

In the Matter of ANGELICA JACKET COMPANY AND MONTE MANUFACTURING COMPANY and DISTRICT 50, UNITED MINE WORKERS OF AMERICA, and UNITED GARMENT WORKERS OF AMERICA, AFL, PARTY TO THE CONTRACT

Case No. 14-C-913.—Decided July 20, 1944

DECISION

AND

ORDER

On May 11, 1944, the Trial Examiner issued his Intermediate Report in the above-entitled proceeding, finding that the respondents had recommending that they cease and desist therefrom and take certain affirmative action as set out in the copy of the Intermediate Report attached hereto. Thereafter, the respondents filed a statement in lieu of exceptions to the Intermediate Report. 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 error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the respondents' statement in lieu of exceptions, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, with the following additions:

The respondents contend in their statement in lieu of exceptions that they have fully complied with all the recommendations contained in the Trial Examiner's Intermediate Report and that therefore the Board should dismiss the complaint as moot. However, like the Trial Examiner, we find that the respondents engaged in unfair labor practices by entering into the contract dated September 29, 1943, recognizing the Garment Workers as the exclusive representative of their employees at the West Frankfort, Illinois, plant, and requiring them to become members of the Garment Workers. In order to prevent recurrences of the unfair labor practices, and pursuant to Section

10 (c) of the Act,¹ we reject the respondents' contention as being without merit, and shall issue an appropriate order.²

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 respondents, Angelica Jacket Company, St. Louis, Missouri, and Monte Manufacturing Company, West Frankfort, Illinois, and their officers; agents; successors, and assigns, shall:

1. Cease and desist from:

(a) Recognizing United Garment Workers of America, AFL, affiliated with the American Federation of Labor, as the representative of any of their employees in the West Frankfort, Illinois, plant for the purposes of collective bargaining unless and until that organization, or an affiliate thereof, shall have been certified by the Board as the representative of such employees;

(b) Giving effect to their contract dated September 29, 1943, with the United Garment Workers of America, AFL, affiliated with the American Federation of Labor, or to any extension, renewal, modification, or supplement thereof, or to any superseding contract with that labor organization or any organization or any affiliate thereof, unless and until that organization or an affiliate thereof shall have been certified by the Board as the representative of the employees in the West Frankfort, Illinois, plant;

(c) In any other manner interfering with, restraining, or coercing their employees in the West Frankfort, Illinois, plant in the exercise of the right to self-organization, to form labor organizations, to join or assist District 50, United Mine Workers of America, 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) Withdraw and withhold all recognition from United Garment Workers of America, AFL, affiliated with the American Federation

¹ Section 10 (c) of the Act states in part that if "the Board shall be of the opinion that any person named in the complaint has engaged in any unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action . . . as will effectuate the policies of this Act"

² See *Consolidated Edison Company v. N. L. R. B.*, 305 U. S. 197, 230; *N. L. R. B. v. Pennsylvania Greyhound Lines, Inc., et al.*, 303 U. S. 261, 271; *N. L. R. B. v. Gerling Furniture Mfg Co., Inc.*, 103 F. (2d) 663 (C. C. A. 7); *N. L. R. B. v. Fickett-Brown Mfg. Co., Inc.*, 140 F. (2d) 883, 884 (C. C. A. 5); *N. L. R. B. v. Swift & Co.*, 129 F. (2d) 222 (C. C. A. 8); *Matter of Eppinger & Russell Company*, 56 N. L. R. B. 1259.

of Labor, or any affiliate thereof, as the representative of any of their employees in the West Frankfort, Illinois, plant for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment or other conditions of employment, unless and until that organization or an affiliate thereof shall have been certified by the Board as the representative of such employees;

(b) Post immediately in conspicuous places throughout their plant at West Frankfort, Illinois, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to their employees stating: (1) that the respondents will not engage in the conduct from which they are ordered to cease and desist in paragraphs 1 (a), (b), and (c) of this Order; (2) that the respondents will take the affirmative action set forth in paragraphs 2 (a) and (b) of this Order; and (3) that the respondents' employees at their West Frankfort, Illinois, plant are free to become or remain members of District 50, United Mine Workers of America, or any other labor organization;

(c) Notify the Regional Director for the Fourteenth Region in writing, within ten (10) days from the date of this Order, what steps the respondents have taken to comply herewith.

INTERMEDIATE REPORT

Mr. Rayburn L. Hackler, for the Board.

