

In the Matter of SUSSEX HATS, INC. and UNITED HATTERS, CAP &
MILLINERY WORKERS' INTERNATIONAL UNION, AFL

Case No. 1-CA-207.—Decided July 28, 1949

DECISION

AND

ORDER

On May 31, 1949, Trial Examiner Henry J. Kent issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices in violation of Section 8 (a) (1) and 8 (a) (5) of the Act, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report, and a supporting brief.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this proceeding to a three-member panel [Members Reynolds, Murdock, and Gray].

The Board has reviewed 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 exceptions and brief filed by the Respondent, and the entire record in the case,¹ and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, with the following addition:

We find that the course of conduct followed by the Respondent, from the very beginning, reflected bad faith and an intent to avoid rather than to reach an agreement on a contract. Furthermore, the Respondent cannot avail itself of a claim of union loss of majority on April 27, 1948, because the presumption of majority status cannot be rebutted during the year following certification.

¹The request of the Respondent for oral argument is denied because the record and the brief submitted by Respondent, in our opinion, adequately present the issues and positions of the parties.

ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Sussex Hats, Inc., Holyoke, Massachusetts, and its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with United Hatters, Cap & Millinery Workers' International Union, AFL, as the exclusive representative of all production employees of the Respondent, including packers, shippers, learners, and part-time students, but excluding executives, office employees, maintenance employees, and all supervisors as defined in the Act;

(b) In any manner interfering with the efforts of United Hatters, Cap & Millinery Workers' International Union, AFL, to bargain collectively with it on behalf of the employees in the aforesaid appropriate unit.

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

(a) Upon request bargain collectively with United Hatters, Cap & Millinery Workers' International Union, AFL, as the exclusive representative of all production employees of the Respondent, including packers, shippers, learners, and part-time students, but excluding executives, office employees, maintenance employees, and all supervisors as defined in the Act;

(b) Post at its plant in Holyoke, Massachusetts, copies of the notice attached hereto, marked "Appendix A."² Copies of said notice, to be furnished by the Regional Director for the First Region, shall, after being duly signed by the Respondent or its representative, be posted by the Respondent immediately upon receipt thereof and maintained by it for a period of sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

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

² In the event this Order is enforced by decree of a United States Court of Appeals, there shall be inserted in the notice, before the words, "A DECISION AND ORDER" the words, "A DECREE OF THE UNITED STATES COURT OF APPEALS ENFORCING."

APPENDIX A

NOTICE TO ALL EMPLOYEES

Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that:

WE WILL BARGAIN collectively upon request with UNITED HATTERS, CAP & MILLINERY WORKERS' INTERNATIONAL UNION, AFL, as the exclusive representative of:

All production employees at our Holyoke plant, including packers, shippers, learners, and part-time students, but excluding executives, office employees, maintenance employees, and all supervisors as defined in the Act and if an understanding is reached, embody such understanding in a signed agreement.

WE WILL NOT in any manner interfere with the efforts of the above-named union to bargain with us, or refuse to bargain with said union as the exclusive representative of the employees in the bargaining unit set forth above.

SUSSEX HATS, INC.,
Employer.

Dated _____ By _____
(Representative) (Title)

This notice must remain posted for sixty (60) days from the date of posting, and must not be altered, defaced, or covered by any other material.

INTERMEDIATE REPORT

Torbert H. MacDonald, Esq., for the General Counsel.

Edward B. Cooley, Esq., of Springfield, Mass., for the Respondent.

Mr. Edwin Erwin, of Holyoke, Mass., for the Union.

STATEMENT OF THE CASE

Upon a charge duly filed on May 26, 1948,¹ by United Hatters, Cap & Millinery Workers' International Union, herein called the Union, the General Counsel of the National Labor Relations Board,² by the Regional Director for the First Region (Boston, Massachusetts) issued a complaint, dated December 7, 1948, against Sussex Hats, Inc., Holyoke, Massachusetts, herein called the Respondent, alleging that the Respondent had engaged in and was engaging in unfair labor

¹ A copy of this said charge was duly served upon the Respondent on May 27, 1948.

