

**Flora Construction Company and Argus Construction Company d/b/a Flora and Argus Construction Company and Casper Building and Construction Trades Council, AFL-CIO.** *Case No. 27-CA-789 (formerly 30-CA-789). November 6, 1964*

### SUPPLEMENTAL DECISION AND ORDER

On August 7, 1961, the Board issued a Decision and Order in the above-entitled case, 132 NLRB 776, which was enforced by the U.S. Court of Appeals for the Tenth Circuit by a decree entered on December 7, 1962, 311 F. 2d 310. Thereafter, on May 31, 1963, a backpay specification and appropriate notice was issued by the Regional Director for Region 27.<sup>1</sup> Respondent Flora Construction Company, hereinafter referred to as Flora, filed an answer thereto on July 10. Counsel for the Regional Director, referred to herein as the General Counsel, thereupon filed a motion to strike Flora's answer to the backpay specification and for summary judgment in accordance with the specifications. The General Counsel's motion was referred to Trial Examiner Maurice Miller for disposition, and, on August 9, 1963, he issued an order granting in part and denying in part the General Counsel's motion to strike, denying the motion for summary judgment, and reserving some questions for ruling by the Trial Examiner who was to conduct the supplemental hearing. On August 12, 1963, Flora filed an answer to the General Counsel's motion to strike and for summary judgment, in which it requested that the motion be denied and that the entire matter be dismissed.

The next day, when the hearing on the backpay specification opened before Trial Examiner David F. Doyle, Respondent filed a document which was admitted as an exhibit in which it attacked the basis of computation of the amounts alleged to be due and repeated other contentions and arguments previously made.

At the hearing Trial Examiner Doyle refused to permit litigation of those issues raised by Flora's answer which had been stricken by Trial Examiner Miller's order. The hearing was therefore limited to litigation only of those issues which Trial Examiner Miller had reserved for disposition at the hearing.

On October 3, 1963, Trial Examiner Doyle issued the attached Supplemental Decision finding as to the issues reserved for his disposition that Flora's backpay obligation to Samuel K. Wilson was tolled by its offer of employment on February 12, 1960; that Re-

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<sup>1</sup> Service of process could not be effected on Argus Construction Company, which appears to have gone out of business in the meantime. However, service on the joint venture was effected by service on the other constituent company, Flora Construction Company.

spondent's offer of a position to Vincent Jahner in Las Vegas, Nevada, was not reinstatement to his former or substantially equivalent position; and that D. R. McCaslin was entitled to backpay during the 2-week period in which there was no replacement employee who performed any work in McCaslin's job classification. As Respondent's answer to the backpay specifications concerning the other four discriminatees—Bolan, Cuddy, Schuchardt, and Sutton—had already been stricken, the Trial Examiner recommended that specific amounts of backpay be awarded to the discriminatees in accordance with the backpay specifications, as modified, with respect to Wilson. Thereafter, Flora filed exceptions to Trial Examiner Miller's order of August 9, 1963, and to Trial Examiner Doyle's Supplemental Decision of October 3, 1963, together with a supporting brief.

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, Members Leedom and Jenkins].

The Board has reviewed the rulings of Trial Examiner Doyle made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the order of Trial Examiner Miller, granting in part and denying in part the General Counsel's motion to strike Respondent's answer to the backpay specifications, Trial Examiner Doyle's Supplemental Decision, and the entire record in this case, including the exceptions and brief, and hereby adopts the findings, conclusions, and recommendations of both Trial Examiners with the following additional comments:

Trial Examiner Doyle who presided at the hearing did not admit any testimony or consider any arguments with respect to those issues which Trial Examiner Miller had disposed of in striking portions of the Respondent's answer to the backpay specifications. As Respondent has filed exceptions both to the Supplemental Decision and to Trial Examiner Miller's order, we shall consider the merits of Respondent's arguments as to both documents. Respondent asserts that it has been denied an opportunity to present evidence at the hearing on what it considers to be the merits of this controversy. However, as Trial Examiner Miller correctly notes in this Order, many of Respondent's contentions are in support of its argument that most of the discriminatees are not entitled to any backpay because they were incompetent or incapable of performing work which had to be done after their discharges or because no one had been hired as their specific replacements. To the extent it now asserts incompetence as the reason for the termination of the discriminatees, Respondent quite clearly was not entitled to introduce testimony or to reargue its con-

tentions, since these matters were fully considered by the Board in its original Decision, were also reviewed by the court, and are now *res adjudicata*.

