

CONCLUSIONS OF LAW

1. The Union is a labor organization within the meaning of Section 2(5) of the Act.

2. By discharging Annie Davis on August 5, 1959, and by discharging Paul A. Johnson, Ozzie Ashley, and James Kent Murphy on August 7, 1959, Starkville has discriminated in regard to the hire and tenure of employment of the above-named employees, thereby discouraging membership in the Union, in violation of Section 8(a)(3) of the Act.

3. By engaging in the aforesaid unfair labor practices and the other acts and conduct set forth in section III, A, above, Starkville has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

5. Buck Creek Cotton Mills, the parent corporation of Starkville, is the successor to Starkville and accordingly is obliged to assume the obligations and responsibilities of the Company under my recommended order.

[Recommendations omitted from publication.]

Phillips Control Corp. and Circuit Components Corp. and International Union of Electrical, Radio and Machine Workers, AFL-CIO. Cases Nos. 24-CA-1248 and 24-RC-1325. January 31, 1961

DECISION, ORDER, AND CERTIFICATION OF RESULTS OF ELECTION¹

On August 20, 1960, Trial Examiner A. Bruce Hunt issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent in Case No. 24-CA-1248, had not engaged in and was not engaging in certain unfair labor practices alleged in the complaint and recommending that the complaint be dismissed in its entirety, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the General Counsel filed exceptions to the Intermediate Report and a brief in support thereof. The Respondent filed a reply to the General Counsel's exceptions and brief.

The Board² has reviewed the rulings of the Trial Examiner made at the hearing and finds no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate

¹ Pursuant to a stipulation for certification upon consent election, an election by secret ballot was conducted by the Regional Director on February 16, 1960, in Case No. 24-RC-1325. The tally of ballots showed 49 votes for petitioner, IUE; 109 votes cast against petitioner; and 9 challenged ballots. On February 23, 1960, the IUE filed timely objections to the election. As the objections involved the same conduct as the alleged unfair labor practices, the Regional Director recommended that said objections be consolidated with the complaint proceedings for decision.

In accordance with the Regional Director's recommendation, the objections to election in Case No. 24-RC-1325, are hereby transferred before the Board, and consolidated with the complaint proceedings in Case No. 24-CA-1248, for decision.

² Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its powers in connection with these cases to a three-member panel [Chairman Leedom and Members Rodgers and Jenkins].

Report, the exceptions and brief, and the entire record in the case, and hereby adopts the Trial Examiner's findings, conclusions, and recommendations.

Having found that the Respondent has not engaged in unfair labor practices as alleged in the complaint, and finding that the objections to the election involve the same conduct alleged as unfair labor practices, the Board hereby finds that the objections to the election in Case No. 24-RC-1325 are without merit. As the Petitioner failed to receive a majority of the valid votes cast in the election, we shall certify the results of the election.

[The Board dismissed the complaint filed in Case No. 24-CA-1248.]

[The Board certified that a majority of the valid ballots cast in Case No. 24-RC-1325 was not for International Union of Electrical, Radio and Machine Workers, AFL-CIO, and that the said union is not the exclusive representative of the employees of Phillips Control Corp. and Circuit Components Corp., at their Rio Piedras, Puerto Rico, plant, in the unit found appropriate.]

INTERMEDIATE REPORT

This proceeding involves allegations that the Respondents, Phillips Control Corp. and Circuit Components Corp., violated Section 8(a)(1) and (3) of the National Labor Relations Act, 61 Stat. 136. On various days between April 4 and 14, 1960, inclusive, I conducted a hearing at Santurce, Puerto Rico, at which all parties were represented.¹ The Respondent's motion to dismiss the complaint is hereby granted. Upon the entire record and my observations of the witnesses, I make the following:

FINDINGS OF FACT

I. THE RESPONDENTS

Phillips Control Corp. and Circuit Components Corp., each a Puerto Rican corporation, are engaged in the manufacture of electrical equipment at Rio Piedras, Puerto Rico, and, insofar as material here, their operations are conducted as an integrated enterprise. The Respondents annually purchase goods and materials valued in excess of \$100,000 which are shipped to their plant from points outside the Commonwealth of Puerto Rico and they annually ship products in excess of that evaluation to points within the continental United States. There is no dispute, and I find, that the Respondents are engaged in commerce within the meaning of the Act.