² The General Counsel and his representative at the hearing are herein referred to as the General Counsel, and the National Labor Relations Board is referred to as the Board.

practices affecting commerce within the meaning of Section 8 (a) (1) and (5) and Section 2 (6) and (7) of the National Labor Relations Act, as amended, by Public Law 101, 80th Congress, Chapter 120, 1st Session,³ herein called the Act. Copies of the charge, complaint, and notice of hearing were duly served upon the Respondent and the Union.

With respect to the unfair labor practices, the complaint alleged, in substance, that the Respondent on or about May 1, 1947, and thereafter, refused to bargain collectively with the Union as the exclusive bargaining representative of the Respondent's employees within an appropriate bargaining unit, and that particularly on or about April 12, 1948, the Respondent refused to enter into a written collective bargaining agreement with the Union containing those provisions upon which the parties had reached an agreement, although the Board on April 30, 1947, had certified the Union as statutory representative of the employees for the purposes of collective bargaining. The complaint alleged that by the foregoing conduct the Respondent engaged in unfair labor practices within the meaning of Section 8 (a) (1) and (5) of the Act.

Thereafter the Respondent duly filed its answer in which it admitted the facts alleged in the complaint regarding its business operations, but denied that it had engaged in any of the alleged unfair labor practices.

Pursuant to notice, a hearing was held on January 11 and 12, 1949, at Springfield, Massachusetts, before Henry J. Kent, the undersigned Trial Examiner duly designated by the Chief Trial Examiner. The General Counsel and the Respondent were represented by counsel and the Union by an official representative. 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 end of the hearing a motion by the General Counsel to conform the pleadings to the proof in respect to formal matters was granted. At the same time the Respondent moved to dismiss the complaint on the ground that service of the "complaint" was made upon Respondent more than 6 months after the alleged unfair labor practices allegedly occurred thereby violating Section 10 (b) of the amended Act. This motion was denied. The limiting language of Section 10 (b) refers to the time of filing a charge with the Board, and service of a copy thereof upon Respondent, rather than the date of issuance of a complaint.⁴

Upon the conclusion of the hearing, the undersigned advised the parties that they might presently argue orally before, and, thereafter, file briefs with the undersigned within 15 days. The General Counsel and Respondent set forth their respective positions in oral argument appearing on the record. Thereafter, upon a request from the Respondent, the time to file briefs was extended until February 7, 1949, by the Chief Trial Examiner. Briefs have been duly received from the General Counsel and Respondent.

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 RESPONDENT

Sussex Hats, Inc., a Massachusetts corporation, is engaged in the manufacture of ladies' hats at Holyoke, Massachusetts. In addition to its plant in Holyoke, the Respondent maintains a sales office in New York City. During the last 6

³ 61 Stat. 136.

⁴ See *Matter of Vanette Hosiery Mills*, 80 N. L. R. B. 1116.

months of 1946, the Respondent purchased raw materials, consisting principally of felt bodies and straw materials, amounting in value to more than \$70,000, approximately 50 percent of which was shipped to its plant from points outside the Commonwealth of Massachusetts. During the same period the Respondent sold finished products valued in excess of \$150,000, 95 percent of which was shipped to points outside the Commonwealth of Massachusetts.⁵

The Respondent concedes that it is engaged in commerce within the meaning of the Act.

II. THE ORGANIZATION INVOLVED

United Hatters, Cap & Millinery Workers' International Union, affiliated with the American Federation of Labor, is a labor organization admitting employees of the Respondent to membership.

III. THE UNFAIR LABOR PRACTICES

A. *Sequence of material events*

1. Certification of the Union as statutory bargaining representative

Upon a petition duly filed, the Board conducted a consent prehearing election among Respondent's employees on February 28, 1947. At the close of the election a Tally of Ballots was furnished the parties. The Tally shows that there were approximately 54 eligible voters and that 51 ballots were cast, of which 26 were for the Union, 22 were against, and 3 were challenged.

