All packinghouse employees at the Employer's Port Norris, New Jersey, operation, excluding bookkeepers, office clerical employees, timekeepers, foremen other than working foremen, managers, boat captains, crewmen, and all supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

A. K. Allen Co., Inc., American Hydrolube Corp., Precision Disc Grinding Corp., and Small Lot Turning, Inc. *and* District 15, International Association of Machinists, AFL–CIO. *Case No. 2–CA–4816. March 12, 1957*

DECISION AND ORDER

On August 28, 1956, Trial Examiner C. W. Whittemore issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent Companies had engaged in and were engaging in certain unfair labor practices in violation of Section 8 (a) (5) and (1) of the Act, and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent Companies filed exceptions to the Intermediate Report.

The Board has reviewed the rulings of the Trial Examiner made 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 the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, with the following additions.

The Respondent Companies contend that the four-company unit held appropriate by the Board in the earlier representation case is inappropriate.[1] The Board therein found that the four Respondent Companies constitute a single, integrated enterprise and Employer and that the production and maintenance employees of the four companies constitute a single appropriate unit. The record shows that the only change in the Employer's operations since the Board's earlier decision is a change of address for Small Lot Turning, Inc., which in early 1956 moved from its former common location with the other three companies at 57 Meserole Avenue, Brooklyn, New York, to a separate location at 65 Rushmore Street, Westbury, Long Island.

Upon the entire record of both the representation case and the instant complaint case, we find that the change with respect to Small Lot Turning, Inc., is insufficient to affect our earlier unit finding that the

[1] Case No. 2–RC–7357, not reported in printed volumes of Board Decisions and Orders.

production and maintenance employees of the four Respondent Companies constitute an appropriate unit and we hereby affirm such unit finding.

ORDER

Upon the entire record in this 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 Companies, A. K. Allen Co., Inc., American Hydrolube Corp., Precision Disc Grinding Corp., 57 Meserole Avenue, Brooklyn, New York, and Small Lot Turning, Inc., 65 Rushmore Street, Westbury, Long Island, New York, their officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with District 15, International Association of Machinists, AFL–CIO, as the exclusive bargaining representative of all production and maintenance employees at the Brooklyn, New York, plants of A. K. Allen Co., Inc., American Hydrolube Corp., and Precision Disc Grinding Corp., and at the Westbury, Long Island, New York, plant of Small Lot Turning, Inc., including the shipping clerk, inspector, and job timekeeper, but excluding office clerical employees, professional employees, technical employees, the designer, watchmen, guards, and supervisors as defined in the Act, with respect to grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment.

(b) In any manner interfering with the efforts of the above-named union to bargain collectively with the Respondent Companies on behalf of the employees in the 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 the above-named union as the exclusive representative of all employees in the appropriate unit, described above, with respect to grievances, labor disputes, wages, rates of pay, hours of employment, and other conditions of employment, and, if an agreement is reached, embody it in a signed contract.

(b) Post at its office and places of business in Brooklyn, New York, and Westbury, Long Island, copies of the notice attached to the Intermediate Report marked "Appendix."[2] Copies of said notice, to be furnished by the Regional Director for the Second Region, shall, after being duly signed by the Respondent Companies' authorized representative or representatives, be posted by the Respondent Companies immediately upon receipt thereof, in conspicuous places, including all places where notices to employees are customarily posted, and main-

[2] This notice is amended by substituting for the words "The Recommendations of a Trial Examiner" the words "A Decision and Order." In the event that this Order is enforced by a decree of the United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

tained by them for at least sixty (60) consecutive days thereafter. Reasonable steps shall be taken by the Respondent Companies to insure that said notices are not altered, defaced, or covered by any other material.

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

INTERMEDIATE REPORT

STATEMENT OF THE CASE

A charge having been duly filed and served, a complaint and notice of hearing thereon having been issued and served by the General Counsel of the National Labor Relations Board, and separate but identical answers having been filed by each of the above-named Companies, herein collectively called the Respondent, a hearing involving allegations of unfair labor practices in violation of Section 8 (a) (1) and (5) of the National Labor Relations Act, as amended, 61 Stat. 136, herein called the Act, was held in New York, New York, on June 25, 27, and July 18, 1956, before the duly designated Trial Examiner.

In substance the complaint alleges and the answer denies that the Respondent, since on or about December 12, 1955, has refused to bargain collectively with the above-named Charging Union as the exclusive bargaining representative of employees in an appropriate unit, although at all times since October 20, 1955, the Union has been the exclusive bargaining representative of such employees, and thereby has interfered with, restrained, and coerced employees in the exercise of rights guaranteed by the Act.

At the hearing all parties were represented, were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence pertinent to the issues, to argue orally upon the record, and to file briefs and proposed findings and conclusions. Arguments were waived. Although counsel for the Respondent requested, and was granted, three extensions of time to file briefs, under date of August 20, 1956, a letter from Max Grossman informed the Trial Examiner that Counsel Gray had "left for Europe" and "will stand on the record."

At the conclusion of the hearing counsel for the Respondent moved to dismiss the complaint, and ruling upon the motion was then reserved. It is disposed of by the following findings, conclusions, and recommendations.

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

A. K. Allen Co., Inc., American Hydrolube Corp., Precision Disc Grinding Corp., and Small Lot Turning, Inc., each are New York corporations. In a Decision and Direction of Election (2–RC–7357, not reported in printed volumes of Board Decisions and Orders) issued on September 21, 1955, the Board found that the above-named corporations constituted a "single, integrated enterprise and Employer." Said employer is engaged in the business of the manufacture and distribution of air cylinders, valves, grease fittings, and screw machine parts and the performance of grinding services, with principal offices and place of business in Brooklyn, New York.

