

WE WILL NOT discharge employees in order to prevent union activity or unionization of our employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of rights guaranteed in Section 7 of the Act including the right to join unions or to engage in concerted activity for their mutual aid or protection or to refrain from such activity.

ORKIN EXTERMINATING COMPANY  
OF KANSAS, INC.,

*Employer.*

Dated----- By-----  
(Representative) (Title)

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

**Penn-Mor Manufacturing Corporation and Amalgamated Clothing Workers of America, AFL-CIO. Case No. 28-CA-721. March 28, 1962**

**DECISION AND ORDER**

On January 17, 1962, Trial Examiner William E. Spencer issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had not engaged in the unfair labor practices alleged in the complaint and recommending that the complaint be dismissed in its entirety, as set forth in the Intermediate Report attached hereto. Thereafter, the General Counsel filed exceptions to the Intermediate Report and a supporting brief, and the Respondent 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 McCulloch and Members Rodgers and Fanning].

The Board has reviewed the Trial Examiner's rulings 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 this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

[The Board dismissed the complaint.]

**INTERMEDIATE REPORT AND RECOMMENDED ORDER**

**STATEMENT OF THE CASE**

On an amended charge dated September 1, 1961, filed by Amalgamated Clothing Workers of America, AFL-CIO, herein called the Union, the General Counsel of the National Labor Relations Board, herein called the Board, issued his complaint dated September 27, 1961, alleging in substance that Penn-Mor Manufacturing Corporation, the Respondent herein, discharged six named employees in violation of Section 8(a)(3) of the National Labor Relations Act, as amended, herein called the Act, and by this action and certain specified statements and conduct violated Section

8(a)(1) of the Act. On the complaint and the Respondent's duly filed answer thereto denying that it had engaged in the alleged unfair labor practices, a hearing was conducted before me, the duly designated Trial Examiner, at Phoenix, Arizona, on October 31 and November 1, 2, and 3, 1961. All parties were represented and participated in the hearing. On or before December 15, the General Counsel and the Respondent, respectively, filed briefs.

Upon the entire record in the case, my observation of the witnesses and consideration of the briefs filed with me, I make the following:

## FINDINGS OF FACT

### I. THE BUSINESS OF THE RESPONDENT

The Respondent, a Pennsylvania corporation, operates offices and places of business in Pennsylvania and Tempe, Arizona. At its Tempe plant, its only operation involved in this proceeding, it is engaged in the manufacture and sale of underwear. During the 12-month period preceding issuance of the complaint herein, it manufactured, sold, and shipped from its Tempe plant to points outside Arizona, finished products valued in excess of \$50,000.

### II. THE LABOR ORGANIZATION INVOLVED

The Union is a labor organization within the meaning of the Act.

### III. THE UNFAIR LABOR PRACTICES

#### A. Background

As stated in Respondent's brief, Respondent's Tempe plant was opened in 1957 and was under the immediate supervision of Nicholas Godshall, plant manager, until April 1961. Godshall's employment was terminated on April 7, 1961, and on April 10, Rowland Oonk, office manager of the Tempe plant since October, 1960, was made plant manager. A number of employees, among them some who are alleged herein to have been discriminatorily discharged, met informally to protest Godshall's discharge and circulated a petition seeking his reinstatement. On an occasion during the lunch hour a group of them went to Godshall's house but he asked them to leave inasmuch as he was expecting a call from Jacob Kreider, Respondent's president and general manager. They left and went to a nearby park. According to the testimony Kreider drove by the park while they were gathered there. Velma Roberts, who was later discharged, told Plant Manager Oonk that "the girls are getting up a petition to get Nick back and are talking Union."

It appears that the Union's organization drive began shortly after Godshall's discharge and may very well have derived its impetus from employee resentment over the discharge, since several of those active in protesting Godshall's removal became active in the organizational movement. Beginning in mid-April there were meetings between union representatives and employees, and some of these meetings occurred at noon in a public park a few blocks from Respondent's plant. Nellie Cales, one of the employees named in the complaint, testified that on one occasion while the employees were meeting in the park with union organizers, Clyde Mansfield, assistant plant manager, drove by in a red truck and observed them. Clara Cross, Ruth Hogan, and Gladys Clark, other employees named in the complaint who were present on this occasion, testified for the General Counsel but were not questioned on the point. Mansfield denied that he had driven by the park on such an occasion or that he owned or drove a red truck during that period.