However, Respondent also argues that because of the alleged incompetence of the discriminatees, they would not have been retained even absent discrimination, since they did not have the capability for performing the jobs which had to be filled at the Respondent's construction projects. Thus, the Respondent asserts that a single job classification such as laborer or millwright covers a multitude of skills and that the discriminatees, although they may have been capable of performing the simpler aspects of such jobs, were not capable of fulfilling the more skilled requirements included within the same general job description. The answer to this argument is simply that there is now no way to verify its truth or accuracy. The seven discriminatees were hired and were paid to carry out the duties assigned to them, and were terminated, not for failure to perform satisfactorily, but for discriminatory reasons. Except for McCaslin, Respondent made no attempt to test its asserted reason that the discriminatees did not have the capability for working out satisfactorily on the remaining work at the project. It is true that the Act imposes no obligation on an employer to retain an inefficient employee or one who is incapable of carrying out assigned duties. But where, as here, an employer has unlawfully discharged employees, foreclosing the opportunity its discharged employees would otherwise have had to demonstrate their fitness for future tasks and thereby precluding a reliable determination of their future suitability, the employer is scarcely in a position to assert that it would not have continued to utilize such employees on jobs within their classification even in the absence of discrimination.

Respondent's second major argument against the backpay specification is that it is under no obligation to reimburse any discriminatee unless the General Counsel can establish the identity of his particular replacement as well as an exact equivalence of jobs and skills between the discriminatee and such replacement. It may be true, as Respondent contends, that work on a construction project is not wholly comparable to work in an industrial plant where job classifications are defined and an employee is limited to a particular range of skills. However, construction employees are also assigned to a particular job classification at a fixed rate of pay, and we are entitled to assume that two employees in the same job classification, paid at the same rate, are roughly comparable in skills and may be interchanged with respect to their assigned duties. Nor is it necessary for the General Counsel to establish that a discriminatee has been replaced by a particular named individual. An employer may reassign employees, reschedule particular aspects of the work to be done, and make other

changes which enable him to obtain the quantum of work needed, by a variety of means. As long as the General Counsel establishes, as he had done here, that work remained to be done in the classifications to which the discriminatees had been assigned, he has established *prima facie* that but for the discrimination the terminated individuals would have been retained. We are satisfied in this case that Respondent's answer to the backpay specification does not support its contention that there would have been no work which these discriminatees could have done at its construction project.

As for Wilson and McCaslin, Respondent also makes the argument that they were laid off because material on which they were to work was unavailable, and that they were reoffered their jobs as soon as such material could be obtained. Here again Respondent attempts to relitigate what the Board and the Court of Appeals have already decided—that Wilson and McCaslin were laid off not because of lack of materials, but because of their activities on behalf of the Charging Union. We are again asked to speculate whether Wilson and McCaslin would have had work to perform for the short periods of their layoffs if they had not been laid off for discriminatory reasons.

In determining the amount of backpay due the discriminatees, it is the position of the Board that approximation of the loss to such individuals by reasonable methods is sufficient, and that the formula based on proportionalizing backpay and interim earnings which Trial Examiner Doyle adopted here is proper where it is impossible to determine the exact conditions which would have prevailed in the absence of the discrimination. The Board's right to exercise broad discretion in matters of this nature has been upheld by the courts.<sup>2</sup>

## ORDER

On the basis of Trial Examiner Miller's order and Trial Examiner Doyle's Supplemental Decision and the entire record in this case, the National Labor Relations Board hereby orders that the Respondents, Flora Construction Company and Argus Construction Company, d/b/a Flora and Argus Construction Company, their officers, agents, successors, and assigns, shall pay to the discriminatees involved in this proceeding as net backpay the amounts set forth opposite their names in the concluding findings of Trial Examiner Doyle in the attached Supplemental Decision.

<sup>2</sup> *N.L.R.B. v. Ozark Hardwood Company*, 282 F. 2d 1 (C.A. 8).

## TRIAL EXAMINER'S SUPPLEMENTAL DECISION

### STATEMENT OF THE CASE

This supplemental proceeding was heard by Trial Examiner David F. Doyle in Denver, Colorado, on August 13, 14, and 15, 1963, on a specification of the General Counsel and the answer of Flora Construction Company, herein

called Flora. The purpose of the proceeding was to determine the amount of backpay due and owing seven named discriminatees under an order of the Board in the above-captioned matter. At the hearing the parties, who appeared as noted above, were afforded a full opportunity to examine and cross-examine witnesses, to introduce evidence, to present oral argument, and to file briefs presenting their respective contentions.