Mr. Charles H. Spoehrer, of St. Louis, Mo., for the respondent.

Mr. Roy E. White, of West Frankfort, Ill., for District 50.

Mr. Edwin H. Stern, of St. Louis, Mo., for Garment Workers

STATEMENT OF THE CASE

Upon an amended charge duly filed on March 31, 1944, by District 50, United Mine Workers of America, herein called District 50, the National Labor Relations Board, herein called the Board, by the Regional Director for the Fourteenth Region (St. Louis, Missouri), issued its complaint dated March 31, 1944, against Angelica Jacket Company, St. Louis, Missouri, and Monte Manufacturing Company, West Frankfort, Illinois, herein called collectively the respondents, and sometimes called Angelica and Monte, separately, alleging that the respondents had engaged in and were 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, accompanied by notice of hearing thereon, were duly served upon the respondents, District 50 and United Garment Workers of America, AFL, party to the contract, herein called the Garment Workers.

With respect to the unfair labor practices, the complaint alleged in substance: (1) that from about January 1, 1944, the respondents, by their officers, agents, and representatives, instigated the formation of the Garment Workers as a labor organization of their employees at the West Frankfort, Illinois, plant and sponsored, encouraged, fostered, and assisted its continued growth and existence: urged, persuaded and advised their employees at the West Frankfort plant to join and assist the Garment Workers; (2) that on or about September 29, 1943, the respondents entered into a collective bargaining agreement with the Garment Workers relating to the terms and conditions of employment of their employees in the West Frankfort plant, and requiring, as a condition of em-

ployment, membership in the Garment Workers after 30 days' employment in the plant, notwithstanding the fact that the Garment Workers was not the representative of the employees in the unit covered by the agreement at the time of its execution as required by Section 9 (a) of the Act, and that the Garment Workers did not represent an uncoerced and unassisted majority of the employees in the said unit; (3) that no notice of the execution or existence of the aforesaid agreement was posted in the respondent's West Frankfort plant for a period of three (3) months after the date of its execution, nor was any such notice ever thus posted at any time; (4) that the aforesaid agreement, or any modification, supplement, renewal, or extension thereof is invalid and is in violation of the Act; and (5) that by the aforesaid acts and agreement, the respondents, and each of them, interfered with, restrained, and coerced their employees in the West Frankfort plant, in the exercise of the rights guaranteed in Section 7 of the Act.

Pursuant to notice, a hearing was held on April 12, 1944, at West Frankfort, Illinois, before W. P. Webb, the Trial Examiner, duly designated by the Chief Trial Examiner. The Board and the respondents were represented by counsel, and District 50 and the Garment Workers by their representatives. All parties participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing upon the issues, was afforded all parties.

The respondents' answer, filed at the hearing, admitted certain allegations of the complaint in respect to the business of the respondents, but denied all material allegations relating to the unfair labor practices.

A motion by Board's counsel at the conclusion of the hearing to conform the pleadings to the proof in respect to minor inaccuracies regarding dates, the spelling of names, and other matters not related to the fundamental issues, was granted by the Trial Examiner without objection.

At the conclusion of the hearing, the respondents' counsel moved to dismiss the complaint. Ruling upon this motion was reserved, which at this time is denied.

Opportunity to file briefs with the Trial Examiner was given the parties but none have been filed. At the conclusion of the hearing Counsel for the Board and the respondents, respectively, argued orally, on the record, before the Trial Examiner.

Upon the entire record in the case and from his observation of the witnesses the undersigned makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENTS

Angelica Jacket Company is a Missouri corporation, having its principal office and place of business in St. Louis, Missouri, where it is engaged in the manufacture, sale and distribution of uniforms, jackets and other work garments. During the calendar year 1943, Angelica purchased goods and raw materials in excess of \$100,000, in value, of which approximately 90 percent was obtained and shipped to its St. Louis plant from points outside Missouri. During the same period, Angelica sold and distributed from its St. Louis plant finished products in excess of \$100,000, in value, of which approximately 90 percent was sold and delivered to points outside Missouri. Angelica normally employs approximately 600 employees.¹

¹ Angelica also operates a plant at Los Angeles, California, by a separate subsidiary corporation. Angelica also owns and operates "Angelica Jacket Company of Illinois," which is an Illinois corporation and is located in Chicago. It acts as a selling agent for Angelica.