Surveillance is not alleged nor am I able to infer company knowledge of those active in protesting Godshall's dismissal from the fact that Kreider drove by a public park where a group of those protesting the discharge was gathered. It is doubtful that Kreider, whose office was in the East, would have been familiar enough with Tempe employees to identify the individual employees in the group, or that by merely driving by a public park at some 140 feet distance from the group, would have been able to make much identification. As to Mansfield's driving by the park on the occasion of an organizational meeting, had this occurred as testified to by Cales and had the General Counsel considered the matter significant, it would appear that he would have sought corroboration of Cales' testimony by the other employees present on that occasion whom he called as his witnesses. Lacking such corroboration and in view of Mansfield's denial, I can accord no weight to Cales' testimony and, in any event, would not infer company knowledge of the organizational character of the meeting and the identity of employees engaging in it, from the fact that Mansfield drove around the park at some considerable distance from the group.

Oonk and Kreider testified that their first knowledge of the Union's organizational activities among their employees came when they learned on about April 22 that the Union had filed a charge with the Board alleging that the Respondent had engaged in unfair labor practices. The charge, filed April 21, was later withdrawn and a consent-election agreement entered into.

About May 1, on advice of counsel, Oonk and Kreider met with Mansfield and other supervisory personnel, and advised the latter to remain neutral with respect to organizational activities, "not to take sides either way, not to inform anyone which way to go . . . which way to vote in the election."

#### B. *Antiunion statements*

The only evidence that the Respondent made threatening or hostile statements with respect to the Union during the preelection period is the testimony of Lucille Wilson, a supervisor, who was herself discharged on July 25. She testified that she asked Mansfield if he thought the Union would come in, and he replied that it would not. She first testified that this was all she could recall of the conversation on this occasion, but on being prompted added that Mansfield said "they would close the plant before they would accept a union." Wilson further testified that having heard rumors that she would be discharged if the Union succeeded in organizing the plant, she asked Oonk if a union victory would affect her employment, and Oonk replied, "Lucille, you know better."

Further according to Wilson, after the election she asked Mansfield what he thought would happen to girls that were union minded, and he replied, "If they step out of line, it will be too bad." Mansfield denied the statements attributed to him by Wilson. Finally, Wilson testified that Oonk said that any supervisor who was union minded should be discharged.

Crediting Wilson in full, it would nevertheless be apparent that the antiunion statements she testified to did not constitute a violation of the Act because they were statements made by one supervisor to another and were not made in the presence of, or repeated to, rank-and-file employees. At most they would show an attitude, a bias, on the part of management. Nor is there anything violative of the Act in a speech which Kreider made to Tempe employees following the election, in which he expressed his pleasure in the election results, thanked the employees for rejecting the Union, referred to losses in production and quality of production during the election campaign, and offered the opinion that it would be financially disastrous for the Respondent to be subjected to a repetition of such losses during an organizational period. This last might be construed by some as a veiled threat directed against renewed organizational efforts, but in the entire context of the speech, I do not view it as such.

I shall recommend that the allegations of independent violations of Section 8(a) (1) of the Act be dismissed.

#### C. *Line overseers*

In issue are the supervisory functions of persons called quality and production overseers, or line overseers, or line supervisors, who are in charge of the several sewing lines maintained at Respondent's Tempe plant. There are from 15 to 30 employees on each of these lines. The line overseers do very little actual machine work and their time is occupied chiefly in keeping the work flowing to the various operators, and in securing quality of production. They exercise independent judgment in determining what garments should be rated "seconds" or repaired and made "firsts"; in assigning and allocating work on the sewing or production line; and in the selection and designation of operators for overtime work on Saturdays, apparently a prized designation. It further appears that the line supervisor has some, though limited, disciplinary authority over the operators on her line, such as observing infractions of company rules, reporting on them to management, and issuing such admonishments as appear to be required. The functions that most clearly establish them as supervisors within the meaning of the Act are their participation in the interviewing of applicants for employment, the making of effective recommendations with respect to employment, and the authority to make disciplinary recommendations. It is also persuasive on the issue that they attend meetings with officers of management, such as the meeting in May when they received instructions to observe neutrality in the organizational campaign. On the entire evidence I am persuaded and find that the several persons who since April 1961 have been designated quality and production overseers, previously known as line supervisors or overseers, are supervisors within the meaning of the Act.

