

[The Board certified Amalgamated Lithographers of America, Local No. 4, as the designated collective-bargaining representative of the employees in the unit found appropriate herein.]

Weyerhaeuser Company and Printing Specialties and Paper Products Union No. 415, affiliated with International Printing Pressmen and Assistants' Union of North America, AFL-CIO,¹ Petitioner

Weyerhaeuser Company and Printing Specialties and Paper Products Union No. 415, affiliated with International Printing Pressmen and Assistants' Union of North America, AFL-CIO, Petitioner. *Cases Nos. 13-RC-7168 and 13-RC-9441. January 21, 1964*

SECOND SUPPLEMENTAL DECISION, CERTIFICATION OF RESULTS, AND DIRECTION OF ELECTION

On this date the Board has issued a Second Supplemental Decision and Certification of Representative in Case No. 13-RC-7069, as 146 NLRB 1, which, for the purposes of decision, was severed from Cases Nos. 13-RC-7168 and 13-RC-9441. The instant decision relates to Cases Nos. 13-RC-7168 and 13-RC-9441.²

Case No. 13-RC-7168

On May 6, 1963, the Regional Director for the Thirteenth Region issued a tally of ballots for voting group B in case No. 13-RC-7168. Of 178 eligible voters, 165 cast valid ballots, of which 65 votes were cast for the Printing Pressmen, 84 were cast against the participating labor organization, and 16 ballots were challenged. The challenged ballots were not sufficient in number to affect the results of the election. No objections have been filed to the conduct of the election in voting group B. Accordingly, as the tally shows that a majority of the valid votes has not been cast for the Printing Pressmen, we shall certify the results of the election.

[The Board certified that a majority of the valid votes was not cast for Printing Specialties and Paper Products Union No. 415, affiliated with International Printing Pressmen and Assistants' Union of North

¹ Herein called Printing Pressmen.

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 McCulloch and Members Fanning and Brown].

America, AFL-CIO, and that the said labor organization is not the exclusive representative of the employees in voting group B.]

Case No. 13-RC-9441

On May 17, 1963, the Printing Pressmen filed a petition in Case No. 13-RC-9441 for all production and maintenance employees at the Employer's Chicago, Illinois, plant, including all printing department employees. This petition raises, *inter alia*, the same unit issues considered and resolved by the Board in Cases Nos. 13-RC-7168 and 13-RC-7609, *viz*, whether a separate lithographic production unit may be appropriate at the subject plant. Counsel for the Printing Pressmen stated that the unit described below in paragraph 4 was the same unit found appropriate in Case No. 13-RC-7168. The parties stipulated that the said unit was appropriate except that the placement of lithographic production employees depended upon whether the Board found that they constituted a separate appropriate unit.

By supplemental decision issued this date in Case No. 13-RC-7069, *supra*, the Board found that the lithographic production employees constitute an appropriate unit, and certified the Amalgamated Lithographers of America, Local No. 4, as exclusive representative for such unit.

On the basis of the entire record in these proceedings and consistent with our prior decisions therein, the Board finds as follows:

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

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. For the reasons stated above, we find that the following employees of the Employer constitute a unit appropriate for the purposes of collective-bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees of the Employer at its Chicago, Illinois, plant, excluding lithographic production employees, truckdrivers, general clerks (manufacturing manager's office), general clerks (shipping), clerk-typists (shipping), timekeepers, personnel assistants, laboratory clerks, quality control clerks, porters, chauffeurs, cooks, waitresses, coffee girl, matron, nurses, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

**Koerts Glass and Paint Company, Inc. and James A. Simons,
Charging Party. Case No. 7-CA-3498. February 17, 1964**

DECISION AND ORDER

On November 4, 1963, Trial Examiner Sidney D. Goldberg issued his Decision 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 attached Trial Examiner's Decision. He also found that the Respondent had not engaged in certain other unfair labor practices and recommended dismissal of the complaint as to them. Thereafter, the General Counsel filed exceptions to the Trial Examiner's Decision and a brief in support thereof.

