicitation rule promulgated by the respondent, insofar as it applied to union solicitation on the employees' own time, was violative of Section 8 (1) of the Act. However, since some evidence was adduced at the hearing tending to show that the promulgation of that rule was not in fact induced by an impairment of production resulting from union solicitation on the employees' own time, it would be advisable for the respondent, in order to avoid any possible future charge of unfair labor practices, to rescind the rule insofar as it applies to union solicitation at the plant on the employees' own time, unless special circumstances exist which clearly make such an application of the rule necessary in order to maintain production.

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, W. E. Lipshutz, doing business as The Monarch Company, Atlanta, Georgia, and his agents, successors, and assigns, shall:

1. Cease and desist from in any manner interfering with, restraining, or coercing his employees in the exercise of the right to self-organization, to form labor organizations, to join or assist Amalgamated Clothing Workers of America, affiliated with the Congress of

Industrial Organizations, or any other 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 Act.

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

(a) Post immediately in conspicuous places in his plant at Atlanta, Georgia, and maintain for a period of at least sixty (60), consecutive days from the date of posting, notices to his employees stating that the respondent will not engage in the conduct from which he is ordered to cease and desist in paragraph 1 of this Order; and

(b) Notify the Regional Director for the Tenth 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. Dan M. Byrd, for the Board.

Mr. Albert E. Mayer, of Atlanta, Ga., for the respondent.

Messrs. H. W. Denton and Carl F. Albrecht, of Atlanta, Ga., for the Union.

STATEMENT OF THE CASE

Upon a second amended charge filed December 21, 1943, by Amalgamated Clothing Workers of America, CIO, herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Tenth Region (Atlanta, Georgia), issued its complaint, dated December 21, 1943, against W. E. Lipshutz, doing business as the Monarch Company, 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 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 thereon were duly served upon the respondent and the Union.

With respect to the unfair labor practices the complaint, as amended at the hearing, alleges in substance: (1) that the respondent, through certain management officials and his attorney, has orally published a rule forbidding union solicitation on the respondent's premises, has expressed disapproval of the Union and of employees active on its behalf, has urged employees to refrain from joining the Union, has threatened discharge to employees for union activities on the respondent's premises, has assembled all employees and required them to listen to speeches expressing the respondent's disapproval of the Union, has warned his employees that he would close the plant if they joined the Union, has kept under surveillance concerted or Union activities of his employees, and has interrogated his employees concerning the Union; and (2) that by these acts the respondent has interfered with, restrained, and coerced his employees in the exercise of the rights guaranteed in Section 7 of the Act.

In his answer, verified January 4, 1944, and amended during the hearing, the respondent denied having engaged in unfair labor practices as alleged, but admitted having promulgated a rule forbidding solicitation, on the premises of the respondent, of membership in any organization.

Pursuant to notice, a hearing was held in Atlanta, Georgia, on January 10, 11, and 12, 1944, before C. W. Whittemore, the Trial Examiner duly designated by the Chief Trial Examiner. The Board and the respondent were represented by counsel, the Union by two of its officers. All parties participated in the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues.

During the hearing the Trial Examiner granted a motion by counsel for the Board to amend the complaint to include conduct of the respondent's counsel as alleged unfair labor practices within the meaning of the Act.¹ A motion by counsel, for the respondent, to amend the answer to include denial of the allegation with respect to himself, was also granted. At the close of the hearing the Trial Examiner granted a joint motion by counsel for the Board and for the respondent to conform the pleadings to the proof in minor particulars.

Following the receipt of all evidence and testimony, counsel for the Board and for the respondent argued orally before the Trial Examiner, the argument appearing in the official transcript of the proceedings. Opportunity was afforded to all parties to file briefs with the Trial Examiner. A brief has been received from the respondent.

Upon the entire record in the case and from his observation of the witnesses, the Trial Examiner makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

W. E. Lipshutz, an individual doing business as The Monarch Company, is engaged, at a plant in Atlanta, Georgia, in the manufacture and sale of men's and boys' cotton wearing apparel, consisting principally of suits, trousers and jackets. The principal raw materials used in such manufacture are cotton cloth, thread, buttons, needles, machinery, and parts. About 75 percent of such raw materials originate outside the State of Georgia. The respondent's annual sales amount to about \$250,000, of which approximately 75 percent are shipped to points outside the State of Georgia.

The respondent employs more than 100 employees at its Atlanta plant.

II. THE ORGANIZATION INVOLVED²

Amalgamated Clothing Workers of America, CIO, is a labor organization admitting to membership employees of the respondent.

III. THE UNFAIR LABOR PRACTICES.

A. Background

On August 29, 1939, the Board issued a Decision and Order involving the same respondent and the same Union,³ in which it concluded among other things, that by "anti-union statements and activities of the respondent and his forelady, Brown, the respondent indicated to his employees his hostility toward the Amal-

¹ Although the amendment was not specific as to the alleged conduct, the record is clear that counsel for the Board referred to evidence already adduced that counsel for the respondent, before the hearing, had questioned employees as to their Union membership. It is likewise clear that counsel for the respondent so understood the amendment.