### D. *The discharges*

The complaint alleges the discriminatory discharge of the following employees, discharged on or about the dates in 1961 given below. Velma Roberts, April 21; Clara L. Cross and Ruth Hogan, June 19; Gladys Clark, June 29; Breta Little, June 30; Nell M. Cales, July 14.

#### 1. Velma Roberts

Roberts was employed by Respondent in August 1957, shortly after the Tempe plant opened. For a period she was a floorlady with supervisory authority over line overseers. Shortly before her discharge, either at her own request or otherwise, she was returned to a rank-and-file job as machine operator. This occurred before she was in any way involved in union activities. According to Roberts, she reported to Oonk and Kreider, or both, that a petition was being circulated seeking former Plant Manager Godshall's reinstatement and that the girls were "talking Union." Further according to her testimony—which was voluble and on the whole confusing—Oonk showed some impatience and resentment, apparently inferring that she favored the reinstatement of his predecessor. Oonk criticised her for being away from her machine on an occasion when she was seeking a conference with Oonk's superior, Kreider.

On April 21, Roberts attended a meeting at the home of employee Evelyn Thompson, where union organizers as well as other employees were present, and at this meeting she signed a union authorization card. According to her, she was the only one who signed a card at this meeting. She had been absent from her work the previous afternoon to have some glasses fitted, and was also absent on the day she signed the union card. That same evening Oonk called her at her home and informed her that she was discharged. The reason that he gave her for her discharge was that her "attitude" was not good. Her discharge is recorded as having been required because she was "unable to adjust to new company management policies."

Oonk testified that after being returned to machine operation, Roberts was not at her machine at the required time on several occasions and that he observed her in various areas of the sewing room talking to the operators. On one occasion he cautioned her to get back to her machine. Further, according to him, Roberts' supervisor reported to him that Roberts refused the instructions normally given by a line overseer, saying that she needed no instructions, and that as a result some garments had to be repaired. He denied that he had any knowledge that Roberts was involved in union activities.

Roberts' discharge, coming on the heels of her meeting with union organizers and signing a union card, naturally gives rise to speculation on the motives prompting it. There is no evidence, however, that her attendance at this meeting and execution of a union authorization card was reported to Oonk or that he had any knowledge of it, unless we are to infer knowledge from the fact that two line overseers, Wanda Wise and Breta Little, attended the meeting. Both Little and Wise were witnesses for the General Counsel and he did not question them on whether they reported Roberts' action in attending a union meeting and signing a union card to Oonk or other officers of management, as he doubtless would have if such were the fact. As a matter of fact, Little, herself, signed a union card and was outspokenly pro-union, and it is a reasonable inference that Wise's sympathies lay in the same direction. It is entirely unlikely that either would have reported on a union meeting to Oonk or to any other officer of management. Roberts' own testimony, disjointed and confusing though it was, indicates that Oonk was irritated by what he inferred was her partisan loyalty to his predecessor, and I think it likely that he felt that he could not count on her cooperation in his management of the Tempe operation. Her demotion from floorlady to machine operator before she engaged in any union activities is an indication of Oonk's lack of confidence and satisfaction in her performance of her duties. Between April 10, when he was made manager, and April 21 when the Union filed its first charge of unfair labor practices, he caused six employees to be discharged, and only one of these discharges—Roberts'—is alleged to have had discriminatory motivation. In my opinion, the evidence considered as a whole does not establish a causal connection between Roberts' union activities and her discharge, and, accordingly, I must recommend dismissal of the complaint with respect to her.

#### 2. Breta Little

Breta Little had been employed by the Respondent for almost 3 years when she was discharged on June 30. During the last year of her employment she was a line supervisor. She testified that her responsibilities as line supervisor were "supposed"

to be the same as those of other line supervisors. She did not recall having attended a meeting with management prior to the June 13 election in which supervisors were directed to observe neutrality with respect to the Union, but it is clear that she did attend some meetings limited to supervisory personnel, and she admitted that on at least two occasions prior to her discharge she had participated in the interview of applicants for employment. Otherwise, and generally, her testimony tended to minimize the supervisory authority vested in her as a line overseer. Lucille Wilson, admittedly a supervisor, testified, however, that she told Mansfield that she was surprised at Little's pronoun activity "as supervisors were supposed to be neutral" and that Mansfield replied that he had told Kreider that he was sorry he recommended Little for a supervisory position.