Monte Manufacturing Company is an Illinois corporation, having its principal office and place of business in West Frankfort, Illinois, where it is engaged in the manufacture of uniforms, jackets and other work garments, from cut piece goods and findings supplied to it by Angelica from the latter's St. Louis plant. During the first 3 months of 1944, Angelica shipped to the West Frankfort plant materials as aforesaid, to the value of approximately \$19,600. During that period, Monte shipped back to the St. Louis plant finished garments to the approximate value of \$14,000. Monte Manufacturing Company is a wholly-owned subsidiary of Angelica Jacket Company. The entire operation of the West Frankfort plant is confined to completing garments that have been previously cut out at the St. Louis plant. No sales are made from the West Frankfort plant. All completed garments are sent to the St. Louis plant for sale and distribution by Angelica. Monte has an authorized capital stock of 1,000 shares, no par value. Two hundred fifty shares have been issued, at a valuation of \$100 a share, all of which is owned by Angelica. Monte normally employs about 65 employees. There are no executive officers at the West Frankfort plant. The only supervisory employees there are Mae Presley, plant superintendent, Mary Zalkus, forelady, and Mayme Griffin, office manager. The directors of Angelica are also directors of Monte. All questions of policy, wages, etc., at Monte are controlled by Angelica. Angelica invoices the cut goods to Monte and upon receipt of the finished articles, Monte is credited with the difference. The money is placed to the credit of Monte in a St. Louis bank. Monte makes up its own pay roll and pays the employees by checks, drawn by Superintendent Presley on Monte's St. Louis bank account. All hiring and firing of employees at the West Frankfort plant is done by Superintendent Presley. An official of Angelica visits the West Frankfort plant at least once a week. There is no interchange of employees between the St. Louis and the West Frankfort plants.² The respondents admit, for the purpose of this proceeding that they are engaged in commerce, within the meaning of the Act.

II. THE ORGANIZATIONS INVOLVED

District 50, United Mine Workers of America, and United Garment Workers of America, AFL, affiliated with the American Federation of Labor, are labor organizations, admitting to membership employees of the respondents.

III. THE UNFAIR LABOR PRACTICES

A. The sequence of events before the closed-shop contract of September 29, 1943

For the past several years, the respondent Angelica and the Garment Workers have been under contractual relations in respect to the employees in the St. Louis plant.³ At the present time, all of Angelica's employees at the St. Louis plant are operating under closed-shop contracts with the Garment Workers, which expire July 1, 1945.

Due to the labor shortage in St. Louis during the summer of 1943, Angelica had a number of idle sewing machines in the St. Louis plant. Since at that time there was a good demand for Angelica's products, Angelica decided to open a branch plant in order to get the idle sewing machines back into service. A

² Monte was incorporated on October 13, 1943. The instant proceeding is concerned solely with Monte employees at the West Frankfort plant.

³ The St. Louis plant is divided into craft units. Local No. 111 covers the stitchers or female employees; Local 165 the cutters (this Local includes Local 165-A, which covers the stock and shipping department employees) and Local 68 which covers the floor boys. All of these Locals have separate charters and separate officers. Each Local negotiates its own contract with Angelica, and each is now under a closed-shop contract with Angelica.

number of locations were investigated, and West Frankfort, Illinois, about 110 miles from St. Louis, was finally selected. An advertisement was run in the West Frankfort newspaper, and about September 18, 1943, arrangements were made with the office of the United States Employment Service in West Frankfort for representatives of Angelica to interview applicants in that office. Willard L. Levy, Treasurer of Angelica, Mae Presley, personnel director in the St. Louis plant, and Mary Zalkus, an employee in the St. Louis plant, went to West Frankfort to interview prospective employees. A number of women signified their willingness to work in the West Frankfort plant whenever it should begin operations. On September 22, 1943, Angelica notified the proper Illinois State authority that it desired to reserve the name Monte Manufacturing Company for the purpose of incorporation.

B The contract and subsequent events

On September 29, 1943, the respondents entered into a closed-shop agreement with the Garment Workers covering the employees to be employed at the West Frankfort plant.⁴ That was 2 days before the plant building at West Frankfort had been leased, and about 3 months before the West Frankfort plant opened for business or any employees were hired.

