

requiring said persons to cease doing business with Middle South Broadcasting Co., and has thereby violated Section 8(b)(4)(ii)(B) of the Act.

5. 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]

Guild Industries Manufacturing Corp. and Florida State Council of Carpenters, United Brotherhood of Carpenters and Joiners of America, AFL-CIO

Guild Industries Manufacturing Corp., and Paul A. Saad and Florida State Council of Carpenters, United Brotherhood of Carpenters and Joiners of America, AFL-CIO

Guild Industries Manufacturing Corp., and Paul A. Saad and L. W. Rushing. *Cases Nos. 12-CA-1562, 12-CA-1703, 12-CA-1783, 12-CA-1784, and 12-CA-1785. October 31, 1961*

DECISION AND ORDER

On March 22, 1961, Trial Examiner C. W. Whittemore issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the Intermediate Report attached hereto. The Respondents filed exceptions to the Intermediate Report, together with a supporting brief. Limited exceptions were filed by the General Counsel.

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, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, except as modified herein.¹

ORDER ²

Upon the entire record in this case, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that Respondent Guild Industries Manufacturing Corp., its officers, agents, successors, and assigns, and Respondent Paul A. Saad shall:

¹ We agree with the Trial Examiner that Elizabeth Hughes was discriminatorily discharged in violation of Section 8(a)(3). We do not, however, adopt his additional finding that Hughes' discharge was also a violation of Section 8(a)(4), as it is not clear from the record that her execution of an affidavit for the General Counsel was an operative cause of her discharge. *Gibbs Corporation*, 124 NLRB 1320, 1321.

² Section 2(a), (b), and (c) of this Order apply only to Respondent Guild Industries Manufacturing Corp.

1. Cease and desist from:

(a) Discouraging membership in and activities on behalf of United Brotherhood of Carpenters and Joiners of America, AFL-CIO, or any other labor organization of its employees, by discharging or reducing employment or in any other manner discriminating in regard to hire or tenure of employment, or any other term or condition of employment.

(b) Interrogating employees regarding their union membership or activities in a manner constituting interference, restraint, or coercion within the meaning of Section 8(a) (1) of the Act, uttering threats of reprisal or in any other manner interfering with, restraining, or coercing employees in the exercise of the right to self-organization, to form or assist labor organizations, to join or assist the above-named or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection as guaranteed in Section 7 of the Act, and to refrain from any and all such activities.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Offer Elizabeth Hughes immediate and full reinstatement to her former or substantially equivalent position, without prejudice to her seniority or other rights and privileges, and make her and Herman Litka whole for any loss of earnings they may have suffered as a result of the discrimination against them, as provided in the section of the Intermediate Report entitled "The Remedy."

(b) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due and the right to reinstatement under the terms of this Order.

(c) Post at its plant in St. Petersburg, Florida, copies of the notice attached to the Intermediate Report marked "Appendix."³ Copies of the notice, to be furnished by the Regional Director for the Twelfth Region, shall, after being duly signed by the Respondents, be posted immediately upon receipt thereof and be maintained for 60 consecutive days thereafter in conspicuous places where notices to employees are customarily posted. Reasonable steps shall be taken to insure that such notices are not altered, defaced, or covered by any other material.

³ This notice shall be amended by substituting for the words "The Recommendations of a Trial Examiner" the words "A Decision and Order," and by adding the following sentence: "The affirmative provisions of this notice apply only to Respondent Guild Industries Manufacturing Corp."

In the event that this Order is enforced by a decree of a 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."

(d) Notify the Regional Director for the Twelfth Region, in writing, and within 10 days from the date of this Order, what steps they have taken to comply herewith.

IT IS FURTHER ORDERED that the complaint be, and it hereby is, dismissed insofar as it alleges that the discharge of Elizabeth Hughes was in violation of Section 8(a) (4).