Thereafter, a hearing was held in the matter on March 17, 1947. Following the hearing the Union was certified by the Board on April 30, 1947, as the statutory bargaining representative of Respondent's employees pursuant to Section 9 (a) of the National Labor Relations Act for the employees in the following described appropriate unit in accordance with Section 9 (b) of the said National Labor Relations Act:⁶

All production employees of the Respondent, including packers, shippers, learners, and part time students, but excluding executives, office employees, maintenance employees, and all supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees, or effectively recommend such action.

Relying upon the said certification by the Board, the complaint alleges, the Respondent admits in its answer, and the undersigned finds that on April 30, 1947, the Union was duly certified as statutory bargaining representative for Respondent's employees, in accordance with Section 9 (a) of the National Labor Relations Act, for those employees in that appropriate unit set forth above pursuant to Section 9 (b) of the said National Labor Relations Act.

2. Factual findings regarding the refusal to bargain

Following the said certification, the Union by letter dated May 3, 1947, requested the Respondent to fix a date for a bargaining conference. This letter was ignored by the Respondent insofar as the Union, at least, was informed. On

⁵The above findings were made by the Board in the *Matter of Sussex Hats, Inc.* (Case No. 1-R-3565), 73 N. L. R. B. 737. It was stipulated by the parties herein that the present business operations of the Respondent are substantially similar, except for a curtailment in the amount of the gross business handled.

⁶See *Matter of Sussex Hats, Inc.*, 73 N. L. R. B. 737.

May 23, 1947, the Union sent a second and similar request to bargain to Respondent. This too elicited no response from the Respondent. Thereafter, later in the same month, Edwin Irwin, an organizer in charge of the Union's affairs at this plant, called William Wolf, the Respondent's president, on the telephone. Irwin complained to Wolf regarding the delay in commencing negotiations. Wolf, on this occasion, informed Irwin that he, Wolf, was too busy to engage in bargaining conferences and said he was delegating authority to Edward B. Cooley, the Respondent's attorney, to bargain with the Union.⁷

Following the above telephone conversation with Wolf, Irwin called Cooley on the telephone and arranged for a meeting with Cooley, at Cooley's office in Springfield, Massachusetts, on June 10, 1947. At the meeting, Irwin handed Cooley a draft of a proposed contract. The meeting was of short duration and concluded with a statement by Cooley that he would read over and consider the Union's proposals.

Irwin and Cooley met again about 2 weeks later in Cooley's office. At the second meeting, Irwin, at Cooley's request, explained to Cooley the Union's interpretation of the various terms in the proposed agreement. On this occasion, Cooley failed to commit the Respondent regarding the acceptance of any of the provisions but said they would receive further consideration. Hence, nothing of moment was accomplished at this meeting.

Irwin and Cooley met again for a third meeting, also at Cooley's office, about July 10. At this meeting Cooley stated that they should have no trouble in finally reaching an agreement upon the purely formal provisions although he refused to commit himself definitely regarding those matters. Cooley asserted that all substantive terms liable to affect the financial interests of Respondent such as wage increases, paid holidays and also provisions regarding union security would have to be first submitted to Wolf for the latter's approval before Cooley could enter into any commitments concerning them. Irwin asserted that at this meeting he complained to Cooley that they had made no progress toward consummating an agreement since they first met, and that he endeavored without success to, at least, get a commitment from Cooley regarding the more formal provisions in the proposed agreement.

The above findings are based upon the credible and undenied testimony of Irwin, because Cooley, the only other person concerned in these conversations, gave no testimony at the hearing. That Cooley, in fact, possessed limited bargaining authority is convincingly shown by Wolf's testimony at the hearing, which was as follows:

Q. When you gave [Cooley] power of attorney what did you say?

A. Well, he had to negotiate on all points, that he can agree to all the points, but when he comes to the money matters, anything pertaining to finance or union shop, he shall take it up with me.