On October 1, a suitable building in West Frankfort was leased by Levy in his own name.⁵ On October 13, Monte Manufacturing Company was duly incorporated in the State of Illinois,⁶ and 250 shares of stock, at \$100 a share, were issued to Angelica. This gave Monte a working capital of \$25,000 cash, which was used to recondition the plant building and meet other necessary initial expenses. About that time the respondents secured permits from the Wage and Hour Division of the United States Department of Labor, and from the State of Illinois, to engage for a limited time inexperienced employees at the West Frankfort plant at wages below the minimum rate.⁷ Levy became Treasurer of Monte and retained his position as Treasurer of Angelica. Mae Presley became superintendent of the West Frankfort plant, and Mary Zalkus a forelady. Harvey Null, a mechanic at the St. Louis plant, was sent to the West Frankfort plant to install the machinery, and has been kept there as a maintenance man. Mayme Griffin was employed locally and became Office Manager. All other employees of the West Frankfort plant were employed locally.

In the latter part of December, Levy reviewed the applications for employment in the West Frankfort plant, selected those which he considered the most suitable, and turned them over to Superintendent Mae Presley. The West Frankfort plant was formally opened for business on Monday, January 3, 1944. A few days prior to this date, Superintendent Mae Presley, assisted by Mayme Griffin, the office manager, conducted the final interviews with selected applicants. The applicants were told that the plant would open in a few days and were required to execute formal applications. According to the testimony of Superintendent Presley, applicants were told at these final interviews that Monte had a closed-

⁴ The full text of this agreement is attached hereto as Appendix A. Neither this agreement nor any notice of such an agreement was ever posted in either the West Frankfort or the St. Louis plant.

⁵ On December 10, 1943, this lease was assigned by Levy to Monte Manufacturing Company.

⁶ The reason that Angelica could not operate in Illinois under its own name was because the selling agent of Angelica, "Angelica Jacket Company of Illinois," at Chicago, had already been incorporated in Illinois.

⁷ The Federal rate secured for learners was 35 cents an hour. The Illinois State rate was 37 cents an hour.

shop contract with the Garment Workers and that in order to work in the West Frankfort plant they would have to join the Garment Workers.

District 50, by its Field Representative, Roy E. White, endeavored to secure members among the employees in the West Frankfort plant soon after the plant opened on January 3. White testified that most of the employees were wives and daughters of miners who were already members of District 50.⁸ On January 13, District 50 filed charges against the respondents of interference by assisting the Garment Workers at the West Frankfort plant.

On January 14, Edwin H. Stern, International Representative of the Garment Workers, and Simmons, the local representative, visited the West Frankfort plant and, with the permission of Superintendent Presley, talked to the employees in the lounge room of the plant after working hours. Stern told the employees that they were all members of the Garment Workers and that a local would soon be chartered. He also told them about the contract. That was the first time that either Stern or Simmons had talked to these employees. On January 17 or 18, White made a similar request to talk to the employees on behalf of District 50, but his request was refused by Superintendent Presley. She told White that he could not talk to the employees because the Garment Workers had a closed-shop contract with Monte.

On January 24, the Garment Workers filed with the Regional Director a petition for investigation and certification of representatives pursuant to Section 9 (c) of the Act. The petition gave the name of the employer as the Monte Manufacturing Company, subsidiary of Angelica Jacket Company, West Frankfort, Illinois. It also stated the appropriate unit as follows:

All production and maintenance employees of the Company, including watchmen and janitors, but exclusive of office and clerical employees, and supervisors having authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees, or effectively recommend such action.

The petition stated that the approximate number of employees in such unit was 35. It also stated, "The undersigned labor organization is recognized by the employer, but the undersigned union desires certification by the National Labor Relations Board." On March 27, the Regional Director informed the Garment Workers that no proceedings would be taken on the petition.

CONCLUDING FINDINGS

The respondents contend that the closed-shop contract with Monte, which covers the West Frankfort plant employees, is a valid agreement, because it is merely an extension of similar contracts covering the St. Louis plant employees and that both plants constitute one appropriate unit.⁹ Also that pursuant to the "Rider" in the Board's Appropriation Act for 1943-1944, dated July 12, 1943, the Board is precluded from proceeding with respect to this contract. These contentions are without merit.

The evidence is clear and the undersigned finds that the production and maintenance employees at the West Frankfort plant constitute an appropriate unit separate from the employees at Angelica's St. Louis plant. The distance of

⁸ West Frankfort, Illinois, is situated in a coal mining section of the State.