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

INTERMEDIATE REPORT

STATEMENT OF THE CASE

Charges having been filed and served in each of the above-entitled cases; an order consolidating the cases, a complaint, an amendment thereto and notice of hearing thereon having been issued and served by the General Counsel of the National Labor Relations Board; and answers and amended answers having been filed on behalf of each of the above-named Respondents,¹ a hearing involving allegations of unfair labor practices in violation of Section 8(a) (1), (3), and (4) of the National Labor Relations Act, as amended, was held in St Petersburg, Florida, on February 6, 7, and 8, 1961, before the duly designated Trial Examiner.

At the hearing all parties were represented, and were afforded full opportunity to present evidence pertinent to the issues, to argue orally, and to file briefs. Oral argument was waived. A brief has been received from General Counsel.

Upon the record thus made, and from his observation of the witnesses, the Trial Examiner makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT GUILD

Guild Industries Manufacturing Corp. is a Florida corporation, with principal place of business at St. Petersburg, Florida, where it is engaged in the manufacture of kitchen cabinets and juvenile furniture.

During the 12-month period before issuance of the complaint the Respondent Guild manufactured, sold, and shipped from its Florida factory products valued at more than \$50,000 to points outside the State of Florida. During the same period it purchased, transferred, and delivered to its Florida plant goods and materials valued at more than \$50,000 from points outside the State of Florida.

The Respondent Guild is engaged in commerce within the meaning of the Act.

II. THE LABOR ORGANIZATION INVOLVED

United Brotherhood of Carpenters and Joiners of America is a labor organization within the meaning of the Act.

III. THE UNFAIR LABOR PRACTICES

A. *Setting and major issues*

Stipulated facts, credible testimony, and admissions of Maurice Goldblatt, president of the Respondent, establish beyond question that as soon as Goldblatt learned of organizational efforts among his employees in June 1960, he promptly began a campaign designed to discourage such activities. According to his own candid testimony, at a meeting of all plant foremen and supervisors in June, after they had indicated that they were without knowledge of "rumblings of union activity," he directed that:

They should take the sawdust out of their ears and know what was going on. I felt economic conditions were bad and they should go out and tell the people economic conditions were bad.

¹ Referred to generally herein as "Respondent"

A number of the foremen present followed such instructions and their conduct, described more fully below, provides partial basis for General Counsel's contention that the Respondent violated Section 8(a)(1) of the Act.

That the Respondent's antiunion campaign, thus initiated, was continuing at the time of the hearing is established by the conceded fact that there was still posted, as it had been since sometime in September 1960, a large notice above the timeclock and on the bulletin board stating, in essential part:

TO ALL EMPLOYEES

We understand that some of you have the impression that the position of this Company in regard to the Union has been changed and that the Company is no longer opposed to the Union.

We want you to know that the policy of this Company with regard to this Union is exactly what it has always been:

WE ARE OPPOSED TO THE UNION AND WE INTEND BY EVERY LEGAL MEANS TO PREVENT IT FROM COMING INTO THIS PLANT.

It is our sincere belief that if the Union were to get in here, this would not work to your benefit but your serious harm. [Emphasis in original.]

This notice was put up, counsel for the Respondent conceded, shortly after the Respondent had been required, by terms of an informal settlement in Case No. 12-CA-1562; to post for a period of 60 days a notice informing all employees that the Respondent *would not* interfere with or restrain employees in their organizational rights and assuring them that they were "free to become or remain" members of the Union.

It is General Counsel's claim, denied by the Respondent, that in this long existing period of open hostility toward the organizational rights of the employees the Respondent continued to violate other provisions of the Act, as well as Section 8(a)(1), by: (1) discriminatorily depriving employee Herman Litka of customary overtime work in October 1960, to discourage union membership and in violation of Section 8(a)(3); (2) discriminatorily discharging employee Elizabeth Hughes in December 1960, because of her union membership and because she gave a Board agent an affidavit, in violation of Section 8(a)(3) and (4) of the Act; and (3) through its attorneys engaging in unlawful interrogation of employees in violation of Section 8(a)(1).