* * * * *

Q. In negotiating a contract with any union, what, in your mind, are the most vital parts of that contract that are about to affect you?

A. The most vital parts are the increase in wages, or paid holidays, or welfare and union shops.

Q. And on those points Mr. Cooley had no authority to bargain at all?

A. No, Sir.

Q. By "No, Sir" you mean . . .

⁷ These findings are based upon the credible and undenied testimony of Irwin, corroborated in part by testimony given by Wolf.

A. I mean, he had authority to bargain on it, but he had to consult me about it. He . . .

Q. Did he have final authority to agree to any such proposal?

A. Not on those five points he didn't; on all the others he did.

Following the above meeting which was held in July, conflicting vacation schedules of Cooley and Irwin prevented the holding of another meeting until sometime after the middle of August.

Meanwhile the Union called a strike at the plant on or about August 14, 1947. According to Irwin the strike was called off on the same morning it commenced. Some of the key employees walked into work when the plant opened. Irwin said he then concluded to end the strike and requested all of the employees to report for work on that day, and all but six employees did so.

At the next negotiating meeting held on or about August 15, 1947, the Union was represented by William Munger, executive secretary of the parent union, and Irwin. Cooley was the sole representative present for the Respondent. At the opening of this meeting, Cooley asserted that he was unwilling to continue with the negotiations unless and until the Union withdrew certain unfair labor practice charges previously filed by the Union. Irwin refused to withdraw the charges and the Union representatives left Cooley's office where the meeting took place.⁸

Thereafter, Irwin called Cooley in September to inform the latter that he would withdraw the charges after which Cooley agreed to meet with Irwin on some unspecified date later in that same month. Before they met, Irwin delivered a revised draft of the proposed contract to Cooley's office. This draft was substantially similar to the earlier draft previously submitted by the Union, except that a demand for a closed shop had been deleted in order to comply with the provisions of the so-called Taft-Hartley Act.

At the opening of the September meeting between Irwin and Cooley, Cooley asked Irwin if the unfair labor practice charges had been withdrawn. Irwin replied that they had not been formally withdrawn, but assured Cooley that the Union would not press for action concerning them, which explanation, according to Irwin, satisfied Cooley. The two men then started to discuss the contract. According to the credible and undenied testimony of Irwin, who, as previously noted, was the only one of them to offer testimony at the hearing, Irwin was unable to elicit any commitment from Cooley regarding any of the contract provisions other than the so-called preamble clause, which, in sum, stated that the Union had been certified as exclusive representative, and that the parties desired to enter into a mutually satisfactory agreement. Irwin then expressed dissatisfaction concerning the delay and failure to consummate an agreement, whereupon Cooley asserted, "Well, look, this is as far as you and I can go. We haven't come to any agreement. We keep having these meetings; we cannot come to any conclusion; any further action is up to you." With that remark from Cooley the meeting ended and Irwin withdrew.

⁸ These charges consisted of: (1) an original charge filed April 3, 1947, alleging that Respondent had discriminatorily laid off four employees; (2) an amended charge filed May 27, 1947, which in substance corresponded to the earlier charge except that the names of two of the four employees named in the earlier charge had been deleted; and (3) a second amended charge restating the allegations in the first amended charge and, in addition averring a refusal to bargain on May 1, 1947, and thereafter. The record shows that copies of the three above charges were served upon the Respondent by registered mail on July 14, 1947.

During the approximately next 2 months, national officers of the Union attempted to negotiate with some of the Respondent's officials at New York City insofar as the record shows nothing concrete developed as a result of these efforts by the Union.

Following the failure of the Union's national officers to consummate an agreement, Irwin requested one of the Board's agents at its Regional Office at Boston, Massachusetts, to press the charges that had been previously filed by the Union. Field Examiner Shooer arranged for a conference with representatives of the Respondent and the Union at the Board's Regional Office in Boston.