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

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 Trial Examiner's Decision, the General Counsel's exceptions and brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

ORDER

The Board adopts as its order the Recommended Order of the Trial Examiner.¹

¹ The Recommended Order is hereby amended by substituting for the first paragraph therein, the following paragraph:

Upon the entire record in this case, and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that Respondent, Koerts Glass and Paint Company, Inc., its officers, agents, successors, and assigns, shall:

TRIAL EXAMINER'S DECISION

This proceeding, under Section 10(b) of the National Labor Relations Act, as amended (29 U.S.C. Sec. 151-168, herein called the Act), was commenced by a complaint¹ alleging that Respondent, a corporation engaged as a painting and glazing contractor and in the sale of hardware at Flint, Michigan, had, in violation of Section 8(a)(1) of the Act, threatened employees with discharge if they joined or were active on behalf of Local 1052, Brotherhood of Painters, Decorators and Paperhangers of America, AFL-CIO (herein called the Union), and, on or about October 20, 1961, in violation of Section 8(a)(3), had terminated the employment of the Charging Party (herein called Simons) because he was a member and active on behalf of that Union.

¹ Issued by the General Counsel January 31, 1962, on a charge filed December 18, 1961. 146 NLRB No. 5.

Respondent answered, denying the commission of the unfair labor practices and alleging that Simons had not been discharged for any reason connected with his union activities but that, as a result of his unsatisfactory performance of his duties, he had been suspended for 1 day and that he had voluntarily quit.

A hearing on the issues so raised was held before Trial Examiner Sidney D. Goldberg at Flint, Michigan, on March 26, 1962, and June 5 and 6, 1963, at which the parties were present and represented by counsel. Briefs filed by the General Counsel and by counsel for the Respondent have been considered.

For the reasons hereinafter set forth in detail, I find that Respondent interfered with and restrained James A. Simons in his right to join a labor organization and thereby violated Section 8(a)(1) of the Act. In my opinion, however, the evidence does not support the allegation that Respondent discriminatorily discharged Simons to discourage his membership in a labor organization, but shows that Simons voluntarily quit his employment and that, therefore, Respondent did not violate Section 8(a)(3) of the Act.

Upon the entire record² in the case, and from my observation of witnesses, I make the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Respondent, a Michigan corporation, concedes that during 1961, the year preceding the issuance of the complaint herein, it imported into the State of Michigan more than \$50,000 worth of glass from Libbey-Owens-Ford, located outside that State. Accordingly, I find that Respondent is an employer engaged in commerce.

II. THE LABOR ORGANIZATION INVOLVED

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

III. THE UNFAIR LABOR PRACTICES

A. Background

Respondent's business consists of two separate activities: a "commercial contract department" which performs painting and glazing subcontracts in building construction and a retail store selling glass, paint, and hardware. The commercial contract employees who do painting and glazing work are members of the Union; others, who fabricate metal in connection with the glazing work, are members of the Ironworkers Union. The store employees include a manager, a clerk-helper, and one or two "home repair" men or "handymen" who, working out of the store, install the glass or hardware purchased there, and make minor repairs to doors or locks. There is no interchange between the two groups of employees although, on occasion, they might be working at their separate tasks in the same location. It does not appear that, prior to the events set forth in this Decision, any of the store employees had ever been represented by a union.

Simons was first employed by Respondent in June 1960 as a store clerk. In that capacity, he sold paint and glass, unloaded trucks, and kept the stock in order. In October of that year one of the handymen quit and Simons, although he had no experience, asked for the job and was given it. His salary was raised from \$50 to \$65 per week and he subsequently received an increase to \$70.

