

only for affirmative action which has not been taken here. That the Union has not claimed or received the property of the Local Union, or that the Union did not transfer its members in good standing into another local union, or that the international president of the Union did not make the local union subject to suspension and supervision, proves nothing. Had any of these happenings taken place, its occurrence might have been persuasive on the question; however, none of them took place.

The preponderance of the evidence received shows, and the Trial Examiner finds, that the date of the last regular meeting of Local 340 was May 8; that there have been no meetings regularly called or otherwise, or any notice of meetings issued, or any local union records kept, after that date, that no payment of per capita tax has been remitted by Local 340 to the Union for any month subsequent to that for the month of April 1950; that no member of Local 340 has paid dues since prior to July 10, that there has been no election of officers of Local 340 since the officers who were serving on May 8 were elected, nor did any officer of Local 340 act as such in an official capacity subsequent to the closing of Local 340's bank account on August 10; and that no concerted action has been taken by members of Local 340 since the ending of the strike on July 10

The rule that an unincorporated association, such as Local 340, will be regarded as dissolved if it abandons the purposes of its creation and ceases to exercise its functions, is well established.

The constitution of the Union (article VII) is quite specific in terms in providing for the issuance of charters to local unions, for action in the case of secession, disbanding, suspension, or expulsion of local unions, the regular holding of meetings of the membership of local unions, and the automatic suspension from membership of members 3 months "in arrears." It does not make provision for the continued legal existence of a local union which has failed to hold regular meetings, pay dues and per capita tax, and has refused or been unable to carry on the functions for which it was organized. Under the constitution of the Union, therefore, Local 340 has ceased to exist as a body having legal standing with the international organization.

The Respondent in its brief contends that Local 340 is a principal party in this proceeding and that the Union filed the charge in its behalf and raises the question of compliance by Local 340 with the provisions of Section 9 (f) of the Act. The issue is not one properly to be considered by the Trial Examiner under the Board's Order entered March 12, 1953, reopening the record and remanding the proceedings.

CONCLUDING FINDINGS

Local 340 continued in existence at least until the strike was terminated on or about July 10, 1950, and until a final withdrawal of its funds from bank on August 10, 1950. On the latter day, so far as its reason and purpose for existence was concerned, it has ceased to function, although technically it was in good standing with its parent International Union through the month of September 1950.

The Trial Examiner further finds that Local 340 ceased to exist as a local union of United Gas, Coke and Chemical Workers, CIO, and as an organized body, and was not in existence after the issuance of the complaint herein on December 6, 1950.

[Recommendations omitted from publication.]

**BERNSON SILK MILLS, INC. and WILLIAM H. ANDERSON,
Petitioner and LOCAL 65, TEXTILE WORKERS UNION OF
AMERICA, CIO. Case No. 5-RD-89. August 20, 1953**

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Louis S. Wallerstein, hearing officer. The hearing officer's rulings made

at the hearing are free from prejudicial error and are hereby affirmed.¹

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Farmer and Members Murdock and Peterson].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The Petitioner, a former employee of the Employer, asserts that the Union, which is currently being recognized by the Employer as the bargaining representative of the employees designated in the amended petition, is no longer the representative as defined in Section 9 (a) of the Act.

3. The Employer contends that this proceeding should be dismissed upon the ground that the Petitioner, William H. Anderson, is in fact acting as a "front" for the United Mine Workers of America, hereinafter referred to as the UMW, a labor organization not in compliance with the filing requirements of the Act. For the reasons hereafter set forth, we find merit in this contention.

Despite the Petitioner's disclaimer of any knowledge of participation by the UMW representatives in the filing of the petition, the record discloses that the petition was filed under the following circumstances: The UMW, through its representative Leo R. Eakin, began organizational activities among the Employer's employees sometime prior to July 11, 1952. On that date, the UMW sent a letter to the Employer requesting recognition. The Employer refused, stating that it had contractual relations with the Union. Following this refusal, Eakin continued promotion of the UMW among the employees. Testimony discloses that since March 1953, Eakin has sponsored 5 or 6 meetings at his home, that 6 or 7 Bernson employees have attended such meetings regularly, and that Eakin has picked up these employees in his automobile and driven them to his home. The testimony of employees attending these meetings, wherein discussion revolved about the decertification of the Union, indicates that Eakin advised the assembled group to prepare a letter to the Board inquiring into decertification procedures, and that he, in effect, told the group that, even though he had a majority of employees signed up, the UMW could not be recognized, absent Board decertification of the Union. It is further clear from the testimony of one Slagle, an employee who attended at least two of these meetings and who admits to holding a UMW card, that the signatures supporting the instant petition were obtained, and the necessary papers were drawn up, by the employees who attended such meetings.

¹ We find no merit in the Employer's contention that because the Petitioner is no longer an employee of Bernson Silk Mills, Inc., the petition should be dismissed. There is no requirement in the Act that an individual petitioner, seeking the decertification of a labor organization, be an employee of the employer. Standard Oil Company (Indiana), 80 NLRB 1022.

So far as the record shows, the Petitioner did not attend any of the above-described meetings. He claims that he signed the petition herein, and certain letters purporting to transmit said petition and accompanying documents to the Board, at the request of one Darlington, a laundryman in the town, whose wife was once employed at the Employer's plant. Thereafter, he apparently handed the petition back to Darlington and, at Darlington's further request, actually placed in the mail only the letters of transmittal to the Board, together with a document containing employee signatures supporting a request for a decertification election, without actually reading any of the material. He stated that he did not know who actually filed the petition, and that, in fact, he had no real interest in the proceeding of any kind and solicited no employee signatures in support thereof. The record shows that Anderson resigned his employment 5 days after the petition was filed.

As indicated above, Anderson disclaimed any knowledge of UMW participation in this proceeding. In his testimony, which was extremely evasive and contradictory, he first denied knowing Eakin; then, under close questioning, later admitted that he knew Eakin well throughout the period here in question, that he had seen Eakin at least once or twice a week for the past year, and that he and Eakin had visited each other's home at least once. His testimony further revealed that he had been previously employed at the Columbian Paper Company during a period of time when the UMW was the sole union then holding a contract. Although denying any recollection of what union was involved, he admitted joining a union at that time and paying dues under a check-off arrangement.

Under all the above circumstances, we are convinced that in filing the petition, William H. Anderson was in fact acting on behalf of representatives of the United Mine Workers of America, a noncomplying labor organization. We shall, therefore, grant the Employer's motion to dismiss the decertification petition.²

[The Board dismissed the petition.]

² See *Timm Industries, Inc.*, 104 NLRB 359.

FLORENCE PIPE FOUNDRY & MACHINE CO. *and* PATTERN MAKERS LEAGUE OF NORTH AMERICA, PHILADELPHIA ASSOCIATION, AFL, Petitioner. Case No. 4-RC-1971. August 20, 1953

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Julius Topol, hearing officer. The hearing officer's rulings made at the