⁹ The respondents' counsel stated on the record that if the employees of the West Frankfort plant should constitute an appropriate unit, separate and distinct from the employees in the St. Louis plant, the closed-shop contract dated September 29, 1943, would be invalid, and the conduct of the respondents in enforcing it and permitting the Garment Workers to hold a meeting in the plant, would constitute a violation of the Act.

approximately 110 miles between the plants, the difference in the skill and wages of the employees, and the recognition by the respondents of the need for different provisions in a contract pertaining to wages and hours and working conditions, are persuasive elements leading to such finding. The Garment Workers itself considered that the West Frankfort employees constituted a separate bargaining unit. In its petition above mentioned, it gave the name of the employer as the Monte Manufacturing Company, West Frankfort, Illinois, and the approximate number of employees in the appropriate unit as 35.

The respondents admit that the closed shop contract dated September 29, 1943, related solely to the employees at the West Frankfort plant, and that it was executed several months prior to the opening of the West Frankfort plant or the hiring of any employees who would be affected by the contract; that they permitted the Garment Workers to hold a union meeting in the West Frankfort plant; that they required membership in the Garment Workers as a condition of employment; and that no notice of the contract has ever been posted in either the West Frankfort or the St. Louis plant.

The record is clear and the undersigned finds that the closed shop contract, dated September 29, 1943, was invalid, because it did not comply with the proviso in Section 8 (3) of the Act, in that, at the time of its execution, the Garment Workers was not the representative of the employees in the West Frankfort plant as provided in Section 9 (a) of the Act, in the appropriate collective bargaining unit covered by such agreement when made, and that the Garment Workers did not represent an uncoerced majority of such employees.¹⁰ The further contention of the respondents in respect to the provision, which was attached to the Act of Congress, appropriating funds for Government agencies for the fiscal year ending June 30, 1944,¹¹ is equally without merit, because no notice of the agreement dated September 29, 1943, was ever posted in either the West Frankfort or the St. Louis plant.

Exclusive recognition of a labor organization is a potent form of assistance; the more so, when such recognition is coupled with a provision requiring membership in the organization as a condition of employment. The respondents' action in recognizing the Garment Workers was clearly a violation of the provisions of the Act. The undersigned finds that by entering into the contract dated September 29, 1943, recognizing the Garment Workers as their exclusive representative of their employees at the West Frankfort plant, and requiring them to become members of the Garment Workers, the respondents interfered with, restrained, and coerced their employees in their choice of representatives and thereby assisted the Garment Workers.

¹⁰ The proviso in Section 8 (3) of the Act reads as follows: "Provided, That nothing in this Act, or in the National Industrial Recovery Act (U. S. C. Supp. VII, Title 15, Secs. 701-702) as amended from time to time, or in any code or agreement approved or prescribed thereunder, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this Act as an unfair labor practice) to require as a condition of employment, membership therein, if such labor organization is the representative of the employees as provided in Section 9 (a) in the appropriate collective bargaining unit covered by such agreement when made."

¹¹ This "Rider" reads as follows: "No part of the funds appropriated in this title shall be used in any way in connection with a complaint case arising over an agreement between management and labor which has been in existence for three months or longer without complaint being filed. Provided, That, hereafter notice of such agreement shall have been posted in the plant affected for said period of three months, said notice containing information as to the location at an accessible place of such agreement where said agreement shall be open for inspection by any interested persons."

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the respondents set forth in Section III above, occurring in connection with the operations of the respondents 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.

V. THE REMEDY

Since it has been found that the respondents have engaged in unfair labor practices, it will be recommended that they cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act, and restore, as nearly as possible, the *status quo* existing prior to the commission of the unfair labor practices.

It has been found that the contract between the respondents and the Garment Workers dated September 29, 1943, is invalid because the Garment Workers did not represent a majority of the respondents' employees in the West Frankfort plant at the time of the execution of the closed-shop contract and because the contract was made with a labor organization which had been assisted by unfair labor practices. In order to insure to the employees the full and free exercise of the rights guaranteed in Section 7 of the Act without interference, restraint, or coercion by the respondents, it will be recommended that the respondents withdraw and withhold recognition from the Garment Workers as the representative of any of the employees of Monte at the West Frankfort plant for the purposes of collective bargaining until such time as the Garment Workers may be certified as their representative by the Board. It will be further recommended that the respondents cease and desist from giving effect to their contract dated September 29, 1943, with the Garment Workers, as well as to any extension, renewal, modification, or supplement thereof, or any superseding contract which may now be in force. Nothing herein, however, shall be deemed to require the respondents to vary those wage, hour, seniority, and other such substantive features of their relations with the employees of the West Frankfort plant as the respondents may have established in performance of the contract dated September 29, 1943, or said contract as extended, renewed, modified, supplemented, or superseded.