The routine of Simons' work as a handyman consisted of first reporting at the store in the morning and receiving the orders for the work to be performed that day; he would then draw the materials needed for such work and, in the few instances when he needed another man to work with him on a particular job, one would be assigned. Simons used one of Respondent's trucks to transport himself, as well as the necessary tools and materials, from job to job. Upon returning at the end of the day, he would complete the work slips by showing the time spent and material used on each job and would turn them over to the store manager. Simons also occasionally drove a truck to pick up or deliver material involved in work by other employees of Respondent. The workweek, in the store at least, includes Saturday.

² The following errors in the transcript of testimony are hereby corrected: page 8, line 3, "when the" is amended to read "when, in the"; page 8, line 5, the word "as" is deleted; page 79, line 24, "hereditary" is amended to read "hortatory"; page 155, line 17, "perceptive" is amended to read "precipitate".

B. Simons' union activity

On August 14 or 15, 1961, Simons, while doing some work in the Metropolitan Building in Flint, was approached by Jack Niles, business manager of the Union, who informed Simons that he was working for a "union concern" and asked him whether he would join the Union. After some discussion of the benefits of working under the union's contract, Simons signed a form authorizing Respondent to check off his union dues and gave it to Niles, who mailed it to Respondent's office either the same day or shortly thereafter. When Simons' dues were not included in the next checkoff remittance to the Union, Niles asked the girl in Respondent's office why the checkoff for Simons had not been honored. She said that Simons had repudiated the authorization, saying that he had not signed the slip and did not want anything taken out of his salary.³ She suggested that Niles talk with Koerts about it. He did so and Koerts said that Simons' work was confined to the store and "home repairs," work that was not within the "jurisdiction" of the Union.⁴ Niles made an investigation, checking into the two jobs⁵ on which Simons might have been doing covered work, and did not pursue the matter any further. On September 1, apparently after the close of this incident, Simons made an application for membership in the Union but there is no evidence that Respondent had any knowledge of it at the time.

C. Events of the week October 16-20

On Monday, October 16, according to Simons, Koerts asked him whether he had been talking to Niles about joining the Union. Simons said that he had because, through the Union, he could obtain benefits such as higher pay and hospitalization insurance. Koerts then said, also according to Simons, that he "didn't want a union man on that job" and was not going to have one; that he would rather cut out the job.

Koerts, although he denied having told Simons that he could not hold his job if he joined the Union, admitted having had conversations with both Niles and Simons at that time in which he insisted that Simons' membership in the Union would not change his job classification or bring him within the coverage of the union contract applicable to the painters and glaziers in the commercial contract department. In support of his statement, Koerts pointed out that, to qualify as a glazier, Simons would have to serve a 3-year apprenticeship.

Although in his testimony Koerts may have attempted to draw a distinction between Simons' union membership and his coverage by the contract, I find that the language he used at the time was that he "would not have a union man on that job."⁶ In reaching this conclusion, I take into consideration both Koerts' admission and the testimony of Store Manager Ron Pettus that he "may have" told Simons that Koerts had told him the same thing. While I realize that, as Koerts saw it at the time, the real problem, i.e., Simons' wages and additional benefits, involved the coverage of the union contract, nevertheless, his statement was in terms that might reasonably be interpreted by an employee as a restraint upon his right to become a member of the Union. Accordingly, by this statement Respondent violated Section 8(a)(1) of the Act.

On Tuesday morning, as Simons was loading his truck with material to be used on that day's jobs, Koerts came out and looked at it. Simons, conceding that it contained "some broken up glass which we hadn't gotten around to cleaning up," testified that Koerts said to him: "A union man doesn't have this on a truck."

³ This statement was denied by Simons both at the time, as Niles testified, and on the witness stand. I do not find it necessary to resolve this dispute.

⁴ Respondent and the Union have had collective-bargaining contracts covering the "contract department" employees for about 25 years and Respondent usually hires such employees through the Union. Niles conceded that the store and "home repair" employees were not covered by the contract. Koerts' denial that he raised this question and that the refusal to honor Simons' checkoff slip was solely because it was not on Respondent's own form, is rejected on the basis of Niles' testimony and other evidence in the case, including testimony by Koerts.