II. THE UNION

International Union of Electrical, Radio and Machine Workers, AFL-CIO, is a labor organization which admits to membership employees of the Respondents.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The issues*

The complaint alleges *inter alia*, and the Respondents deny, that: (1) During and after June 1959, supervisors (a) threatened employees with loss of employment and with discontinuance of the Respondents' operations because of the Union's organizational efforts, (b) invalidly interrogated employees concerning union activities, and (c) promoted, assisted, and directed an antiunion movement among employees; (2) during November 1959, the Respondents placed into effect a rule prohibiting prounion activities on the Respondents' time and premises but did not

¹The transcript is hereby corrected at page 336, line 1, by substituting "addressed" for "a threat."

apply the rule to the activities of antiunion employees; and (3) on November 12, 1959, the Respondents discharged Antonio Santiago because of his union activities.

Before considering the evidence which relates to the above allegations, we shall consider certain earlier events.

B. Background

About March 1959, a number of employees expressed an interest among themselves in being represented by a labor organization. A paper was circulated among them for signatures signifying which employees desired that the Union commence organizational activity.² Alfredo Roussel, then the Respondents' comptroller, learned of the paper. He called Maria Resto, an employee who was a strong supporter of the Union, to his office and spoke with her in the presence of George Ziegler, then a vice president of the Respondents.³ Roussel told Resto to forget about the Union, that the employees would lose by their organizational activities, and that, if the Union should succeed in organizing the employees, the plant would be "taken away." Roussel also asked Resto to disclose the identities of the employees who had prepared the paper for signatures. The conversation lasted nearly 2 hours. Resto gave no information to Roussel. A few days later, Roussel again spoke with Resto, saying that he would give her any position in the plant which she wished if she would disclose the identities of the union leaders. She professed ignorance of the subject.⁴

C. The events

During May or June 1959, the Union began to solicit members among the employees. During ensuing weeks, union handbills and insignia were distributed, employees were addressed at lunchtime through loudspeakers in automobiles parked near the plant, and meetings were held at the Union's offices. On the other hand, there was a countermovement by employees who opposed the Union and who also distributed handbills. Upon a few occasions the Respondents themselves posted notices.

As recited, Roussel was the Respondents' comptroller. There is no dispute that he was a supervisor within the meaning of the Act. The Union apparently regarded him at first as a minor secretary, however. During June or July the Union distributed a handbill in which it asserted that "illegal tactics" were being used to coerce employees; that Roussel, "a mere office secretary" and "a company apple-polisher," had made threats that the Respondents' operations would be returned to the States if the Union's campaign were successful; that no factories had been removed from Puerto Rico because of unions; and that the Union would file charges with the Board if Roussel should continue his "ridiculous threats." The handbill also requested that the Respondents be fair and instruct the supervisors and office personnel "in matters related to legal conduct" Not long after the distribution of that union handbill, the Respondents posted a notice which recited that the Union had a "perfect right" to try to become the employees' bargaining representative, that the Respondents' attitude had been one of "hands off," that the Union's campaign had been conducted with prudence, circumspection, and within the law, but that recently the Union had resorted to falsehoods. The notice then recited that Roussel had been accused falsely of having threatened employees that Roussel had asked the Respondents for, and had received, permission to defend himself, but that the Respondents did not necessarily endorse the remarks which Roussel would make. The notice recited further:

. . . we wish to emphatically state to you that we are neither against nor in favor of said union; that this is a matter that is exclusively your own business, and that we shall exercise no kind of influence nor shall we permit it on the part of our supervisors, neither in favor nor against said union, as long as the latter conducts itself correctly in its campaign and complies with the provisions and the spirit of the law. Now then, we do want you to know that there is no law that obliges any worker to belong to a union, and that if that is your desire, this firm will respect it, and that it is not necessary to join any union for this company to exercise justice

² The record does not disclose the number of employees at that time, but later in 1959 the number was approximately 180.

³ Roussel speaks both English and Spanish. Resto does not speak English. Ziegler does not speak Spanish.

⁴ These findings are based upon the uncontradicted testimony of Resto. Prior to the hearing, Roussel had been discharged and Ziegler's connection with the Respondents had been terminated. At the time of the hearing, Ziegler was in California. For these reasons, according to the Respondents, they chose not to call Roussel or Ziegler as a witness.

About the same time, a notice to all employees was issued over Roussel's given name, Alfredo. He asserted that: he had been accused "in contemptuous terms" of having tried to coerce "fellow workers"; the accusations were "by all means false"; he had coerced no one to belong or not to belong to the Union; the Union having engaged in falsehoods about him, it was not deserving of the support of his "fellow workers"; and he was responding to the Union's accusations as an individual who had been falsely accused and not as a spokesman for the Respondents.