This meeting, which was held on or about November 18, 1947, was attended by Respondent's president, Wolf, and Cooley.⁹ Irwin and Walter R. Donovan, an attorney for the Union, were present to represent the Union and Shooer was present on behalf of the Board. At this meeting, the parties discussed all of the terms and conditions of the agreement submitted by the Union. Many of the formal provisions were agreed upon as well as some of those provisions regarding working conditions at the plant, especially those which merely conformed to conditions currently in effect at the plant. But the Respondent refused to agree to any wage increases, pay for holidays not worked or other terms conferring benefits upon employees which would affect the Respondent financially. Respondent also refused to accede to the Union's request for a union shop. At the meeting the Respondent also agreed to furnish the Union with the schedule of wage rates currently in effect, but thereafter it failed to submit this information until April 7, 1948.

Subsequently, on or about November 26, 1947, Wolf, Cooley, Irwin and Donovan met at Cooley's office. Nothing of moment was accomplished at this meeting, except the Respondent withdrew its former approval to a provision that it would submit to employees any alleged bad work turned out by an employee, in cases where the employee was allegedly discharged for turning out alleged faulty work.

Following this meeting, national officers of the Union stationed in New York City again endeavored to negotiate an agreement between the parties. These efforts proved fruitless and were abandoned.

In April 1948, the Union sought the assistance of the United States Conciliation Service in an effort to bring the parties together again and consummate an agreement.

Thereafter, pursuant to an arrangement made by Anna Weinstock, a United States Conciliator for the Federal Mediation and Conciliation Service, another meeting was held at the Roger Smith Hotel at Holyoke, Massachusetts, on April 27, 1948. President Wolf and Cooley were present on behalf of the Respondent. Irwin and Donovan appeared for the Union. The parties explained to Weinstock the status of the Agreement regarding the terms agreed upon previously before Field Examiner Shooer and bargaining was resumed regarding the other points in dispute. Wolf took the position that Respondent was financially unable to make any concessions in respect to wage increases, paid holidays or more lengthy vacations and other benefits for employees that would increase Respondent's costs and that consequently its former position had not been changed. He also refused to agree to any form of so-called union security and was insistent that only an open shop would be acceptable to the Respondent. Weinstock then suggested that they sign a contract containing those terms and conditions upon

⁹ It is noted that this was the first meeting attended by any official of the Respondent since the certification of the Union on April 30, 1947.

which an agreement had been reached. Irwin, following a telephone conversation with a national officer of the Union, then stated that the Union would do so. Wolf, for the first time since the bargaining negotiations had commenced, then asserted the Respondent doubted that the Union presently represented a majority of the employees. He refused to sign any contract until the Union furnished proof that it still represented a majority of the employees in the unit. The Union representatives then withdrew from the meeting following an assertion by Donovan that the Respondent's claim was not advanced in good faith, and that the Union would file charges alleging a refusal to bargain in good faith.

B. Conclusions

The Respondent asserts in its brief that its request that the Union furnish proof that it has continued to be the choice of the majority of Respondent's employees in the said appropriate unit was reasonable and proper and contends that the evidence fails to show a refusal to bargain. The undersigned does not agree.

The record shows that at all times since the Union was certified as exclusive representative, namely, April 30, 1947, the Respondent has failed to recognize its obligation to bargain in good faith.

It not only ignored the Union's two requests to fix a date for bargaining negotiations made by letters sent to Respondent in May 1947, but thereafter when the Union's representative called its president by telephone, the latter asserted he was "too busy" to engage in bargaining conferences and said he was delegating such authority to the Respondent's attorney.¹⁰ Failure of an employer to answer the letter of the union requesting a date for bargaining negotiations, by itself, constitutes a refusal to bargain.¹¹ Moreover, Cooley's refusal to continue with negotiations unless and until the Union withdrew unfair labor practice charges previously filed by the Union is also a violation of Respondent's obligation to bargain in good faith.¹²