⁵ The Metropolitan Building job, on which Niles met Simons, and the General Motors Technical Institute job, discussed below.

⁶ That Koerts did not, at the time of the occurrence, clearly distinguish between the two is evidenced by his conversation shortly thereafter with Business Manager Niles of the Union. When Niles told Koerts that, if Simons had been fired for joining the Union, he "wouldn't stand for it," Koerts answered that the work Simons had been doing didn't come "under the jurisdiction" of the Union.

Simons also conceded that there was some writing on the white-painted boards along the side of the truck. He testified that Koerts asked him whether he had done the writing and that he denied it.⁷ Koerts erased the writing and, as testified by both Koerts and Simons, Koerts then said: "You can get smart with Ron [Pettus] but you can't get smart with me."

On *Thursday*, according to Simons, Pettus asked him whether he was going through with his effort to join the Union and, when he answered affirmatively, Pettus said: "Well, the old man said if you straighten up and drop the Union you could stay working here, otherwise we are going to have to let you go." To this, Simons testified, he answered: "Well, he is going to have to let me go because I have already joined." Although, as mentioned above, Pettus admitted that he "may have" told Simons that Koerts "would not have a union man on that job," I have found that this comment related to the application of the wage scale and additional benefits in the union contract to the "home repair" men and not to the membership of such employees in the Union. Accordingly, Pettus' admission does not constitute corroboration of Simons' testimony on this point. Since it is not otherwise corroborated, and I do not find Simons' unsupported testimony sufficient to prove that Pettus either threatened or predicted Simons' discharge, I do not find that he did so.

On *Friday*, according to the testimony of Harvey J. Brandt, Respondent's credit manager, he received a call from one Mrs. Burge, a customer, who said that she would not pay the charge for a lock repair job of the previous June because the work had not been done by Respondent's man and she had been forced to call in a repair man from Sears, Roebuck to do it. The charge slip showed that Simons had been the man on the job and Brandt instructed Pettus to question Simons about it upon his return at the end of the day. When Simons came in, Pettus asked him whether he had completed the Burge repair and Simons insisted that he had, stating that he had replaced the lock cylinder. In support of his contention, Simons said that his statement would be confirmed by Bill Heit, another repairman, who had assisted him. At this point Koerts joined Brandt and Pettus. He had heard Simons' statement about Heit and the lock cylinder and, looking at the job slip, pointed out with some asperity that the slip made no charge for a lock cylinder or for the time of another man as assistant on the job.⁸ He heatedly accused Simons of "giving away all my material" and of taking men out unnecessarily to assist him. Koerts referred to the many complaints that had been received concerning Simons' work and told Simons not to come to work the following day, Saturday.

Simons left the building and took his toolbox from the truck he had been using. From the way Simons carried it, Koerts testified, it appeared to him to be heavier than would be justified by Simons' tools alone and he directed Pettus to check it for materials belonging to Respondent.⁹ Pettus emptied Simons' toolbox and removed some company supplies, making a list of them. The next day, at Koerts' direction, Pettus put aside—and later inventoried—another toolbox (this one belonging to Respondent) which had been on the truck Simons used.¹⁰

The account of Simons' departure in the foregoing paragraph is based upon the testimony of Koerts, Pettus, Brandt, and, in part, of Simons. It was also testified by Simons, however, that after Koerts had told him not to come in the following day and he had left the store, Pettus followed him outside and said that Koerts had changed his mind and that he [Simons] should get his toolbox and empty it of company materials. A former employee of Respondent, Jack Artibee, called by the General Counsel, testified that he heard Pettus tell Simons that Koerts had changed his mind and decided to let him [Simons] go and that he heard Pettus ask to inspect Simons' toolbox.

⁷ Koerts testified that the writing was some lewd poetry which appeared to apply to him and that the handwriting "looked like" Simons'.