During the same month, the Respondents posted another notice and distributed individual copies to employees. The distribution was made by Supervisors Pablo Marcano and Alejandro Mendez. The notice was the Respondents' reply to a handbill which the Union had circulated concerning the need for air conditioning in the welding department. The notice said that: Long before the Union raised the subject of air conditioning, the Respondents had ordered air-conditioning equipment which would be installed upon delivery to the plant; the Respondents' having ordered the equipment demonstrated that they did not need the Union to tell them how to conduct their operations; the Respondents were aware of their obligations as employers; the employees should remember that the weather had been unusually warm; and the temperature in the Respondents' plant was lower than that in the plants of its competitors.

On October 30, the Union filed with the Board's Regional Office a petition for certification of representatives.⁵

During November, Supervisor Marcano spoke to Hector Ortiz, who was one of the most active employees in the Union's organizational drive.⁶ While Ortiz was at a water fountain, Marcano came over and spoke in a low voice, saying that if Ortiz did not cease his union activity he would be "screwed" and that the only way he could "come out well" would be "to turn against the union."⁷

During late 1959 and early 1960, in anticipation of a coming election, the prouunion and antiunion employees continued their efforts to persuade other employees to their respective points of view. Various handbills were distributed. About November 1, 1959, a group of approximately one dozen prouunion employees called upon Ziegler, saying that some antiunion employees were leaving work a few minutes early in order to be stationed outside the plant preparatory to distributing antiunion handbills at quitting time, and asking that prouunion employees be given permission to leave work early for a similar purpose. Ziegler replied that he would not allow the privilege of leaving work early to either the prouunion or the antiunion group. The question whether the Respondents nevertheless allowed the privilege to employees among the antiunion group is discussed hereinafter.

On November 12, Antonio Santiago was discharged after 3 weeks' employment during which he was a probationary employee. His discharge also is discussed hereinafter.

The contest between the prouunion and antiunion groups was vigorous. One contention which the antiunion group made in handbills concerned an employer named Paragon who, according to the handbills, had gone out of business as soon as the Union won an election because of false promises made by a representative of the Union, leaving "a hundred odd heads of families without work and above all, in misery." The antiunion group asked in the handbills what would happen if the Respondents should cease operations as Paragon had, and whether the Union would secure other employment for the Respondents' employees or pay to those employees an amount equal to their earnings.

⁵ This date is taken from the official records of the Board.

⁶ Ortiz' name appears incorrectly as "Hector Diaz" at page 399, lines 7 and 8; page 404, lines 7, 12, and 17; and page 480, line 7, of the transcript. These errors are hereby corrected.

⁷ The findings concerning Marcano's remarks are based upon Ortiz' testimony. Although, as appears hereinafter, I cannot credit Ortiz' testimony in every instance, I credit it here. In relating the incident at the water fountain, he appeared to me to be testifying truthfully. On the other hand, Marcano denied that he made the remarks, but his denial was unconvincing. The substance of his testimony is that he was uninterested in the union activities, that he did not have time to pay attention thereto, and that he did not know the identities of the employees who were most active in the Union. This testimony, as given by Marcano, did not have the ring of truth. Moreover, Ortiz was well known in the plant as a leader in the union movement. Too, Marcano, according to his own testimony, asked for and received permission from Roussel to distribute to each employee a copy of the notice described above which was the Respondents' reply to a union handbill concerning air conditioning.

On or about January 20, the Respondents posted a notice to employees⁸ It dealt with the Respondents' plans to expand operations in Puerto Rico "no matter what you [the employees] may hear from other sources" by transferring certain specified production operations from Illinois and by "integrating all production operations" in Puerto Rico. [Emphasis supplied.] The notice recited also that it would be "necessary to substantially increase the number of employees and to this end your Management is now carefully considering plans for adjusting the wage structure in such a manner that those of you who have helped us in the past will be rewarded as you deserve, and in addition to offer an incentive for advancement to the new personnel that will be employed." On January 22, the Respondents posted another notice, saying that "the new increased wage scale" would be announced during the next week. The record does not disclose the details of the new wage scale and there is no allegation that wage increases were granted as a means of defeating the Union in the election which was to be held soon.

