Anheuser-Busch, Inc.; Falstaff Brewing Corporation; Carling Brewing Company; and Griesedieck Brothers Brewery Company *and* Kenneth J. Maddock *and* Local 6, Brewers and Maltsters, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Party to the Contract. *Case No. 14–CA–1602. June 10, 1958*

DECISION AND ORDER

On December 19, 1957, Trial Examiner Max M. Goldman issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had not engaged in any unfair labor practices alleged in the complaint and recommending that the complaint be dismissed, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the General Counsel filed exceptions to the Intermediate Report and a supporting brief. The Respondents filed a brief in support of the Intermediate Report.

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 Leedom and Members Bean and Jenkins].

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 briefs, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

We agree with the Trial Examiner that the Respondents did not violate Section 8 (a) (3) and (1) of the Act by maintaining and enforcing a union-security agreement which concededly conformed with the requirements of Section 8 (a) (3). In so doing, we find, as did the Trial Examiner, that the evidence does not establish that the Respondents had reasonable grounds for believing that membership in the contracting union was not available to employees hired after January 1, 1948, on the terms and conditions generally applicable to other members of the union.[1] Accordingly, we shall dismiss the complaint herein.

[The Board dismissed the complaint.]

[1] The evidence reveals that on August 5, 1957, in Case No. 14–CB–397, the contracting union entered into a settlement stipulation in which it agreed to cease and desist from the conduct which is the basis of the violation alleged herein.

INTERMEDIATE REPORT AND RECOMMENDED ORDER

STATEMENT OF THE CASE

Upon charges filed by Kenneth J. Maddock, an individual, the General Counsel by the Regional Director for the Fourteenth Region (St. Louis, Missouri) of the National Labor Relations Board, herein called the Board, issued a complaint dated

June 10, 1957, against Anheuser-Busch, Inc., Falstaff Brewing Corporation, Carling Brewing Company, and Griesedieck Brothers Brewery Company, herein referred to as the Respondents, alleging that the Respondents had engaged in unfair labor practices affecting commerce within the meaning of Section 8 (a) (1) and (3) and Section 2 (6) and (7) of the Labor Management Relations Act, 1947, 61 Stat. 136, herein called the Act. Copies of the complaint and the charges together with notice of hearing were duly served upon the Charging Party, the Respondents, and Local 6, Brewers and Maltsters, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL–CIO, herein called the Union.

With respect to unfair labor practices the complaint alleges that the Respondents by maintaining and enforcing a certain contract with the Union violated Section 8 (a) (3) and 8 (a) (1) of the Act. The Respondents in their answers deny the commission of the unfair labor practices alleged.

Pursuant to notice a hearing was held on August 20, 1957, at St. Louis, Missouri, before the duly designated Trial Examiner. The Union entered an appearance as an Intervenor. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence on the issues were accorded the parties. The General Counsel and the Respondents filed briefs with the Trial Examiner.

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 RESPONDENTS

Anheuser-Busch, Inc., is a Missouri corporation with its main office in St. Louis, Missouri, with plants in several States of the United States, including the State of Missouri, where it is engaged in the production of beer. During the calendar year 1956, Anheuser-Busch, Inc., shipped or caused to be shipped directly from its plant in St. Louis, Missouri, to points outside the State, goods valued in excess of $250,000.

Carling Brewing Company is a Virginia corporation with its main office at Cleveland, Ohio, with plants in several States of the United States, where it is engaged in the production of beer. At all times material hereto, until on or about April 1, 1957, Carling Brewing Company operated a plant in St. Louis, Missouri, which is known as the Hyde Park plant. During the calendar year 1956, Carling Brewing Company shipped or caused to be shipped directly from its various plants to several States of the United States, goods valued in excess of $250,000.

Falstaff Brewing Corporation is a Delaware corporation with its main office in St. Louis, Missouri, and plants in several States of the United States, including the State of Missouri, where it is engaged in the production of beer. During the calendar year 1956, Falstaff Brewing Corporation shipped or caused to be shipped directly from its plant in St. Louis, Missouri, to points outside the State of Missouri, goods valued in excess of $250,000.

Griesedieck Brothers Brewery Company is a Missouri corporation with its main office and plant in St. Louis, Missouri, where it is engaged in the production of beer. During the calendar year 1956, Griesedieck Brothers Brewery Company shipped or caused to be shipped directly from its plant in St. Louis, Missouri, to points outside the State of Missouri, goods valued in excess of $250,000.

II. THE LABOR ORGANIZATION INVOLVED

Local 6, Brewers and Maltsters, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL–CIO, is a labor organization within the meaning of the Act.

III. THE UNFAIR LABOR PRACTICES

A. *The events*

The Respondents and the Union have had a contractual relationship for several years and they have abided by the provisions of their contracts. The current contract covering the period involved in the complaint became effective on March 1, 1956, is to continue until March 1, 1958, and contains an annual automatic renewal clause. The unit description includes essentially all employees involved in the brewing process and all employees engaged in receiving, shipping, and storing.[1]

[1] The text of the agreement, article I, setting forth the unit follows:

> The employer recognizes the union as the sole and exclusive collective bargaining agent for (a) all employees engaged as journeymen brewers, utility brewers, appren-

The contract involved does not contain a checkoff provision. The contract does provide, as have its predecessor contracts beginning March 1, 1953, for union security in the following language as shown by article II:

> The employer grants to the union the maximum union security (but not less than the union shop) permissible under applicable law.
>
> All employees covered by this agreement shall, as a condition of employment, tender dues to the union within thirty days after the commencement of their employment, and shall thereafter maintain their membership in the union in good standing. An employee who is expelled or suspended from the union because of nonpayment of dues (including such other obligations to the union, failure to pay which would make an employee subject to discharge under the Labor Management Relations Act of 1947), and an employee who is expelled or suspended from the union for any other reason for which he may be lawfully discharged under legislation which may be applicable during the term of this agreement shall be subject to dismissal five days after notification in writing to the employer by the Secretary or Business Agent of the local union providing, however, that if the expulsion or suspension is for nonpayment of dues and payment of such arrearage is made within such five-day period, the employer shall not be required to discharge such employee.