It may well be that Little did not regard herself as part of the supervisory hierarchy, and apparently she did not since she attended union meetings, signed a union authorization card, and voted a challenged ballot in the election of June 13, but I can find no license on the basis of the entire evidence for finding that she, in contrast with other line supervisors, was vested with no functions which would bring her within the statutory definition of supervisor. As a matter of fact, on the day that she was discharged, she was invited to attend a luncheon limited to supervisory personnel which was arranged to enable the latter to meet a representative from Respondent's eastern office who was present for training instruction purposes. She declined the invitation and told one of the employees, "I'll be damned if I will attend that luncheon." This was reported to Oonk. Concerning her refusal, she testified, "I had an idea what it was about, it was like some of the meetings that they had had about—well, just the same old thing." She further testified that she was indifferent to the meeting because the Respondent had just discharged her girl friend, Gladys Clark. When Oonk approached her on the day of the luncheon, she told him, "You are getting around to me," whereupon he replied, "You brought it up, yes—O.K., you're fired."

According to Little, Oonk further said with respect to her discharge that he did not like her attitude toward the Company or the Union, and that neither that plant nor any other plant in the vicinity would tolerate a line supervisor being involved in union activities. He further said, according to her, that you could not be loyal to just one person, and she inferred that he had reference to his predecessor, Godshall. As a matter of fact she had been one of the group which had deplored Godshall's dismissal, and had had a hand in on the preparation of a petition seeking his reinstatement which was circulated among the employees but which, apparently, was never shown to management. Oonk denied the statements attributed to him by Little and testified that her discharge was based on her lowered efficiency and lack of interest in her job following Godshall's discharge and the Union's defeat at the polls. I do not find this explanation unreasonable in view of her strong partisan feeling toward Godshall and the Union, but be that as it may, her supervisory status removes her from our consideration as an employee. I shall recommend dismissal of the complaint with respect to her.

### 3. Clark, Cross, Hogan, and Cales

Clark, Cross, Hogan, and Cales, as machine operators, were paid on a piecework basis. Each signed the petition seeking Godshall's reinstatement and each signed a union authorization card. With respect to the petition, assuming without finding that those signing it engaged in protected concerted activities, nevertheless the evidence fails to establish that this petition was ever presented to management or was ever seen by management. Oonk and Kreider were informed by Velma Roberts that such a petition was being circulated, and doubtless the line supervisors knew of it—some, indeed, signed it—but there is no basis in the evidence for finding that Clark, Cross, Hogan, or Cales were any more active in its circulation than numerous other employees or that they would reasonably be singled out by the Respondent as its instigators or prime supporters. In short, I do not believe that their concerted action with other employees in the signing and circulation of the petition was a factor in their respective discharges, although their resentment of Godshall's dismissal as reflected in their production may have been.

With respect to their union activity, Respondent admittedly had knowledge that Cross and Hogan were active union adherents. Oonk denied such knowledge with respect to Clark and Cales. There is very little evidence that would support a finding that either Clark or Cales was singled out and discharged because of union activities. Both signed union cards but there is no evidence that the Respondent had knowledge of this. Clark wore a union apron on several occasions while she was cleaning her machine, but these aprons were passed out by union organizers to all the employees, and the fact that one wore hers while cleaning her machine would hardly suffice to stamp her as an outstanding union adherent. Aside from her use of the union apron,

there is Clark's testimony that on an occasion prior to the election her line supervisor, Mary King, said to the girls on her line, "I hope you girls know what you are doing." Clark answered, "Well, we think we know or we wouldn't be at it." King asked, "Well, don't you think this is a good job?" and Clark replied, "Well, not financially." Cales wore a vote "Yes" badge on the day of election, and on an occasion prior to the election, Oonk made some joking remark indicating that he identified Cales with the prounion group. Such evidence, while it may be said to be sufficient to support an inference that the Respondent had some knowledge that Clark and Cales favored the Union, failed to establish that they were in any way outstanding or conspicuous in their union advocacy, and I would be at some loss to understand why the Respondent would single them out for discriminatory discharge.