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. District 50, United Mine Workers of America, and United Garment Workers of America, AFL, affiliated with the American Federation of Labor, are labor organizations within the meaning of Section 2 (5) of the Act.
2. By interfering with, restraining, and coercing their employees in the West Frankfort Plant, in the exercise of the rights guaranteed in Section 7 of the Act, the respondents have engaged in and are engaged 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 above findings of fact and conclusions of law, the undersigned recommends that the respondent, Angelica Jacket Company, St. Louis,

Missouri; and Monte Manufacturing Company, West Frankfort, Illinois, and their officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Recognizing United Garment Workers of America, AFL, affiliated with the American Federation of Labor, as the representative of any of their employees in the West Frankfort plant for the purposes of collective bargaining unless and until that organization or an affiliate thereof, shall have been certified by the Board as the representative of such employees;

(b) Giving effect to their contract dated September 29, 1943, with United Garment Workers of America, AFL, affiliated with the American Federation of Labor, or to any extension, renewal, modification, or supplement thereof, or to any superseding contract with that labor organization or any affiliate thereof, unless and until that organization or an affiliate thereof shall have been certified by the Board as the representative of the employees in the West Frankfort plant;

(c) In any other manner interfering with, restraining, or coercing their employees in the West Frankfort plant 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 purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

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

(a) Withdraw and withhold all recognition from United Garment Workers of America, AFL, affiliated with the American Federation of Labor or any affiliate thereof, as the representative of any of their employees in the West Frankfort plant for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, or other conditions of employment, unless and until that organization or an affiliate thereof shall have been certified by the Board as the representative of such employees;

(b) Post immediately in conspicuous places in their plant at West Frankfort, Illinois, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to their employees stating: (1) that the respondents will not engage in the conduct from which it is recommended that they cease and desist in paragraphs 1 (a), (b) and (c) of these recommendations; (2) that the respondents will take the affirmative action set forth in paragraphs 2 (a) and (b) of these recommendations; and (3) that the respondents' employees at their West Frankfort, Illinois, plant are free to become or remain members of District 50, United Mine Workers of America;

(c) Notify the Regional Director for the Fourteenth 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 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 respondents 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 set-

ting 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 or exception 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.

W. P. WEBB,
Trial Examiner.

Dated May 11, 1944.

APPENDIX A

THIS AGREEMENT, made and entered into this 29th day of September, 1943, by and among Monte Manufacturing Co. herein called "Company," Angelica Jacket Company of St. Louis, Missouri, herein called "Angelica Company," and the United Garment Workers Union, AFL, herein called "Union," Witnesseth:

WHEREAS, the Union has an agreement (dated June 18, 1941, extended until July 1, 1945, by agreement dated June 5, 1943), with the Angelica Company covering working conditions for its plant in St. Louis; and

WHEREAS, said Angelica Company intends to operate as an adjunct to its present manufacturing operations a branch factory at West Frankfort, Illinois, through its subsidiary, Monte Manufacturing Co; and

WHEREAS, the Union and the Angelica Company are desirous of extending their sphere of harmonious relations to include said branch factory at West Frankfort, Illinois;

NOW, THEREFORE, the parties have caused this instrument to be executed to establish certain working conditions at the plant of the Company at West Frankfort, Illinois. It is recognized that as this is a new undertaking in the community with practically all employees new and inexperienced, patience must be exercised by all parties with respect to any apparent problems arising until such period as the undertaking has gained its momentum, so that the actuality of conditions may be recognized and dealt with accordingly.

Section 1. Recognition. The Company recognizes the Union as the exclusive collective bargaining agency for all production employees exclusive of superintendents, foremen, foreladies, supervisors, designers, and office employees or any of the same to which this Agreement shall not be applicable.

The Company agrees that it will not take away or reduce employment of the Union's members in the St. Louis plant of Angelica Company to the advantage of the employees covered under this agreement.

All employees of the Company to whom this Agreement is applicable shall within thirty (30) days after employment by the Company become, and they shall thereafter remain, members of the Union in good standing while in the employ of the Company.