² The findings in Sections I and II rest upon stipulations entered into between the parties at the hearing.

³ In the *Matter of W. E. Lipshutz, doing business as The Monarch Company and Amalgamated Clothing Workers of America*, 14 N. L. R. B. 1196.

gamated, influenced them against and interfered with their participation in the Amalgamated, and thereby interfered with, restrained, and coerced his employees in the exercise of the rights guaranteed in Section 7 of the Act." In its order, the Board required that the respondent, among other things, should post notices stating that it would cease and desist from conduct found to have been unfair labor practices within the meaning of the Act.

At the hearing in the present proceedings, counsel for the respondent conceded that no appeal was taken from the Board's conclusions in the above-described case, and stated that the Order had been complied with.

B. *Interference, restraint and coercion*

1. Anti-Union speeches and conduct by Lipshutz and Forelady Brown

In the case above referred to the Board found that the Union conducted a membership campaign among the respondent's employees in 1937 and early 1938. There is no evidence of any organizational activity at the plant from 1938 until July 1943.

Early in July 1943, the Union began another membership campaign. Circulars were distributed to employees outside the plant. Employees West, Oxford and Elkins were active leaders in the drive.

Soon after the campaign opened, Lipshutz asked Elkins why he wanted to join the Union. The employer pointed out that he had recently given him a raise and asked if he had not treated him fairly. He told the employee that if he did not quit soliciting members in the plant he would discharge him. Lipshutz later interviewed West, in the stockroom, where he asked her why the employees were dissatisfied and inquired why they went to some organization instead of coming to him or to Forelady Brown. During the conversation Elkins entered the stockroom. Referring to employees attempting to organize, Lipshutz indicated Elkins and said, "Such squirts as that one coming there."*

At about the same time Lipshutz assembled all employees in the plant during an afternoon "recess," a period for which employees were not paid. The employer declared that he wanted to know what all the "whispering" and disturbance was about, told them to come to him or to Miss Brown when they wanted anything, and stated that neither the "Labor Board" nor any labor organization would tell him how to run his business. Lipshutz further declared that before he would permit a union to run his business he would either close down or operate with only 20 loyal employees. He warned them that there must be no solicitation of members on the premises.

In September and October Lipshutz again convened the employees during their recess period. At one or both of these times he asked what the girls wanted and why they were dissatisfied. He repeated his query and finally employee Oxford answered that the girls had been depending upon his promise to give them pay for the 10-minute rest period and resented the fact that he was then fighting the demand "in court."⁵ Lipshutz then accused Oxford, West and Elkins of trying to organize the Union and of spreading rumors and lies to the effect that employees must join the organization. He declared that they were the ringleaders and that if his "hands were not tied" they would already have been "kicked out."

* The findings as to Lipshutz' remarks on these occasions rest upon the credible testimony of West and Elkins. Lipshutz admitted, in substance, West's account of his interview with her, but stated that he did not remember referring to Elkins as a "young squirt." He denied having asked Elkins why he wanted to join the Union, but admitted "I don't remember much of the discussion with him."

⁵ The question of recess pay was then in litigation before another governmental agency

In October, at a time when a change was made in the pay date, Forelady Brown told the gathered employees that soliciting Union membership on the premises would be cause for discharge.⁶

Following Lipshutz' speeches, two employees who had signed Union cards told the employer that they had withdrawn from the organization and asked his advice on getting their cards back. Lipshutz advised one of them to communicate with a Union official, whose name he provided, and told the other to see West.

In October, after being informed by Brown that West had solicited membership from an employee in the rest room, Lipshutz summoned the Union leader to his office and threatened to take her "to jail."⁷

2. Questioning of employees as to their Union Membership by counsel for the respondent

A few days before the hearing in these proceedings, Forelady Brown sent five or six employees in a group to the respondent's stockroom where, in the presence of Lipshutz and herself, Attorney Mayer asked some of them if they had joined the Union, who had solicited them on the premises, and whether or not they had observed any unrest in the plant.⁸

3. Contentions of the respondent

In its answer the respondent contends that the rule against solicitation of Union membership on the premises was a "reasonable and necessary" regulation, calculated to prevent "personal animosities" among employees which, if not prevented, would impair efficient operation of his business. The Trial Examiner notes that the claim as to the "reasonable and necessary" nature of the regulation is based upon the hypothesis that, if the rule were not imposed, "personal animosities" and impaired operating efficiency would follow. In view of the fact that both Lipshutz and Brown testified at the hearing that the order was given to remedy⁹ an *existing* condition of ill-feeling and loss of production, it appears unnecessary here to determine whether or not, under other circumstances, such a condition might reasonably have been expected to be the probable or inevitable result of failure to impose the rule.

Both the employer and his forelady stated that the rule was decided upon and announced *after* she had reported to him that production was falling off due to friction and unrest among the employees. The record is without any credible evidence that her report to Lipshutz, if actually made, had the slightest foundation in fact. No production data were produced, although Brown admitted that they were recorded and available. A number of witnesses called by the respondent

⁶ The findings as to these "recess" speeches are based upon the credible testimony of several employees, some of whom were witnesses for the respondent, as well as upon admissions by both Lipshutz and Brown.