⁸ This minor, 1-hour repair was made on June 24, and I find that the question concerning it was raised for the first time, as far as Simons was concerned, on October 20, almost 4 months later. It is understandable—and unfortunate—that Simons, choosing to speak with such certainty about an incident he is extremely unlikely to have remembered, was badly mistaken and, in his later testimony, he admitted that he was.

⁹ Koerts testified that Respondent had almost been bankrupted, some years previously, by large scale thefts of material and that the employees involved had been convicted and jailed.

¹⁰ Respondent, although its answer alleged that Simons had attempted unlawfully to remove certain company property, did not seriously litigate this matter as a justification for discharging Simons and its position in this proceeding is that it never did discharge him. In any event, the evidence on this subject is inconclusive and I make no findings concerning it.

Pettus testified that he did not discharge Simons and that, as far as he knew, neither Koerts nor anyone else on behalf of Respondent had discharged Simons. This constitutes a denial by Pettus of the testimony of Simons and Artibee that he carried Simons a message of discharge from Koerts. The conflict cannot be resolved by resort to any reliable, disinterested evidence, because there is none. Simons and Koerts are the principal parties herein and Pettus is currently an employee of Respondent. Although Artibee, by application of the usual tests of interest, might be found to have none, I am not thereby required to accept his testimony. During his employment by Respondent, he worked in the back room of the store, which was also Simons' headquarters. His story appears to be carefully tailored to support that of Simons and, based upon all the testimony concerning this incident and the demeanor of Artibee, I reject it.¹¹ Accordingly, the General Counsel has not established this incident by a preponderance of the evidence and I do not find that it occurred as described by his witnesses.

D. Events of the following Monday

About 10 a.m. on the following Monday, Simons came to Respondent's premises to fill out his timecard for the previous week and to obtain the return of a saber saw which he had lent to another employee. The borrower worked in the metal shop and Simons was there talking to him when Koerts came upon them. It appears that there are restrictions on the presence in the shop of persons not working there since the room contains power tools for metalworking.

Upon finding Simons there talking with an employee, Koerts demanded to know "what the hell" he was doing there. Simons explained that he was discussing the return of his saw and Koerts, repeating that nobody not working was entitled to be there, escorted Simons out. Simons, according to his own testimony, laughed. Koerts also testified that he asked Simons whether he was there to work and that Simons said he was not. The testimony of Simons is not in conflict with that of Koerts since Simons testified that he went to Respondent's premises to fill out his timecards.

E. Respondent's defenses

Considerable testimony was introduced by Respondent to show that Simons was an incompetent worker and that his conduct was insolent and provocative. Reference has been made to his reported failure to repair Mrs. Burge's lock satisfactorily and to the "off-color" writing on the truck he used. Respondent also showed, without serious dispute by Simons, that in March Simons, driving a truck which he had borrowed from Respondent to transport himself between his home and the shop, wrecked the truck and damaged another vehicle, and that, by reason of this incident, Respondent's automobile liability policy was canceled by the carrier. It also adequately appears that in July, when Simons was replacing glass in some office partitions at the General Motors Technical Institute, he caused such dirt and disorder that he was taken off the job and some of Respondent's painting employees spent several hours cleaning up the office and refinishing the furniture Simons had damaged.

Respondent contends that, with this background, the October 20 complaint from Mrs. Burge about Simons' failure to perform the work he had been sent to do and Simons' misstatements concerning it, exhausted Koerts' patience and he told Simons not to report for work the next day while he figured out what to do about him. That Simons reacted to this direction by leaving with his tools appears to have disturbed Koerts not at all and it is a fair inference that he was relieved and, as he testified, satisfied with this result. It is to be noted that Respondent's interpretation of Simons' conduct has been consistent and that Koerts, in describing the events to Business Manager Niles, immediately afterward, denied that Simons had been discharged for union activity but stated that he had voluntarily quit.¹²

¹¹ In concluding that Koerts did not discharge Simons, I have also taken into consideration the fact that, in the two incidents discussed herein: the General Motors Technical Institute job and the "fence-writing" on the truck, Koerts would have been justified in discharging Simons but did not do so.