Because of the unfair labor practices alleged as having occurred *after* the September settlement in Case No. 12-CA-1562, General Counsel, through the Regional Director and in the complaint, formally withdrew his approval of, and set aside, the settlement agreement.

The setting aside of this settlement agreement brings into issue here all relevant events from the time of Goldblatt's above-noted instructions to his supervisors in June 1960.

B. Interference, restraint, and coercion by foremen

Following Goldblatt's instructions to his supervisory staff that they "take the sawdust out of their ears" and find out what was "going on," various foremen began interrogating employees and made threats of reprisal in violation of Section 8(a)(1) of the Act. Based upon a written stipulation of facts, placed in evidence by an agreement of all counsel, the Trial Examiner finds that:

(1) In June Foreman Jack Freedman asked four employees, including Arthur Liermann, if the union representative had been to see them. Freedman also asked Liermann if he had signed a union card.

(2) In July Foreman Maurice Stessel asked employees Yates, Hall, and Levan if they had signed union cards.

(3) On various occasions during June and July Foreman John Griffin asked a number of employees if they had been approached by a union representative, and in July the same foreman asked employee Brady if he had signed a card.

The following findings rest upon the credible testimony of the employee involved, in many cases admitted in part by the supervisor concerned, and upon the above-noted facts established by stipulation:

(1) In July Foreman Griffin asked employee Bordeau if she had been "contacted" by a union official. Later he asked her if she had signed a union card or knew of any employee who had. The foreman further told her that if she knew of any who had signed they should ask for them back, because before any "vote" was taken Goldblatt would close the plant.

(2) After Foreman Freedman's interrogation of employee Liermann, noted above, Freedman asked the same employee if he had "called back" his card from the Union, and warned him that Goldblatt would not recognize the Union and had threatened to close the plant down.

(3) In July Supervisor Ann Edwards² told employee Florence Rawls that "Maurie" (Goldblatt)³ would not "tolerate any union whatsoever," that the Company was "going to have a way of knowing who signed cards" and "eventually you will get laid off."

(4) During the same month Edwards also told employee Leske that if he had signed a union card he should get it back and urge his friends to do likewise.

(5) After the posting of the settlement notice in September, referred to above, Foreman Stessel asked employee Yates if she had received any literature from the Union.

C. Discrimination against Herman Litka

There is no dispute that during the month of October, shortly after the Respondent posted the above-quoted statement of continued antiunion policy, employee Litka was deprived of an undetermined number of overtime hours which theretofore had been granted him. A dispute arises from the conflicting claims as to the Respondent's motive. General Counsel urges that it was because of his union adherence, which both Goldblatt and his foreman, Stessel, admitted they were aware of. The Respondent appears to contend that economic necessity was the cause.

The preponderance of credible evidence, in the opinion of the Trial Examiner, supports General Counsel. Such evidence establishes the following:

(1) Goldblatt admitted, as a witness, that during the summer he learned of Litka's signing a union card. Foreman Stessel conceded that he had asked this employee if he had signed.

(2) During the first week in October Stessel told Litka that he could have no more overtime.

(3) During the second week Litka approached Goldblatt and asked him if he was being denied overtime "on account of the Union." Goldblatt answered in the affirmative and told the employee that if he would get his union card back and tear it up "in front of him" he could resume working overtime the next day.⁴

(4) On October 17 Litka asked another foreman, Thomas, for overtime in his department, and the request was granted. Shortly after starting that day's overtime, Stessel came into Thomas' department and told Litka that there was plenty of overtime in his own department but that Goldblatt had told him not to give any to him.

(5) On October 26 a charge was filed with the Board and served upon the Respondent alleging unlawful discrimination against Litka. Documentary evidence establishes that it was received by the Respondent on October 27.

(6) That same day, October 27, Litka was informed by General Foreman Wichlenski that he could have overtime, and there is no claim that he was thereafter discriminated against in this respect.