Violations of a plant rule limiting rest periods to 15 minutes a day were advanced by the Respondent as at least a partial reason for the discharge action with respect to each of these employees, and some note must be taken of this rule and its enforcement. There appears to have been some misunderstanding among the employees as to whether this 15-minute rule covered visits to the restroom, or was exclusive of restroom requirements, but this is immaterial since the infractions charged were that the 15 minutes allowed for coffee breaks, exclusive of visits to the restroom, had been exceeded. There appears to be no doubt that the Respondent had such a rule, that employees were informed of it when hired, and a notice of the rule was posted. The testimony of all the witnesses convinces me that prior to Oonk's elevation to the plant managership, and for some time thereafter, the rule was honored more in the breach than in the observance and that prior to the bargaining election of June 13, there had been no strict enforcement of it. By all accounts production suffered during the organizing campaign and was still lagging after the June 13 election. It is not unreasonable that Oonk in his new post as plant manager would seek a stricter enforcement of plant rules which affected or might affect production, and that he would feel somewhat restrained because of the earlier filing of unfair labor practice charges against the Respondent, in taking vigorous disciplinary action until after the election was out of the way. Therefore, I do not feel that a stricter enforcement of the 15-minute rule following the election was necessarily attributable to antiunion motivation, though its application in the case of the four employees in question raises some doubts in my mind. All of them testified that the rule was still being laxly enforced if at all and all of them were persuasive in their testimony that others as well as themselves took liberties with it. All of them admitted as to themselves that they had on numerous occasions overstayed the allotted time. Hogan and Cross, who were among Respondent's better producers, testified that it was their understanding of the rule that once an employee had made her piecework quota for the day, she was allowed to exceed the 15-minute time limit, inasmuch as this would, in effect, be on her own time, and that Kreider had so informed them. Kreider denied this. I think there may very well have been a misunderstanding on the point, but Cross, at least, prior to her discharge had been warned against continuing to exceed the 15-minute limitation, and it appears that Clark was given a similar warning. I am convinced that neither heeded the admonition.

With respect to Clark, King, her supervisor, testified that she warned all the girls on her line about exceeding their coffee breaks and that Clark was the only one who thereafter continued to violate the rule. She also testified that Clark became an undesirable employee because of her continuous carping about her work, she "was always complaining about the material—one day it was soft, the next day it was hard—one day it was slippery, couldn't handle the work, and it was impossible for anybody to make a rate with such work as that."

Evelyn Gallatin, Cales' line overseer, testified that the quality and quantity of Cales' production had fallen substantially during the period prior to her discharge, and were not getting any better. According to Gallatin, shortly before the discharge, she observed that Cales had exceeded her coffee break time and was sitting at her machine idle. When she instructed Cales to get to work, Cales replied, "Well, damn it, I don't like to be told what to do." Several days after this, when Gallatin observed that Cales was still abusing her coffee break, and there was no improvement in her production, she reported to Mansfield or Oonk or both and Cales was discharged. Respondent's quality and production records corroborate Gallatin in her testimony that an increasing amount of repairs was required on Cales' work during the closing weeks of her employment, and that her production level had fallen.

On the entire testimony, I can find no preponderating weight of evidence supporting the General Counsel's position that Clark and Cales were discharged because of union or concerted activities, and accordingly must recommend dismissal of the complaint with respect to them.

I have found more difficulty in resolving the issues with respect to Cross and Hogan. This difficulty lies in the fact that they admittedly were two of the Respond-

ent's best producers and that they admittedly were known to the Respondent as leading union adherents. While I think the Respondent was very careful not to engage in conduct which would interfere with its employees' free choice in the June 13 election, it is equally clear that the Respondent was opposed to the unionization of its employees, as it had a right to be, and was highly pleased at the election results. Kreider's concern lest the Respondent be subjected to a repetition of loss in production due to a renewed organizational campaign was expressed in lawful but nevertheless clear and unequivocal language in his address to employees following the election. Respondent might well, therefore, welcome an opportunity to rid itself of employees known to it to be actively prounion in order to discourage, or at least postpone, another organizational attempt. All of this has entered into my consideration of the discharge cases, as has my consideration of the natural desire on Oonk's part to make a good showing in his new job as plant manager and to remove any obstacles which might impede efforts to obtain improved quality and higher production. To some extent these considerations cancel out each other, or strike a balance, but the balance is somewhat affected by the fact that from the time Oonk became plant manager until November 1961, the Respondent discharged a total of some 31 employees for various reasons ranging from poor work to excessive absenteeism, and discrimination is charged with respect to only six of these, four of whom I have eliminated from further consideration here.