¹² On both points, i.e., that Simons was inefficient and that he had voluntarily quit rather than being discharged for union activity, Koerts appears to have convinced Niles. These conclusions of Niles, of course, are not binding upon me and I have given them no weight in reaching my decision herein.

F. Conclusionary findings

As indicated above, the organization of Respondent's business was an important factor in determining Koerts' attitude toward Simons' application for union membership. Its construction employees have been covered, for over 20 years, by contracts with the Union and there is no evidence of any basic union animus on the part of Koerts or his management subordinates. On the other hand, as Niles conceded, it would be inappropriate to apply the Union's standards—both of performance and remuneration—to the "home repair" workers. Koerts' reaction, on October 16, to Simons' union application was, I find, based upon his concern lest Simons seek the wages and benefits provided by the union contract rather than by an intent to interfere with Simons' effort to join the Union.

As stated above, however, the manner in which Koerts expressed his concern had a reasonably foreseeable effect of restraining Simons in his effort and was, therefore, in violation of Section 8(a)(1) of the Act. The repetition, by Pettus,¹³ of Koerts' remarks on this point was similarly violative of Section 8(a)(1).

The circumstances of Simons' separation from Respondent's employ are not related to those which gave rise to the statements of Koerts and Pettus found to have been in violation of Section 8(a)(1). In this first place, it is not clear that Simons was discharged by Respondent. Simons testified that Koerts told him, Friday evening, not to come to work the following day, that they would call him when they needed him. He also testified that Pettus followed him outside and told him that Koerts had "changed his mind"; that he was to get his toolbox and empty it of company materials. Simons admitted that there had been some acrimonious discussion about his performance of the job for Mrs. Burge although he placed it on the previous evening and tried to make it sound quite mild. Credit Manager Brandt testified, however, the incident first arose on Friday with Mrs. Burge's refusal to pay the bill and Brandt, Pettus, and Koerts all testified that it developed into a stormy argument with Simons late that same day. Their testimony is more persuasive than that of Simons and I find that this wrangle immediately preceded Koerts' direction to Simons not to report for work the following day. Since I have rejected the testimony of Simons, and that of Artbee in purported corroboration thereof, that Pettus followed him out of the building to say that Koerts had "changed his mind," indicating that Simons was being discharged, there is no credible evidence that he was discharged.

In the second place, even if I were to give full credit to their testimony that Simons was "discharged," it would add nothing to the General Counsel's case because nowhere in any testimony concerning the Friday evening incident is there an indication that Simons' effort to join the Union contributed in any way to the outcome of the argument. Under these circumstances, my rejection of the testimony that Koerts threatened to discharge Simons unless he abandoned his effort to join the Union precludes a finding of a casual relationship between the events of Friday evening and Simons' pending union application.

Accordingly, I find that Simons voluntarily left Respondent's employ and that Respondent did not discharge him in violation of Section 8(a)(3) and (1) of the Act, and I shall recommend that the complaint be dismissed to the extent that it so alleges.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent found to constitute unfair labor practices as set forth in section III, above, occurring in connection with Respondent's operations 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 of commerce.

V. THE REMEDY

Having found that Respondent has engaged in certain conduct interfering with, restraining, and coercing employees in the exercise of rights guaranteed in the Act and constituting unfair labor practices affecting commerce, I shall recommend that

¹³ I find Pettus, manager of the store and the "home repair" portions of the enterprise, to be a supervisor within the meaning of the Act and an agent of Respondent.

it cease and desist therefrom and take certain affirmative action in order to effectuate the policies of the Act.