On or about February 1, according to the testimony of Resto, Supervisor Efrain de la Rosa told her that if the Union's campaign were successful, the Respondents would "take the factory away." On the other hand, De la Rosa testified for the Respondents to the contrary. For reasons appearing below, it is unnecessary to resolve the conflict.

Later during February, the election was conducted. The Union lost and thereafter filed objections which were pending at the time of the hearing in this case.

D. Conclusions respecting the 8(a)(1) allegations

The complaint alleges various acts in violation of Section 8(a)(1). The proof is limited, however. For instance, the conduct in which Roussel and Ziegler engaged, recited above under "Background," occurred more than 6 months before the original charge was filed instead of during the period alleged in the complaint. Certain other allegations are wholly unsupported. The remaining issues are whether the Respondents engaged in unfair labor practices with respect to (1) the acts of the antiunion employees; (2) Supervisor de la Rosa's alleged threat to Resto, described above;⁹ and (3) Supervisor Marcano's warning to Ortiz, also described above.

The complaint alleges that the Respondents promoted, assisted, and directed the antiunion movement and that ". . . employee adherents of the Union are prohibited from distributing Union literature and/or engaging in Union organizational activities on Company time and/or premises while . . . such privileges [are granted] to employees engaged in activities against the Union." There is, however, no evidence that the Respondents directed the antiunion movement, nor is there evidence that they assisted in the preparation of the handbills which were distributed by the antiunion employees. On the other hand, there is testimony that the Respondents assisted and encouraged the antiunion movement by treating its adherents more favorably in the distribution of handbills and by permitting supervisors to participate in such distribution.¹⁰

⁸ The notice was undated and the approximate date of posting is fixed by a comment in the notice that Ziegler's transfer to Puerto Rico on a permanent basis had been so recent that he had been unable to meet the employees. The transfer occurred on January 15, 1960.

⁹ The complaint does not allege that De la Rosa's alleged threat was an unfair labor practice, but the subject was fully litigated.

¹⁰ There is evidence that the Respondents encouraged the antiunion adherents in other ways upon two occasions, but this evidence is so unsubstantial as to warrant only a footnote. *First*, Ortiz testified that, during the lunch hour one day, when the antiunion employees inside the plant were cheering "Down with the union," and the union adherents were cheering "Hooray for the union," Supervisor Marcano, who is the plant's principal foreman, told the latter group to cease making noise and to go outside the plant if they wished to yell. Ortiz testified further that when he asked why Marcano would permit one group, but not the other, to cheer in the plant, Marcano replied that the matter was not Ortiz' "problem." On the other hand, Marcano testified that the incident occurred when he was using a portion of the lunch hour to do "paper work," that the noise disturbed him, and that he told both groups to go outside if they wished to cheer. Although Marcano at times impressed me as an untruthful witness, I believe that his testimony in this instance should be credited. In particular, I cannot find that Marcano did not tell the antiunion group to cease yelling in the plant. *Second*, Ortiz testified that on November 21, when two antiunion employees, Humberto Cruz and Emilio Ojeda, were not working, they came inside the plant about 30 to 60 minutes before quitting time and showed to employees a paper which was addressed to the Board and which was

The General Counsel contends that supervisors distributed antiunion literature. The fact, however, is that Supervisors Marcano and Mendez did not distribute any specific antiunion handbill insofar as the record discloses, but distributed instead the single, noncoercive, above-described notice from the Respondents to the employees concerning air conditioning in the welding department. Ortiz identified two additional persons, Humberto Cruz and Narciso Astasio, as supervisors and as distributors of antiunion handbills, but neither Cruz nor Astasio has a supervisory title and, indeed, the General Counsel does not contend that Cruz was a supervisor. With respect to Astasio, the record shows that he is a tool- and die-maker who works with one other employee, Ojeda, and that he checks the work of one or more employees, but the nature of the checks is not clear in the record. I conclude that the evidence will not support a finding that Astasio is a supervisor in the statutory sense.