(7) On November 1, however, Foreman Stessel told Litka that there would be an election at the plant soon,⁵ and that now he was getting overtime he should bear in mind that if the Union got in neither he nor anyone else would receive overtime.⁶

In the opinion of the Trial Examiner the foregoing facts and the conclusion to which they lead heavily outweigh the apparent claim of the Respondent that Litka

² The Respondent opposes General Counsel's contention that Edwards is a supervisor within the meaning of the Act. While the preponderance of credible evidence supports General Counsel, since it is undisputed that she: (a) attends foremen's meetings; (b) is in charge of a specific department; and (c) was considered by other foremen to be of their own status according to their own testimony, the Trial Examiner finds it unnecessary to determine the precise point. Whether or not she was a supervisor within the meaning of the Act, it is undisputed that Goldblatt gave her the same instructions concerning union interrogation as he gave others attending the foremen's meetings, and that she thereby was made the Respondent's agent in the matter of discouraging union membership.

³ Rawls quoted Edwards as using only the term "Maurie." It is clear that she referred to Maurice Goldblatt, since it was he who directed her to engage in such conduct. Edwards admitted that Goldblatt told her to urge employees to get their cards back.

⁴ The Trial Examiner cannot credit Goldblatt's version of this interview, which he admits occurred.

⁵ On October 7 the Union had filed a petition for a Board election.

⁶ Although Stessel denied certain remarks attributed to him by Litka, from whose more credible testimony the quotations are drawn, the foreman readily admitted the final warning.

was deprived of overtime in October because Goldblatt "about the first of August," according to testimony of General Foreman Wichlenski, told him to "cut down a little" on overtime, and that "about a week later" a decrease in overtime was applied generally throughout the plant.

In summary, the Trial Examiner concludes and finds that employee Litka was discriminatorily deprived of overtime in order to discourage union membership, and that by such discrimination and by Stessel's above-quoted warning to the employee on November 1, the Respondent interfered with, restrained, and coerced employees in the exercise of rights guaranteed by the Act.

D. Attorney Saad's interrogation of employees on November 25

The complaint alleges and the answer denies that attorney Saad, both as an individual and as an agent of the Respondent, violated the Act by interrogation of employees on November 25.

All essential facts bearing upon the issue are set out in the record in documentary form, either by written stipulation or actual transcripts of Saad's interrogations.

Such facts include:

(1) During working hours on November 25 Saad, as counsel for the Respondent, had an undetermined number of employees (the stipulation names 12 and refers to others not therein listed) called individually and successively from their work into a storeroom where only Saad and a court reporter were waiting. Each employee, as called, was told that Saad represented the employer and then, unless refusing, was "sworn."

(2) While a good part of Saad's intensive and extensive interrogation dealt with the employee's opinion as to the status of one Joe Thomas as a supervisor and as to whether or not Thomas had engaged in any activity on behalf of the Union, the transcripts of the interrogations in evidence show that Saad went far beyond these two subjects.

(3) For example, Saad asked such employees if Thomas' wife, a rank-and-file employee at the plant, had ever asked them to sign a union card, or had visited at their homes. Other examples:

a. Saad asked if they had "seen" Thomas at any union meeting.

b. Saad *told* at least one employee that Thomas had spoken to others about the Union.

c. Saad instructed each employee, as he or she left the interrogation, not to tell anyone else "what we have talked about."

d. Saad asked at least one employee if he had "never had an opportunity . . . to talk about the pros and cons of the Union?"

e. Saad asked at least one employee if any supervisor had "induced" her to "get your union card back"—clearly a trick question which brought the answer "I never got a union card to turn in."

f. Saad asked some employees if they had heard "the rumor that if the union got in the company would close the plant."

g. Although in prefacing his interrogation of some employees Saad told them in effect that he was not inquiring as to their own union interests, he made no such opening statement to others.