Nor can the Respondent successfully urge, under the facts herein, that it was justified in refusing to bargain on April 27, 1948, within 1 year after the Union had been certified as statutory representative. Majority status, once established, is presumed to continue in the absence of evidence to the contrary.¹³ The presumption of continuity of majority status may not be rebutted by a showing of turn-over among employees in the unit.¹⁴ The position taken by the Respondent is inconsistent by its very nature with any good faith doubt of majority at any time while the negotiations were going on. Although Wolf asserts that he entertained doubt regarding the Union's status as majority representative after the August 14, 1947, strike, he admitted in his testimony that he was not sure the Union had ceased to be the majority representative in November 1947 and in April 1948 or he would not have resumed bargaining negotiations with the Union. Had Wolf sincerely doubted the majority status

¹⁰ The authority vested in Attorney Cooley was so limited that Cooley had no power to make commitments on any vital and substantive provisions entering into a collective bargaining agreement, thus such limitations imposed on Cooley constituted an impediment rather than an aid toward reaching an agreement.

¹¹ See *Matter of Marshall and Bruce Co.*, 75 N. L. R. B. 90; *Matter of West Side Cooperative Creamery Association*, 69 N. L. R. B. 546.

¹² See *Matter of American Laundry Machine Company*, 76 N. L. R. B. 981.

¹³ See *Matter of Bethlehem Steel Company*, 73 N. L. R. B. 277; *Matter of Harris-Woodson Co., Inc.*, 70 N. L. R. B. 956, enfd 162 F. 2d 97 (C. A. 4).

¹⁴ See *Matter of Marshall and Bruce Co.*, 75 N. L. R. B. 90.

of the Union after the August 1947 strike he would hardly have been willing to travel to Boston in November and carry on further negotiations for several hours and later again resume negotiations before the United States Conciliator in April 1948. If Respondent had entertained a good faith doubt of majority following the August 1947 strike, a fair inference arises that it would have refused to resume bargaining relations until such a doubt was dispelled and not wait until the Union requested it to sign an agreement covering those terms the parties had reached an agreement on before asserting its alleged doubt concerning the majority status of the Union.¹⁵

On all of the foregoing and the entire record, the undersigned concludes and finds that from on or about May 3, 1947, and at all times material thereafter, the Respondent has refused to bargain in good faith with the Union as the exclusive representative of its employees in the appropriate unit, and thereby interfered with its employees in the exercise of the rights guaranteed in Section 7 of the Act.

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 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 Respondent has engaged in unfair labor practices, it will be recommended that the Respondent cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. Having found that the Respondent has refused to bargain collectively with the Union as the exclusive representative of its employees in an appropriate unit, the undersigned will recommend that the Respondent, upon request, bargain collectively with the Union.

Because of the basis of the Respondent's refusal to bargain, as indicated in the facts found, and because of the absence of any evidence that danger of other unfair labor practices is to be anticipated from the Respondent's conduct in the past, the undersigned will not recommend that the Respondent cease and desist from the commission of any other unfair labor practice. Nevertheless, in order to effectuate the policies of the Act, the undersigned will recommend that the Respondent cease and desist from the unfair labor practices found and from in any manner interfering with the efforts of the Union to bargain collectively with it.¹⁶

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. United Hatters, Cap & Millinery Workers' International Union, AFL, is a labor organization, within the meaning of the Act.
2. All production employees of the Respondent, including packers, shippers, learners, and part time students, but excluding executives, office employees,

¹⁵ See *Matter of Atlanta Journal Company, et al.*, 23 N. L. R. B. 1634.

¹⁶ See *N. L. R. B. v. Express Publishing Company*, 312 U. S. 426.

maintenance employees, and all supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

3. United Hatters, Cap & Millinery Workers' International Union, AFL, was on April 30, 1947, and at all times thereafter has been, the exclusive representative of all employees in the aforesaid unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the Act.

4. By refusing on May 3, 1947, on August 15, 1947, on April 27, 1948, and at all times thereafter, to bargain collectively with United Hatters, Cap & Millinery Workers' International Union, AFL, as the exclusive representative of all its employees in the appropriate unit, the Respondent has engaged and is engaging in unfair labor practices, within the meaning of Section 8 (a) (5) of the Act.