We have seen that about November 1, 1959, approximately a dozen prounion employees called upon Ziegler, said that some antiunion employees were leaving work a few minutes early in order to distribute handbills, asked for the same privilege for themselves, and were told by Ziegler that no employee would be permitted to leave early for that purpose. The General Counsel contends that, notwithstanding Ziegler's statement, antiunion employees were granted the privilege of leaving work early and, in addition, were permitted to distribute handbills on the Respondents' property between the plant and the sidewalk, a distance of perhaps 70 feet, while the union adherents were required to stay on the sidewalk, entirely off the Respondents' premises, when distributing handbills. Ortiz named several employees who, according to his testimony, left work early to distribute antiunion handbills upon occasions after the conference with Ziegler, and he testified also that the distribution occurred between the plant and the sidewalk. Although none of these employees was called as a witness to contradict Ortiz, certain facts preclude my crediting his testimony. *First*, pursuant to a long-standing rule, supervisors were permitted to cease work a few minutes early each day but the rule did not apply to nonsupervisors, and Marcano testified that there was no change in the rule during the months preceding the election. *Second*, Ortiz testified that the Respondents gave a "direct order" to employees that no one would be permitted to engage in prounion or antiunion propaganda inside the plant, and James Criscione, who became manager of the plant during June 1959, testified credibly that the prohibition applied to the Respondents' entire premises. *Third*, Criscione testified further, without contradiction, that when he heard of the distribution of prounion and antiunion handbills on the premises, he had separate conversations with Leticia Diaz, a leader in the prounion group, and Cruz, a leader in the antiunion group, in which he told them that such distribution must cease. *Fourth*, Andres Amador, a witness for the General Counsel who was named by Ortiz as one of the approximately dozen employees who called upon Ziegler about November 1 to protest alleged favoritism to the antiunion group in the distribution of handbills, identified three persons as having been most active in distributing antiunion handbills and he testified also that he saw them make such distribution only on the sidewalk. *Fifth*, upon these facts I conclude that the Respondent took steps to prohibit the distribution of antiunion, as well as prounion, handbills anywhere on their premises. I conclude also that the record will not support a finding that the Respondents, having taken such steps to limit the activities of antiunion employees, nevertheless discriminated in favor of those employees by permitting them to cease work early in order to prepare for the distribution of their handbills.

Turning to the alleged remark by Supervisor de la Rosa to Resto that the plant would be moved if the Union were successful in its campaign, we have seen that the remark allegedly was made within a few days after the Respondents posted an emphatic notice that the plant's operations would be expanded considerably and that new wage rates would be formulated in order, in part, to attract an enlarged labor force. Resto had read the notice before De la Rosa allegedly made the re-

critical of the Union, and that, after the end of work that day, Cruz and Ojeda stood at a door of the plant and solicited signatures of employees who were leaving. On the other hand, Marcano testified that he had not seen Cruz and Ojeda in the plant that day although later he heard of their solicitation of signatures outside the plant. In the absence of evidence that any supervisor saw Cruz and Ojeda in the plant that day, I cannot infer that any supervisor then knew the nature of their activity or the content of the paper which they possessed. I conclude that the General Counsel has not sustained his burden of proof with respect to the two incidents discussed in this footnote.

mark. I conclude that the remark, if made, by a supervisor to 1 employee of about 180, does not warrant a finding of an unfair labor practice because the remark was contrary to the Respondents' emphatic notice so recently posted.

Turning to the remarks by Supervisor Marcano to Ortiz that the latter would "be screwed" if he did not cease his union activity and that the only way he could "come out well" would be "to turn against the union," I find that Marcano's remarks were violative of Section 8(a)(1) but that, since no other unfair labor practice has been established in this case, a cease and desist order should not be directed to the Respondents.

E. The discharge of Antonio Santiago

Santiago was hired by the Respondents on October 20, 1959, on a trial basis. He was discharged approximately 3 weeks later, on November 12, while he still was a probationary employee. The reason given was that he had performed work improperly.

The principal product of the plant is relays. Two components of a relay are a pile-up and a coil. Santiago's work for about 2 weeks before his discharge was to attach a pile-up to a coil by means of a screw, thereby forming a relay. Since there are various types of relays, before a pile-up and a coil are attached, care must be exercised that the specification number of one is identical with that of the other. To guide an assembler, such as Santiago was, there was attached to each container of pile-ups and to each container of coils a paper with a specification number. On the morning of Santiago's discharge, he assembled 100 to 150 pile-ups of one specification number to coils of a different number. That afternoon he was discharged by Marcano on the ground of having made too many mistakes. The General Counsel contends that Santiago was induced to misassemble the relays by his supervisor, Angel Flores, so that a pretext could be had for discharging him and that the real reason was his union activities.¹¹ On the morning of the discharge, Santiago noticed that certain specification numbers did not coincide and he reported the matter to Flores who changed the number for the coils so that it coincided with the number for the pile-ups and who then told Santiago to assemble them. Both Santiago and Flores were witnesses for the General Counsel. Santiago testified that the misassembled relays were those on which Flores changed a specification number. Flores testified to the contrary.