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. Respondent is an employer engaged in commerce within the meaning of Section 2(2) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. By threats of discharge on October 16 and 19, 1961, Respondent interfered with, restrained, and coerced its employees in the exercise of rights guaranteed by Section 7 of the Act, and thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.
4. Respondent did not terminate the employment of James A. Simons and thereafter refuse to recall or reinstate him because he was a member and active in behalf of the Union and Respondent did not engage in an unfair labor practice within the meaning of Section 8(a)(3) of the Act.

RECOMMENDED ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, it is recommended that Respondent, Koerts Glass and Paint Company, Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:
 - (a) Threatening to discharge any of its employees to induce them or others to withdraw their support or activities on behalf of the Union.
 - (b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form labor organizations, to join or assist any 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, or to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment in conformity with Section 8(a)(3) of the Act.
2. Take the following affirmative action which I find will effectuate the policies of the Act:
 - (a) Post at its premises in Flint, Michigan, copies of the attached notice marked "Appendix."¹⁴ Copies of said notice, to be furnished by the Regional Director for the Seventh Region, shall, after being duly signed by Respondent's representative, be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including places where notices to its employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.
 - (b) Notify the Regional Director for the Seventh Region, in writing, within 20 days from the receipt of this Decision, what steps Respondent has taken to comply herewith.¹⁵
3. It is further recommended that the complaint be dismissed insofar as it alleges that Respondent terminated the employment of James A. Simons and thereafter failed and refused to recall or reinstate him because he was a member and active in behalf of the Union.

¹⁴ In the event that this Recommended Order be adopted by the Board, the words "A Decision and Order" shall be substituted for the words "The Recommended Order of a Trial Examiner" in the notice. In the further event that the Board's Order be enforced by a decree of a United States Court of Appeals, the words "A Decree of the United States Court of Appeals, Enforcing an Order" shall be substituted for the words "A Decision and Order."

¹⁵ In the event that this Recommended Order be adopted by the Board, this provision shall be modified to read: "Notify said Regional Director, in writing, within 10 days from the date of this Order, what steps the Respondent has taken to comply herewith."

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to the Recommended Order of a Trial Examiner of the National Labor Relations Board and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

WE WILL NOT threaten to discharge any of our employees to induce them or others to withdraw their support, or activities on behalf, of Local 1052, Brotherhood of Painters, Decorators and Paperhangers of America, AFL-CIO, or any other labor organization.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the right to self-organization, to form labor organizations, to join or assist Local 1052, Brotherhood of Painters, Decorators and Paperhangers of America, AFL-CIO, or any other labor organization, to bargain collectively through representatives of their own choosing, or to engage in other concerted activities for the purpose of mutual aid or protection, and to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized by Section 8(a) (3) of the Act.

All our employees are free to become or to remain members of Local 1052, Brotherhood of Painters, Decorators and Paperhangers of America, AFL-CIO, or any other labor organization, or to refrain from such membership except to the extent that this right may be affected by an agreement authorized by Section 8(a) (3) of the Act.

KOERTS GLASS AND PAINT COMPANY, INC.,
Employer.

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

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

Employees may communicate directly with the Board's Regional Office, 500 Book Building, 1249 Washington Boulevard, Detroit, Michigan, Telephone No. 226-3230, if they have questions concerning this notice or compliance with its provisions.

Roskam Baking Company and American Bakery and Confectionery Workers' International Union, AFL-CIO. Cases Nos. 7-CA-3899 and 7-CA-3899(2). February 17, 1964

SUPPLEMENTAL DECISION AND ORDER

On June 18, 1963, the Board issued its Decision and Order in the above-entitled case,¹ finding that Respondent had discriminated against employees David Storey and Roger Markle in violation of Section 8(a) (3) and (1) of the Act, and directing, *inter alia*, that the Respondent offer said employees immediate and full reinstatement and make them whole for any loss of earnings suffered by reason of the Respondent's discrimination against them.

On September 26, 1963, the Board's Regional Director for the Seventh Region issued and served upon the parties a backpay specification and notice of hearing, alleging that Respondent's obliga-

¹ 142 NLRB 1173.