The substance of Saad's explanation for engaging in such interrogations is that he wanted to find out what Thomas' actual status was as a supervisor within the meaning of the Act and to ascertain whether or not, if actually a foreman and representative of management, Thomas had engaged in any pronoun conduct which would permit the Respondent to challenge a Board election. The Trial Examiner finds no merit in either facet of this explanation. Crediting the claim that Goldblatt hired a lawyer and a court reporter to find out from employees what authority he himself had conferred upon Thomas would be an affront to reason.⁷ But whether or not naivety suggests accepting the claim as genuine, both the nature and extent of the interrogation were plainly coercive in design and effect. As noted above, asking an employee if he had seen another person at a union meeting had the natural effect of eliciting whether or not that employee himself had attended. Calling employees individually from their work, causing them to take the oath, in the seclusion of a separate room, having their remarks recorded by a court reporter—all combined created the atmosphere of an employer inquisition, especially when appraised in the light of other unlawful conduct, as found herein:

⁷ It might as reasonably be expected that the captain of a ship would convene a court of inquiry to question crewmembers under oath, as to whether the chief boatswain had any authority over them.

The Trial Examiner concludes and finds that Saad's interrogation of employees on November 25, as above described, constituted unlawful interference, restraint, and coercion.⁸

E. The discharge of Elizabeth Hughes

Hughes was a shipping department employee and at the time of her discharge on December 14, 1960, was chiefly engaged in packing certain large bookcases. She had been employed continuously by the Respondent since April 1958.

General Counsel urges that she was discharged both because of her union activity and because she gave a statement to a Board agent during investigation of pending charges against the Respondent. The Respondent claims, through its general foreman, Steve Wichlenski, that she was merely laid off because "business was slow and we had to cut down on personnel."

The following facts, established by credible testimony, support General Counsel's allegations:

(1) On more than one occasion her supervisor, Foreman Stessel, interrogated her as to whether she had signed a union card.

(2) After telling him, "no," on the second occasion, early in October, she admitted that she had signed. Stessel then asked her if anyone had talked to her about the Union, and when she declined to answer he cautioned her that she should tell no one she had signed and tell no one that he had queried her. He further warned her that if the Union came in previous privileges would be lost.

(3) Late in October Stessel asked her if a union representative had called to see her the night before. She reminded the foreman that the Board settlement notice posted promised that such inquiries would not be made.

(4) On November 1 Hughes gave a statement to a Board agent on matters covered by charges which had previously been filed. Shortly after this she confessed to Stessel that she had given such a statement to a Board agent and admitted that she had told the "government man" that he had queried her regarding the Union. Stessel replied: "You could have told him you didn't know anything."

(5) A few days later Stessel asked her if she had tried to get her union card back. She told him, "No."

(6) On December 14, as Hughes was punching out, she was called into the office by Jack Drucker, conceded by the answer to be the "accessory items department foreman,"—although her own foreman, as noted, was Stessel. It is undisputed by Drucker, since he was not a witness, that he told the employee she was being "permanently" laid off because of "lack of work." When she protested that this could not be so since she had plenty of work to do and declared that it must be because she had signed a union card, Drucker replied: "I didn't say that" and added that he was sorry and "I didn't have anything to do with it." She asked him again if she was laid off permanently and "fired" and he said "Yes."

In substance, the following items tend to support the claim of the Respondent:

(1) As above noted, General Foreman Steve Wichlenski said that the decision to lay off Hughes, participated in by himself and Goldblatt, arose because "business was slow and we had to cut down personnel." He placed this decision, however, as occurring "around the end of October."

(2) Wichlenski also said that Hughes was laid off on the basis of seniority, and Hughes conceded that by a day or two she had less seniority than any other employee in her particular section.

(3) A week or so after Hughes' discharge five employees engaged in making the large bookcases were laid off and at the time of the hearing had not been replaced.

(4) Because of financial difficulties of the chief customer for these bookcases, the Respondent at the time of the hearing had no orders for these cases.

