

spondent, *inter alia*, challenges the authority of the Board to proceed in this matter, and contends that the Respondent has been denied due process.<sup>5</sup> Without passing on the merits of the affirmative defenses, we do not believe that Respondent should be foreclosed from urging them in this proceeding.

In conclusion, we find, for reasons stated above, that the amended answer, as modified and clarified by the Respondent's statement in opposition to the General Counsel's motion on July 9, complies with the Board's Rules, except in the respects noted in paragraphs 2 and 5, above. We will accordingly deny the General Counsel's motion except to the extent indicated in paragraph 2, above.<sup>6</sup>

### ORDER

IT IS HEREBY ORDERED that, unless the Respondent, within 10 days from the date of this Order, amends its amended answer by either (a) stating which of the 79 persons for whom back pay is claimed in the specifications were, or were not, discharged on July 10, or 11, 1957, or (b) explaining why it cannot furnish this information, such 79 persons will be deemed to have been discharged on those dates by Respondent and it will be precluded from introducing any evidence to the contrary at the hearing in this case.

IT IS FURTHER ORDERED that the General Counsel's motion of June 13, 1957, as renewed on July 9, be, and it hereby is, denied in all other respects.

<sup>5</sup> We note, in passing, Respondent's characterization of the back pay claimed in the specifications as "grossly exaggerated" and as based upon "false and fraudulent statements" of claimants. Such characterization is difficult to reconcile with Respondent's admission that the gross back-pay figures are accurate, except for some relatively minor corrections, and its assertion in paragraph I (B) of the amended answer that it has no "knowledge or information sufficient to form a belief" as to the interim earnings and deductible expenses of the claimants or as to their search for work.

<sup>6</sup> Respondent contends in its opposition to the motion that there is no authority in the Board's Rules for filing the instant motion. However, Section 102.51 c (c) of the Rules authorizes the Board, in an appropriate case, to grant the relief here sought by the General Counsel. Such provision necessarily implies that the General Counsel may seek such relief from the Board through an appropriate pleading.

**Natvar Corporation and Stephen Huszar, Petitioner and United Paperworkers of America, AFL-CIO.**<sup>1</sup> *Case No. 22-RD-4.*  
*October 15, 1957*

### DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Alan Zurlnick, hear-

<sup>1</sup> We have been administratively advised that the Union, United Paperworkers of America, AFL-CIO, and the International Brotherhood of Papermakers, AFL-CIO, merged, effective March 8, 1957; and the merged name appears as United Papermakers and Paperworkers of America, AFL-CIO.

ing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case,<sup>2</sup> the Board finds:

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

2. The Petitioner, an employee of the Employer, asserts that the Paperworkers, the labor organization currently recognized by the Employer as the bargaining representative, is no longer the bargaining representative as defined in section 9 (a) of the Act of the Employer's employees.

3. The Paperworkers and the Employer moved to dismiss the petition on the grounds that (1) their current contract is a bar to this proceeding, and that, since the Petitioner, as an officer of Plastic Workers Union, Local 307, hereinafter called Local 307, or suspended Local 307, failed to comply with the filing requirements of Section 9 of the Act, he is estopped from raising the noncompliance of the Local 307, and that (2) the Petitioner is fronting for a labor organization which has not complied with the filing requirements of the Act.

Since we find the second contention dispositive of the issues we shall not consider the question of the contract bar.

Pursuant to the Board's Decision and Direction of Election,<sup>3</sup> the United Paperworkers of America, CIO, was certified by the Board on October 11, 1954, for the unit of employees involved herein. Following this certification the Employer entered into a contract dated November 8, 1954, with the Paperworkers on behalf of its Local 307, expiring November 8, 1956. A second and current contract between the same parties was signed January 10, 1957. Representatives of the Paperworkers and the officers of Local 307 were signatories to both contracts. At no time during these periods was Local 307 in compliance.

The Petitioner herein, Steve Huszar, was, at all times mentioned above, president of Local 307. Upon the expiration of the 1954 contract on November 8, 1956, Local 307, under Huszar's leadership, conducted a strike which was neither authorized nor approved by its parent, the Paperworkers. The strike was settled December 29, 1956, and the current contract signed as stated by both the representatives of the Paperworkers and the officers, including Huszar, of Local 307. On January 29 the Paperworkers suspended "the autonomy of Local 307" and appointed a trustee and administrator of its affairs. The suspension was for failure to give notice of the November-December strike to the area director and for failure to request or receive authorization. The administrator appointed a

---

<sup>2</sup> The request of United Papermakers and Paperworkers of America, AFL-CIO, hereinafter called Paperworkers or the International, for oral argument before the Board is hereby denied, as the record and briefs adequately present the issues and positions of the parties.

<sup>3</sup> 109 NLRB 1278.

plant committee to act for him in all collective-bargaining matters with the Employer and on February 18 the attorneys for the Paperworkers wrote Huszar demanding an accounting and the surrender of all records, property, books, etc. Huszar did not comply and on February 20 he filed the decertification petition. On March 8, Huszar wrote the Employer demanding that it continue to forward dues and initiation fees collected to the duly authorized officers of Plastic Workers Union, Local 307. This letter was signed by Huszar and by the suspended Local's vice president, its treasurer and its recording secretary. Also, Huszar and the other officers asked for a meeting with the Employer and at that meeting demanded that the Employer *recognize their group instead of the International*. On March 13 the members of the suspended Local conducted a mass meeting in front of the Employer's plant and at this meeting Huszar assured Lorentz, the plant manager, that the employees "would live up to the contract as is." Huszar has repeatedly claimed to represent 106 employees, a majority of the bargaining unit.

Although the defection of the members of the suspended Local was never formalized by disaffiliation,<sup>4</sup> the purpose of decertification is manifest. By retention of the books, records, and funds of Local 307, the demand upon the Employer for recognition of their group and payment to them of dues and initiation fees, the avowal that the officers were authorized to act on behalf of a majority of the employees, the assurance that the contract would be administered according to its terms, Huszar and the other officers, together with the employees they represented, unequivocally evidenced their intention to continue as the bargaining entity. With the legal status of the suspended Local vis-a-vis the International or the administrator of Local 307 we are not concerned.<sup>5</sup> We find the officers and members of suspended Local 307 who have not acknowledged the suspension constitute a *de facto* labor organization<sup>6</sup> which is not in compliance with the filing requirements of the Act.<sup>7</sup> It seeks the benefits which would accrue from the decertification of the International and the Petitioner herein, as president of such organization, is acting on its behalf. Accordingly, we shall dismiss the petition.<sup>8</sup>

[The Board dismissed the petition.]

MEMBER RODGERS took no part in the consideration of the above Decision and Order.

<sup>4</sup> Huszar testified that at a meeting of 307 called by the International in January or February 1957, a motion to disaffiliate was made and rescinded, whereupon some 50 or 60 members walked out. No vote was taken to the motion.

<sup>5</sup> *Sperry Gyroscope Company*, 88 NLRB 907.

<sup>6</sup> *Continental Baking Company, et al.*, 99 NLRB 777, 778.

<sup>7</sup> After his appointment as administrator, Edward F. Masterson effectuated compliance with the Act by submitting his non-Communist affidavit as sole officer of Local 307. The officers of the suspended Local have made no effort to comply.

<sup>8</sup> *Wood Parts, Inc.*, 101 NLRB 445, 448.