Contrary to the contention of the Respondent, the Trial Examiner finds, in accordance with the Board's finding in the above-cited decision, that it is engaged in commerce within the meaning of the Act. Not only does the Trial Examiner consider himself bound by the Board's finding on this point, particularly since no new evidence to the contrary was introduced by the Respondent, but the finding also acquired additional support in commerce data introduced by General Counsel at the hearing before this Trial Examiner. Such data is more current than that before the Board, and covers the period of the alleged refusal to bargain. It was stipulated at the hearing that 3 of the 4 companies involved, in the period from April 1, 1955, to March 31, 1956, had sales outside the State of New York totalling $135,486.23.

II. THE LABOR ORGANIZATION INVOLVED

District 15, International Association of Machinists, AFL–CIO, is a labor organization admitting to membership employees of the Respondent.

III. THE UNFAIR LABOR PRACTICES

The complaint alleges, in the above-cited representation case the Board found, and the Trial Examiner now finds that all production and maintenance employees at the plants of A. K. Allen Co., Inc., American Hydrolube Corp., Precision Disc Grinding Corp., and Small Lot Turning, Inc., including the shipping clerk, inspector and job timekeeper, but excluding office clerical employees, professional employees, technical employees, the designer, watchmen, guards, and supervisors as defined in the Act constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act. (Although in its answer the Respondent denies the appropriateness of the unit, it offered no new evidence pertinent to the issues before the Board.)

A Board election was conducted on October 20, 1955, among the employees in the above unit. On or about October 28, 1955, as a result of the election, the Regional Director for the Second Region certified the Union as the exclusive bargaining representative of the employees in the said unit.

The sole issue of fact before him for determination, in the opinion of the Trial Examiner, is whether or not the Respondent, after the Union's certification, failed and refused to bargain with it. The following findings rest upon the undisputed testimony of a union representative and unchallenged documents in the record.

In the latter part of November or early December 1955, Union Representative Clinton H. Brown telephoned to A. K. Allen and asked for a meeting to negotiate a contract. Allen referred Brown to Attorney Gray. On December 12 Brown wrote to Gray, enclosing a proposed contract, and requesting "an early mutually convenient date for negotiations." On December 15 Gray replied to Brown, stating in part that Allen was then out of town, and that "until I talk to him, I am in no position to do anything about this matter."

Gray did not communicate thereafter with Brown. During January Brown made several unsuccessful efforts to reach Allen by telephone. On February 8 Brown wrote to Allen, again requesting a negotiating meeting, and stating that unless a meeting could be arranged before February 21, 1956, charges would be filed "with appropriate Government agencies." The Respondent made no reply.

On March 8, 1956, the Union filed with the Board a charge of refusal to bargain, which was duly served upon the Respondent. On April 16, 1956, Brown wrote to each of the four companies comprising the Respondent, again requesting negotiations. No reply was received. The Union's final letters were sent by registered mail, the receipts are in evidence.

It is clear from undisputed evidence that the Respondent, since the first effort made by the Union to negotiate, has chosen to ignore the Union and its own obligation to bargain with it.

The Trial Examiner concludes and finds that by such conduct the Respondent, since on or about December 12, 1955, has refused to bargain with the Union as the exclusive representative of employees in an appropriate unit, and thereby has interfered with, restrained, and coerced employees in the exercise of rights guaranteed by 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

It has been found that the Respondent has engaged in the unfair labor practice of refusing to bargain collectively with the chosen representative of its employees. It will therefore be recommended that it cease and desist therefrom and from like and related conduct. It will be further recommended that the Respondent bargain collectively, upon request, with the Union as the exclusive representative of its employees in the aforesaid appropriate unit.

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

CONCLUSIONS OF LAW

1. District 15, International Association of Machinists, AFL–CIO, is a labor organization within the meaning of Section 2 (5) of the Act.

2. All production and maintenance employees at the Brooklyn, New York, plants of A. K. Allen Co., Inc., American Hydrolube Corp., Precision Disc Grinding Corp., and Small Lot Turning, Inc., including the shipping clerk, inspector, and job timekeeper, but excluding office clerical employees, professional employees, technical employees, the designer, watchmen, guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

3. District 15, International Association of Machinists, AFL–CIO, was, on October 20, 1955, and at all times since then 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 and after December 12, 1955, to bargain collectively with the aforesaid Union as the exclusive representative of all employees in the appropriate unit, the Respondent has engaged in and is engaging in an unfair labor practice within the meaning of Section 8 (a) (5) of the Act.

5. By the aforesaid unfair labor practice the Respondent has interfered with, restrained, and coerced employees in the exercise of rights guaranteed in Section 7 of the Act, thereby engaging in an unfair labor practice 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 omitted from publication.]

APPENDIX

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, we hereby notify our employees that:

WE WILL bargain collectively upon request with District 15, International Association of Machinists, AFL–CIO, as the exclusive representative of all employees in the bargaining unit described herein, with respect to grievances, labor disputes, wages, rates of pay, hours of employment and other conditions of employment, and, if an understanding is reached, embody such understanding in a signed agreement. The bargaining unit is:

All production and maintenance employees at our plants, including the shipping clerk, inspector, and job timekeeper, but excluding office clerical employees, professional employees, technical employees, the designer, watchmen, guards, and supervisors as defined in the Act.

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

A. K. ALLEN CO., INC.,
Employer.

Dated_____ By_____
(Representative) (Title)

AMERICAN HYDROLUBE CORP.,
Employer.

Dated_____ By_____
(Representative) (Title)

PRECISION DISC GRINDING CORP.,
Employer.

Dated_____ By_____
(Representative) (Title)

SMALL LOT TURNING, INC.,
Employer.

Dated_____ By_____
(Representative) (Title)

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