Conclusions: The Trial Examiner is not persuaded that the explanation given by Wichlenski for the discharge of Hughes has sufficient merit to outweigh the clear, *prima facie* case established by General Counsel. There is no reasonable explanation—in fact none at all—as to why an employee engaged in *packing* such cases should be dismissed *a week before* the employees who *made* them. The Respondent offered no credible proof that any other employee was laid off between the time fixed by Wichlenski—the first of October—as being that when the "decision" was made by himself and Goldblatt, and the date Hughes was discharged. Nor is there any explanation as to why, if Hughes had been merely laid off for lack of work on December 14, she should have been told that it was "permanent." Finally, it is undisputed that although there had been many slack times in her work since her hire, in April 1958, she had never before been laid off, but always had been given

⁸ See *Lindsay Newspapers, Inc.*, 130 NLRB 680, where the same attorney engaged in similar interrogation on behalf of another employer.

work in other departments. The statements obtained by Saad in late November indicate clearly that at that time some employees were still working overtime.

In short, the Trial Examiner is convinced and finds that Hughes was in fact discriminatorily discharged in order to discourage her known adherence to the Union, toward which the Respondent was openly hostile, and because she had given a statement to a Board agent. The discharge constituted interference, restraint, and coercion of employees in the exercise of rights guaranteed by the Act.

F. Further interrogation of employees in January 1961

The complaint, as amended, alleges and the amended answers admit that in January, after the original consolidated complaint was issued, counsel for the Respondent again engaged in interrogation. This time all employees were subjected to such interrogation.

As a witness for the Respondent Attorney Alley, being questioned by Attorney Saad (found above to have engaged in unlawful interrogation the preceding November), admitted as follows:

(1) In early January he dispatched "certain attorneys" from his law firm (Fowler, White, Gillen, Humkey and Trenam), which had previously been retained by the Respondent, to the plant where they "interrogate[d] the employees at Guild who might have knowledge of the allegations in the complaint."

(2) "We questioned all employees."

(3) He was accompanied by three other attorneys.

A written stipulation entered into by the parties and in evidence establishes that:

(1) Employees were called individually into a special room where "only the attorney or agent and the employee were present." Such interviews occurred on January 10, 11, 12, and 16.

(2) On January 11, 12, 13, and 16 employees were called into another office, where they were handed a six-page questionnaire containing approximately 100 questions, and before filling in the document were sworn by a Florida notary public.

(3) The employees were told they were being interrogated on behalf of the Company.

(4) The statements were "all taken during the regular working day."

(5) Employees were asked, at oral interrogations, the same questions as those appearing on the questionnaires.

Also as a witness, Attorney Alley offered this explanation for the extensive and intensive interrogation of all employees, numbering more than 100:

At that time a complaint had been filed against Guild Industries alleging certain unfair labor practices had been committed by Guild. At that time I discussed the matter with you [Saad] and the fact is we had interrogated supervisory personnel concerning the allegations set forth in the complaint and we had been unable to find more than a few of the alleged actions. I therefore sent to the Guild Industries certain of our lawyers and clerks to interrogate the employees at Guild who might have knowledge of the allegations in the complaint.

As a witness the same attorney failed, however, to explain why it required some 100 questions to find out what "knowledge" the employees had of the few simple allegations of the complaint.

It would appear unnecessary to burden this report with a full compilation of all irrelevant questions which were put both orally and in the form of a questionnaire to the employees, under oath as to the questionnaires. A few of such obvious irrelevancies were:

(1) Employees were asked:

a. Their name, home address, whether or not they were employed by the Respondent and what their job was.

b. If they knew a long list of individuals, from Goldblatt down the long ladder of supervision.

c. If they followed the orders of anyone except foremen and if so who.

d. If there were any other persons employed by Guild "whose orders you will or do follow," and if so, to identify them by *nickname*.

e. If "any other persons other than a fellow worker, an attorney for the company, or a supervisor aske[d] you about any of the matters covered in question 13 through 26"—and if so—who?