The parties executed a letter in June 1956, confirming an understanding reached in the course of bargaining negotiations. This document provides for certain industry-wide seniority and reads in part as follows:

> The term "industry seniority" as used herein means the date of hiring for regular employment in a plant in St. Louis and vicinity under the jurisdiction of L. U. #6.
>
> In the event that any employee, other than a journeyman brewer, having an industry seniority date prior to January 1, 1948, is laid off for lack of work for a period of more than one week, or is unemployed as a result of a plant shutdown, he shall have the right to be employed, within not more than five working days after request is made by the Union to the Employer in any other plant covered by agreement between L. U. #6 and the Employers signatory hereto in a department under the jurisdiction of L. U. #6 in whcih men of lesser industry seniority are employed, displacing if necessary the employee with least seniority in that plant.
>
> Journeymen brewers who are covered by the contract requirement that they shall be laid off in turn by the week in an impartial manner under the contract between L. U. #6 and the Employers signatory hereto, who are subject to layoff of more than one week in a three-month period shall have the right to be employed within not more than five working days after request is made by the Union to the Employer in the brewing department of any other plant under the jurisdiction of L. U. #6 in which men of lesser seniority are employed, displacing if necessary the employee with the least seniority in the brewing department in that plant.

Article XXIII entitled, "Seniority" relates to freight and general labor departments and provides in part as follows:

> Group A shall consist of employees with a plant starting date of 1949 and prior. Group B shall consist of employees with a plant starting date of 1950 or later.

The contract further provides that group B employees shall be vulnerable to layoff prior to group A employees. Article XXII also entitled, "Seniority" relates to brewery department employees and provides that "other men" as a category are subject to layoff prior to the other named categories, that is, apprentice brewers, utility men, and journeymen brewers. Although there is no provision in the contract to the effect, the secretary-treasurer of the Union testified that without exception persons who were hired after 1948, fall into the category of "other men." Under

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tice brewers, watchmen doing brewers' work, and other men in the brewing department, malt house, brew house, fermenting cellars, bottling cellars, wash house, racking room, cooperage department, ice plant, and malt syrup department, and (b) all employees engaged in receiving, shipping, and storing raw materials, production supplies, advertising matter, and finished products outside of bottling departments and bottling areas, including employees engaged in noncraft maintenance work and yard labor and refrigeration and waterworks laborers, excluding clerical and professional employees, watchmen, guards and supervisors as defined in the Act.

the Union's policy before July 1957, persons who were hired after January 1, 1948, were not admitted into membership in the Union. In July 1957 the Union notified the Respondents' employees of a change in policy under which all employees were offered full membership upon the payment of the regular initiation fee.

The Union explained that this policy limiting membership had been in existence since 1947, and that it arose out of the highly seasonal nature of the brewing business. When this policy was in effect, seasonal or temporary employees were not required to pay the initiation fee but they were required to pay and did pay the monthly dues for each month of their employment. At least annually the Union made determinations as to the probable complement of regular employees which would be required by the industry and would when it was indicated admit to full membership all temporary employees hired on January 1, of a given year.

Although the Respondents concede that when called upon to do so, they maintained and enforced the union-security provision of the contract, there is no showing that any particular person was adversely affected in his employment by the operation of the contract.

B. *The conclusions*

The General Counsel attacks neither the seniority provisions nor the union-security provision as written in the contract, but contends that the Respondents enforced the union-security provision requiring their employees to pay dues, assessments, and fines as a condition of employment, although the Respondents knew or had reason to know that under the Union's policy membership was denied to employees who were hired after January 1, 1948. The General Counsel also contends that it is not essential to establish knowledge of the Union's exclusionary policy on the part of the Respondents to establish a violation of the Act.

On the subject of the Respondents' knowledge of the Union's policy against granting membership to employees hired after January 1, 1948, the General Counsel points out that (1) the parties have been in contractual privity for many years; (2) the agreement contains seniority provisions which categorize employees by date as before and after January 1, 1948; and (3) the Respondents first learned of the existence of the Union's policy upon the receipt of the first amended charge dated April 17, 1957. The Trial Examiner is of the view that this is an insufficient basis to conclude that the Respondents knew or had reasonable grounds for believing that membership was not available in the Union to employees hired after January 1, 1948, on the same terms and conditions generally applicable to other members of the Union, and that knowledge is a prerequisite for establishing responsibility under the specific language of Section 8 (a) (3) of the Act. It having been concluded that the General Counsel's burden of proof has not been met in this respect, it is found unnecessary to pass upon the issues which would be otherwise presented. It will accordingly be recommended that the complaint be dismissed.

[Recommendations omitted from publication.]

The Standard Register Company, Pacific Division *and* Oakland Printing Pressmen and Assistants Union No. 125, AFL–CIO and Independent Standard Register Union, Petitioners. *Cases Nos. 20–RC–3407 and 20–RC–3420. June 10, 1958*

DECISION AND ORDER

Upon separate petitions duly filed, a consolidated hearing was held before M. C. Dempster, a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Rodgers, Bean, and Fanning].

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