Any employee of the Company covered by this Agreement who is, during the tenure of this Agreement, promoted by the Company to a position not covered by this Agreement, shall forthwith withdraw as a Member from the Union.

Section 2. Probationary Period. New employees shall be on probation with the Company during the first ninety (90) days of their employment. During such period, if in the judgment of the Company, the employee fails to exhibit qualifying competency, in such event the Company may dispense with that employee's services without recourse from the employee or the Union. After com-

pletion of such probationary period, the service of such employees with the Company shall date from the first date of their employment.

Section 3. Seniority. In all cases of increase or decrease of forces, length of continuous service shall govern where the factors of ability and efficiency are relatively equal

Section 4. Management. It is agreed that the management of the Company's plant and the direction of its working forces, including the right to hire, suspend, discipline or discharge an employee or employees for proper cause, and the right to transfer employees and the right to relieve employees from duty because of lack of work or for other legitimate reasons, is vested exclusively in the Company; provided that the rights described in this paragraph will not be exercised in any manner inconsistent with the other provisions of this Agreement.

Section 5. No Strikes, Lockouts During the life of this Agreement there shall be no strikes or lock-outs, work stoppages or slow-downs for any cause whatsoever.

Section 6. Adjustment of Grievances If during the term of this Agreement any difference should arise as to the meaning or application of any provision of this Agreement, or if any grievance should arise, there shall be no suspension of work on account of such difference or grievance, but an earnest effort shall be made to settle such difference or grievance as soon as possible and in the following manner:

(a) By the complaining employee and the foreman of the department.

(b) By the Steward designated by the Union and the foreman of the department.

(c) By the Members of the Union Grievance Committee and the management of the plant.

(d) By an International Representative of the Union and an officer of the Company

(Differences or grievances presented to the Management pursuant to the foregoing procedure shall be presented and will be taken up by the Management after working hours.)

(e) If such difference or grievance shall not have been settled by resort of the foregoing procedure, then it shall upon request of either party be submitted for a decision to an impartial Arbitrator selected by Mutual agreement between the Company and the Union, and the decision of such Arbitrator shall be final and binding upon all parties. Expenses of such arbitration shall be borne equally between the Company and the Union. In the event the parties should be unable within ten (10) days to agree upon such Arbitrator, either party may apply to the National War Labor Board for the appointment of such person, whose decision shall be final and binding upon all parties.

It is agreed that fruitless controversies must be avoided and every effort made to maintain good feelings and harmonious relations. To accomplish this the parties will in every instance give prompt attention to disputes and will in good faith endeavor to settle the differences by conciliation.

Section 7. Hours of Work. The Company will pay employees at the rate of one and one-half times their regular rates of pay for all work performed in excess of forty (40) hours for any one week, in excess of eight (8) hours in any one day, and for all work on Saturdays. The Company will pay employees at twice the regular rates of pay for all work performed on Sundays and the following Holidays: New Year's Day, Memorial Day, Independence Day, Labor

Day, Thanksgiving Day, Christmas Day, or the days on which such Holidays are generally observed

The foregoing provisions as to overtime may be subject to change by Government edict.

Section 8. Wages. Under Federal regulations the Company will employ learners at not less than the prevailing Federal rate of thirty-five (35¢) cents per hour, the number of persons so employed to be governed by Federal conditions. Employees who have completed the learning period as provided for above will be paid no less than forty (40¢) cents per hour. The Company agrees to install a fair and equitable incentive piece-work system of pay.

Section 9. Expiration. This Agreement shall remain in full force and effect for the period of one year (1) from date of execution. If either party desires to amend or cancel this Agreement at the expiration of said year, it shall give the other party at least sixty (60) days' prior written notice of such intention. In the absence of any such notice the Agreement shall automatically be extended for an additional period of one (1) year.

IN WITNESS WHEREOF, the parties have executed this Agreement on day and year first above written.

THE ANGELICA JACKET COMPANY,

By WILLARD L. LEVY,

Treasurer.

MONTE MANUFACTURING COMPANY,

By WILLARD L. LEVY,

Treasurer.

UNITED GARMENT WORKERS UNION,

Affiliated with the A. F. of L.

By EDWIN H. STERN.

This certifies that Bd's Ex. 3 for identification is a true copy of the original signed contract now in possession of the companies.

RYBURN L. HACKLER,
Attorney, NLRB, 14th Region.

CHARLES H SPREHM,
Atty. for Respondents.

EDWIN H. STERN.