While most of the long list of questions, considered separately and alone, may hardly be held to be unlawfully coercive, General Counsel claims, and the Trial

Examiner agrees, that certain of the questions are quite beyond the bounds of lawful privilege. Such questions include a series of interrogations as to what other employees observed as to the union activities of fellow employees—Litka and Hughes.

Under no reasonable construction of privilege, in the opinion of the Trial Examiner, may an employer under the law, and under circumstances here described, interrogate one employee of another's union activities. An employer's knowledge, or lack of knowledge, may well be a material point for defense. But an employer's knowledge may hardly be proven by interrogating an employee as to his own experience—especially long after the event in issue.

The Trial Examiner is convinced and finds that the nature and extensive scope of the above-described inquisition by numerous lawyers, clerks, and notaries public, occurring over a period of several days, especially when appraised as a demonstration of the Respondent's open declaration, staring at employees daily from their timeclock, that it intended to use "every legal means to prevent" the Union "from coming into the plant," constituted conduct designed to discourage union membership and activity, and thus interfered with, restrained, and coerced employees in the exercise of rights guaranteed by the Act. Subjected to such harassment by an employer and his battery of attorneys it would be the unusual employee indeed who would not surrender his or her hope of union representation, a right guaranteed by Congress.

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 thereof.

V. THE REMEDY

Having found that the Respondent unlawfully discriminated in regard to the hire and tenure of employment of employees Litka and Hughes, the Trial Examiner will recommend that it offer Hughes immediate and full reinstatement to her former or substantially equivalent position, without prejudice to her seniority or other rights and privileges, and make both employees whole for any loss of earnings they may have suffered by reason of the discrimination against them by payment to each of a sum of money equal to that he or she would normally have earned during the period of the discrimination (in the case of Hughes until the date of offer of full reinstatement), with backpay computed in the manner established by the Board in *F. W. Woolworth Company*, 90 NLRB 289.

Because of the nature of the unfair labor practices committed, the commission of similar and other unfair labor practices proscribed by the Act may reasonably be anticipated. It will therefore be recommended that the Respondent cease and desist from infringing in any manner upon the rights guaranteed employees by Section 7 of the Act.

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

CONCLUSIONS OF LAW

1. United Brotherhood of Carpenters and Joiners of America, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.⁹
2. By discriminating in regard to the hire and tenure of employment of Herman Litka and Elizabeth Hughes, thereby discouraging membership in the above-named labor organization, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(3) and (4) of the Act.
3. By interfering with, restraining, and coercing employees in the exercise of rights guaranteed by Section 7 of the Act, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.
4. 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.]

⁹ An authorization card placed in evidence by the Respondent itself shows that employees designated the United Brotherhood, and not the District Council, the Charging Party, as their bargaining agent.

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, as amended, we hereby notify you that:

WE WILL NOT discourage membership in or activities on behalf of United Brotherhood of Carpenters and Joiners of America, AFL-CIO, or any other labor organization, by discharging, reducing employment, or in any other manner discriminating against our employees in regard to their hire and tenure of employment, or any term or condition of employment.

WE WILL NOT coercively or unlawfully interrogate our employees regarding their union membership or activities, or make threats of reprisal.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist the above-named or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all such activities.

WE WILL offer Elizabeth Hughes immediate and full reinstatement to her former or substantially equivalent position, without prejudice to her seniority or other rights and privileges, and make her and Herman Litka whole for any loss of earnings they may have suffered as a result of the discrimination against them.

GUILD INDUSTRIES MANUFACTURING CORP.,
Employer.

Dated _____ By _____
(Representative) (Title)

PAUL A. SAAD,
Attorney.

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.

Local 101, International Union of Operating Engineers, AFL-CIO and Ets-Hokin & Galvan, Inc. Case No. 17-CC-125. October 31, 1961

DECISION AND ORDER

On March 31, 1961, Trial Examiner Robert E. Mullin issued his Intermediate Report in the above-entitled proceeding finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief, and the Charging Party filed a brief in support of the Intermediate Report.

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