5. By the aforesaid refusal to bargain, the Respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, and has thereby engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (a) (1) of the Act.

6. 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, and upon the entire record in the case, the undersigned recommends that the Respondent, Sussex Hats, Inc., Holyoke, Massachusetts, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with United Hatters, Cap & Millinery Workers' International Union, AFL, as the exclusive representative of all production employees of the Respondent, including packers, shippers, learners, and part time students, but excluding executives, office employees, maintenance employees, and all supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) In any manner interfering with the efforts of United Hatters, Cap & Millinery Workers' International Union, AFL, to bargain collectively with it on behalf of the employees in the aforesaid appropriate unit.

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

(a) Upon request bargain collectively with United Hatters, Cap & Millinery Workers' International Union, AFL, as the exclusive representative of all production employees of the Respondent, including packers, shippers, learners, and part time students, but excluding executives, office employees, maintenance employees, and all supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action, in respect to rates of pay, wages, hours of employment, and other conditions of employment, and if an understanding is reached, embody such understanding in a signed agreement;

(b) Post at its plant in Holyoke, Massachusetts, copies of the notice attached hereto, marked "Appendix A." Copies of said notice, to be furnished by the Regional Director for the First Region, shall, after being duly signed by the

Respondent or its representative, be posted by the Respondent immediately upon receipt thereof and maintained by it for a period of sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

(c) Notify the Regional Director for the First Region, in writing, within twenty (20) days from the date of the receipt of the Intermediate Report, what steps the Respondent has taken to comply herewith.

It is further recommended that, unless the Respondent shall, within twenty (20) days from the date of the receipt of this Intermediate Report, notify 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 such action.

As provided in Section 203.46 of the Rules and Regulations of the National Labor Relations Board—Series 5, effective August 22, 1948, as amended August 18, 1948, any party may, within twenty (20) days from the date of service of the order transferring the case to the Board, pursuant to Section 203.45 of said Rules and Regulations, file with the Board, Washington 25, D. C., an original and six 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 six copies of a brief in support thereof; and any party may, within the same period, file an original and six copies of a brief in support of the Intermediate Report. Immediately upon the filing of such statement of exceptions and/or briefs, the party filing the same shall serve a copy thereof upon each of the other parties. Statements of exceptions and briefs shall designate by precise citation the portions of the record relied upon and shall be legibly printed or mimeographed, and if mimeographed shall be double spaced. Proof of service on the other parties of all papers filed with the Board shall be promptly made as required by Section 203.85. As further provided in said Section 203.46 should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days from the date of service of the order transferring the case to the Board.

In the event no Statement of Exceptions is filed as provided by the aforesaid Rules and Regulations, the findings, conclusions, recommendations, and recommended order herein contained shall, as provided in Section 203.48 of said Rules and Regulations, be adopted by the Board and become its findings, conclusions, and order, and all objections thereto shall be deemed waived for all purposes.

Dated at Washington, D. C., this 31st day of May 1949.

HENRY J. KENT,
Trial Examiner.

APPENDIX A

NOTICE TO ALL EMPLOYEES

Pursuant to the recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that:

WE WILL BARGAIN collectively upon request with UNITED HATTERS, CAP & MILLNERY WORKERS' INTERNATIONAL UNION, AFL, as the exclusive representative of:

All production employees at our Holyoke plant, including packers, shippers, learners, and part-time students, but excluding executives, office employees,

maintenance employees and all supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action, and if an understanding is reached, embody such understanding in a signed agreement.

WE WILL NOT in any manner interfere with the efforts of the above-named Union to bargain with us, or refuse to bargain with said Union as the exclusive representative of the employees in the bargaining unit set forth above.

SUSSEX HATS, INC.,
Employer.

By _____
(Representative) (Title)

Dated _____

This notice must remain posted for sixty (60) days from the date of posting, and must not be altered, defaced, or covered by any other material.