It further appears that the discharge of both Cross and Hogan followed complaints made to Mansfield and Oonk by their line supervisor, Gallatin, that they were exceeding the time allotted for their rest periods, and that the quality of their production had substantially fallen, and that Cross, at least, had an insubordinate attitude toward her supervisor. With Cross, I think there is no doubt that Gallatin had sufficient provocation outside of union activities to cause her to seek Cross' discharge, the conflict between the two being clearly established. I do not intend to give in detail Gallatin's description of Cross' behavior which she considered sarcastic, juvenile, etc. "She was always right," Gallatin testified, "let's put it that way. I was wrong. . . . I really felt like slapping her face, but I can't do that. . . . Every day I expected trouble. . . ." These generalizations were sufficiently documented to convince me that Cross did, indeed, have a contemptuous attitude toward her supervisor, and Cross' demeanor on the witness stand added to rather than dissipated this impression. There being no showing that Gallatin was antiunion or biased in the matter, and Cross' discharge having resulted from Gallatin's complaints and recommendations, I can find in this record no preponderance of evidence to support a finding of a discriminatory discharge, and therefore will recommend dismissal of the complaint with respect to Cross.

Hogan made a very favorable impression on me as a witness, and did her discharge stand apart from Cross' I would find it difficult to regard it as lawfully motivated. Admittedly, she exceeded the 15 minute break period but I am convinced that so did many other employees who were not discharged. It does appear, however, that both Hogan and Cross, because they were good producers and regularly exceeded the minimum required of them, took more liberties with the rest period allotment than was customary, feeling that they were justified in doing so because of their high production. Under Godshall's management apparently they had encountered no supervisory resistance to these habits, but this is not to say that Oonk, in his effort to tighten up on production and quality, could not lawfully demand a more strict adherence to plant rules. It further appears that neither Hogan nor Cross paid any attention to the admonishments of their supervisor, Gallatin. Finally, there is too much testimony from rank-and-file employees, as well as Gallatin, that Hogan's work as well as Cross' had deteriorated in quality since the Union's defeat at the polls, to discount entirely the probability that this was the fact. While the production records of both remained above the minimal level required of them, these records do show a considerable drop from the level attained by them earlier in the year. With all these considerations in mind, I would still entertain strong doubts as to the bona fides of Hogan's discharge except for her close association with Cross. It is clear that these two were closely associated both in their work and plant activities, and while I can find nothing in this record or in her demeanor as a witness to indicate that Hogan was the sharp-tongued termagant that Cross appeared to be, there can be little doubt that she was linked in Gallatin's mind with the latter and that Gallatin regarded them as jointly liable for the difficulties she was encountering in her capacity as line supervisor. Inasmuch as I can find no substantial basis for attributing Gallatin's complaints and recommendations for their discharge to their union activities, I must recommend dismissal of the complaint with respect to Hogan also, though I do so with some hesitancy and some stubborn doubts.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, I make the following:

#### CONCLUSIONS OF LAW

1. The Respondent is engaged in and at all times material herein has been engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. The Respondent has not engaged in unfair labor practices within the meaning of Section 8(a)(1) and (3) of the Act.

#### RECOMMENDATION

It is recommended that the complaint be dismissed in its entirety.

**Reed's Fuel Company and International Woodworkers of America Local Union 3-246, AFL-CIO.** *Case No. 36-CA-1117.*  
*March 29, 1962*

#### DECISION AND ORDER

On January 17, 1962, Trial Examiner Herman Marx 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. The Trial Examiner also found that Respondent had not engaged in certain other unfair labor practices, and recommended that the allegations in the complaint as to them be dismissed. Exceptions to the Intermediate Report and a supporting brief were filed by the General Counsel.

The Board<sup>1</sup> has reviewed the rulings made by the Trial Examiner 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 brief, and the entire record, and adopts the findings, conclusions, and recommendations of the Trial Examiner.

#### ORDER

The Board adopts the Recommended Order of the Trial Examiner.<sup>2</sup>

<sup>1</sup> 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 McCulloch and Members Rodgers and Fanning].

<sup>2</sup> The following sentence shall be added to the notice: "Employees may communicate directly with the Board's Subregional Office, 612 Lincoln Building, 208 S.W. Fifth Avenue, Portland, Oregon, Telephone Number, Capitol 2-1607, if they have any question concerning this notice or compliance with its provisions."

#### INTERMEDIATE REPORT AND RECOMMENDED ORDER

##### STATEMENT OF THE CASE

The complaint in this proceeding, issued by the General Counsel of the National Labor Relations Board (referred to as the Board herein), alleges, as amended, that the Respondent, Reed's Fuel Company (also called the Company herein), has 136 NLRB No. 65.