The heart of the General Counsel's proof concerning Santiago's discharge was to have been the testimony of Flores who had executed two affidavits, one for the General Counsel and another for the Union, which were very damaging to the Respondents because the affidavits recite, in part, that Supervisor Marcano, in conversations with Flores, had said that a pretext must be found to discharge Santiago because of Santiago's union activities. But Flores' testimony favored the Respondents and he repudiated the affidavits, testifying flatly that he had lied in executing the affidavits and that he had been motivated in lying because he had had a grievance against the Respondents, he had wanted to "take reprisal against the" Respondents, he had wanted to aid Santiago, and he had been assured that his affidavits would be kept in confidence. As a witness, Flores painted himself as a willing perjurer. He is unworthy of belief. Therefore, we turn to other testimony on the subject of Santiago's discharge.

Santiago joined the Union promptly after being hired by the Respondents. He attended several union meetings, wore union insignia on a shirt pocket, and attached union stickers to his automobile. Supervisor Marcano was aware of Santiago's union sympathies. It cannot be said, however, that Santiago was as active in the Union as a number of other employees. He had not been hired when other employees asked the Union to commence an organizational campaign. Too, insofar as appears, he did not become a member of the organizing committee nor was he among the approximately 12 pronoun employees who conferred with Ziegler on November 1 as described above. Ortiz, Leticia Diaz, Resto, and certain other employees were more active in the Union.

The General Counsel offered evidence that Santiago had a good work record in certain respects and Santiago testified that he had not been criticized before the day

¹¹ The General Counsel asserts, and the Respondents deny, that Flores was a supervisor within the meaning of the Act at the time of Santiago's discharge. The dispute need not be resolved.

of his discharge. On the other hand, the Respondents offered evidence that Santiago was deficient in certain respects and Marcano testified that Santiago had been criticized. I believe that it is unnecessary to recite and weigh the evidence. This is so because certain facts combine to dictate the conclusion that the General Counsel has not sustained his burden of proof. *First*, Flores' affidavits have probative value only in discrediting Flores' testimony and not in supporting a finding that Santiago was invalidly discharged.¹² *Second*, Santiago had been at work only a brief period on a trial basis and there is no doubt that he incorrectly assembled a large number of pile-ups and coils on the day of his discharge. *Third*, Santiago was not especially active in the Union, his display of union insignia on his clothing and automobile was not unusual, and no supervisor spoke with him concerning his union sympathies. *Fourth*, the disposition above of the alleged violations of Section 8(a)(1) preclude a finding that the Respondents were hostile to the right of Santiago to engage in union activities.

In summary, I recommend that the complaint be dismissed in its entirety.

¹² Assuming *arguendo* that Flores occupied such a supervisory status that his affidavits could be considered as admissions against the Respondents' interest (see *Grove Shepherd Wilson & Kruge, Inc., et al.*, 109 NLRB 209, 215), two sound reasons exist for rejecting the affidavits as proof that Santiago was invalidly discharged: (1) Unlike some cases before the Board in which witnesses did not repudiate, or sought unsuccessfully to repudiate, their affidavits (cf. *County Electric Co., Inc., et al.*, 116 NLRB 1080, *Norrich Plastics Corp.*, 127 NLRB 150), in the instant case Flores successfully repudiated his affidavits by branding himself as a deliberate, willing perjurer; and (2) unlike a case in which there was credible testimony that an affiant upon another occasion had made oral admissions consistent with statements in the affidavit which he sought to repudiate (*Anthony C. Markitell, et al.*, 99 NLRB 399), here there is no evidence that Flores made such oral admissions.

Aerojet General Corporation and International Union, United Welders, Petitioner.¹ Case No. 21-RC-6191. January 31, 1961

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Wilford W. Johansen, hearing 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,² the Board finds:

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

2. The labor organizations named below claim to represent certain employees of the Employer.

3. No question affecting commerce exists concerning the representation of certain employees of the Employer, within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act, for the following reasons:

The Petitioner seeks to sever a craft unit of welders from the existing production and maintenance unit presently represented by the

¹ The name of the Petitioner appears as amended after the close of the hearing by agreement of the parties.

² The Employer also requested oral argument. This request is hereby denied as the record, including the briefs, adequately presents the issues and positions of the parties.