⁷ Lipshutz denied making this threat, but admitted the occasion and that he had told West that he would discharge her. The Trial Examiner does not accept his denial as true.

⁸ This finding rests mainly upon the testimony of employee Wood, a witness called by the respondent, while being cross-examined. After the noon recess Wood and other witnesses for the respondent were recalled by counsel for the respondent. Upon being recalled, Wood at first testified that "No one *else* asked me that, asked me if I belonged," and then denied that anyone had asked her. On re-cross-examination, however, she admitted that the testimony given by her before the recess, that Mayer had asked her, was the truth. Other witnesses also recalled either denied that Mayer had queried them as to their Union membership, or stated that they did not recall what questions were asked. Mayer did not testify. The Trial Examiner does not accept the denials as true.

⁹ In his brief, counsel for the respondent likewise contends that the rule was promulgated as a remedy.

ent testified that neither their relationship with other employees nor their production had been affected by having been asked to join the Union. Supervisor McGibony testified, as a witness for the respondent, that she observed no difference in employee relationships during the campaign, and did not believe that it caused unfriendly relations. And Brown herself admitted that she overheard no conversations among employees and that whatever "unrest" there might have been could have been caused by the employer's failure to pay for the rest period or grant a pay increase. Two witnesses for the respondent testified that their production had been affected adversely. One admitted, however, that she "made the same amount of money each week," and the other admitted that her troubles in production had occurred during the first day she operated a machine, immediately after being employed, and that she never before had been employed anywhere. In the latter case, moreover, the employee was not hired until late in the summer, long after the rule had been imposed. The Trial Examiner concludes and finds that there is no merit in the respondent's contention that the rule against soliciting Union membership on the premises was reasonable or necessary to assure the efficient conduct of his business.

4. Conclusions as to the respondent's anti-Union conduct

No rule against talking among employees exists at the respondent's plant. Solicitation for the Red Cross and Community Chest funds is permitted on the premises. In view of these facts, and when considered in connection with other conduct on the part of Lipshutz, the Trial Examiner is convinced and finds that the imposition of the rule against Union solicitation was discriminatory, and designed solely to discourage membership in the organization.

The assembling by Lipshutz of all employees, during a rest period for which they were not paid, and his above-quoted remarks to them were likewise effective efforts on the part of the employer to discourage organization among his workers. As found above, at least two employees, after his speeches, reported to him that they wished to revoke their Union membership and he advised them as to the procedure they should follow. Since it is reasonable to believe that his speeches caused the desire to revoke their membership, his conduct in advising them how to withdraw from the Union was plainly illegal. The employer's questioning of the leaders in the organizing campaign, as well as his disparaging remarks about Elkins and his threat to "jail" West, all were acts violating the freedom of employees to organize.

In the absence of any explanation for such conduct, the questioning of employees about their Union membership by counsel for the respondent, in the presence of Lipshutz and Brown, is found to exceed the legitimate preparation of the respondent's defense. The question of Union membership did not relate to any issue in this proceeding.¹⁰

In summary, by the above-described conduct, remarks, and speeches of Lipshutz and Brown, and by the questioning of employees by Mayer as to their Union membership, the respondent has interfered with, restrained, and coerced his employees in the exercise of the rights guaranteed in Section 7 of the Act.

The record contains no evidence to support the allegation in the complaint that the respondent engaged in surveillance of Union activities.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent described in Section I above, have a

¹⁰ *Matter of Industrial Life and Health Insurance Company*, 47 N. L. R. B. 395.

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.

V. THE REMEDY

Having found that the respondent has engaged in certain unfair labor practices, within the meaning of the Act, it will be recommended that he cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

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

CONCLUSIONS OF LAW

1. Amalgamated Clothing Workers of America, CIO, is a labor organization within the meaning of Section 2 (5) of the Act.

2. By interfering with, restraining, and coercing his 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 Trial Examiner recommends that the respondent, W. E. Lipshutz, doing business as The Monarch Company, and his officers, agents, successors, and assigns, shall:

1. Cease and desist from in any manner interfering with, restraining, or coercing his 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 Act.

2. Take the following affirmative action, which the Trial Examiner finds will effectuate the policies of the Act:

(a) Post immediately in conspicuous places in his plant at Atlanta, Georgia, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to his employees stating that the respondent will not engage in the conduct from which it is recommended that he cease and desist in paragraph 1 of these recommendations; and

(b) Notify the Regional Director for the Tenth Region in writing within ten (10) days from the date of the receipt of this Intermediate Report, what steps the respondent has taken to comply therewith.

It is further recommended that unless on or before ten (10) days the receipt of this Intermediate Report, the respondent notifies said Regional Director in writing that he 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 3, effective November 26, 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.

C. W. WHITEMORE,
Trial Examiner.

Dated January 31, 1944.