Upon a consideration of the entire record in this supplemental proceeding, and the Board's Decision and Order in *Flora Construction Company and Argus Construction Company, d/b/a Flora and Argus Construction Company*, 132 NLRB 776, of which I take judicial notice, I make the following:

#### FINDINGS AND CONCLUSIONS

##### A. *The prior unfair labor practice proceeding*

On March 13, 1961, after a hearing in which all parties were represented by counsel, Trial Examiner Maurice M. Miller issued his Intermediate Report finding that Flora Construction Company and Argus Construction Company, Wyoming corporations, doing business as a joint venture, were employers engaged in commerce within the meaning of the Act, and were guilty of unfair labor practices, in violation of Section 8(a)(3) of the Act, directed at seven named employees.<sup>1</sup> Trial Examiner Miller recommended that the Respondents offer the employees named immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights and privileges and make them whole for the loss of wages caused by the Respondents' discrimination against them.

On August 7, 1961, the Board issued its Decision and Order affirming the Trial Examiner's Intermediate Report and Recommended Order. The Board's Decision and Order likewise directed that six of the named employees be offered immediate and full reinstatement and that they be made whole for any loss of pay suffered because of the discrimination against them. As to McCaslin, the Board did not order reinstatement but specifically ordered that he be made whole for any loss of pay suffered between December 11, 1959, and January 12, 1960.<sup>2</sup>

Thereafter, the General Counsel sought enforcement of the Board's order by the United States Court of Appeals, Tenth Circuit. On December 7, 1962, the court entered its decree,<sup>3</sup> directing enforcement of the Board's Order. The court found that under its rules, Walter W. Flora, president and stockholder of Flora Construction Company, could not appear on behalf of the corporation since he was not a member of the bar, and, after an examination of the record, the court stated that it was satisfied that the Board's Order was supported by proper findings and was in accordance with the statute.

##### B. *The instant proceeding; default by Argus*

At this point it should be noted that, by the terms of the Board's Order and the court's decree, Flora Construction Company, herein referred to as Flora, and Argus Construction Company, herein referred to as Argus, d/b/a Flora and Argus Construction Company, are each, together with their respective officers, agents, successors, and assigns, jointly and severally, obligated to comply with the terms of the Board's Order and the court's decree. It should also be noted, in this connection, that all Respondents were represented by counsel before Trial Examiner Miller in the unfair labor practice proceeding. However, after issuance of the Board's Order, Argus Construction Company appears to have vanished from the business scene and thereafter did not participate in the various appeals in the unfair labor practice proceeding.

At the instant hearing, the representative of the General Counsel stated that diligent search and inquiry had been made to ascertain the whereabouts of Argus or its officers and that they could not be found. In the instant proceeding, a copy of the backpay specification addressed to Argus Construction Company was mailed to the home of Walter W. Flora, formerly president of Flora Construction Company. On prior occasions service had been effected on Argus by the

<sup>1</sup> Steve Bolan, Jack Cuddy, Vince Jahner, Samuel K. Wilson, Herbert Schuchardt, Jerry Sutton, and D. R. McCaslin.

<sup>2</sup> This Decision and Order of the Board has been mentioned above and is reported at 132 NLRB 776.

<sup>3</sup> *N.L.R.B. v. Flora Construction Company and Argus Construction Company, d/b/a Flora and Argus Construction Co.*, 311 F. 2d 310.

mailing of papers to the same address and the acceptance of such papers by Flora. On this occasion, however, receipt of the specification and notice of hearing was refused and the papers were returned to the General Counsel by the post office department. The representative of Flora at the instant hearing stated that Flora could not locate either Argus Construction Company or its officers, and refused to accept service for them. The Trial Examiner then ruled that the service of process upon Argus and Flora in the prior proceeding and their participation in the unfair labor practice hearing rendered both companies subject to the jurisdiction of the Board in this supplemental proceeding, since the instant proceeding is a continuation of the prior proceeding for the specific purpose of effecting compliance with the Order of the Board and the decree of the court. The Trial Examiner then ruled that Argus was in default in this proceeding and as to it, the General Counsel was entitled to summary judgment, but he limited the liability of Argus to such liability as might be imposed upon Flora, after a consideration of all the evidence in this supplemental proceeding. Thereafter, the instant hearing proceeded with Flora, alone of the Respondent's, participating.

It is undisputed that Respondents have failed to comply with any of the provisions of the Board's Order and have specifically failed to comply with the backpay provisions, and that a controversy has arisen over the amounts of backpay due under the terms of the Board's Order. It is likewise undisputed that on May 31, 1963, the Regional Director of Region 27, pursuant to Section 102.52, 102.59, of the Board's Rules and Regulations, Series 8, as amended, issued and caused to be served upon Flora a backpay specification and notice of hearing for July 9, 1963. Thereafter the hearing was duly continued until August 13, 1963, at Denver, Colorado.

#### *C. The answer of Flora and the General Counsel's motion to strike*

On July 10, 1963, Flora, by Mildred L. Flora, secretary-treasurer, filed with Region 27 an answer to the backpay specification.

On July 31, 1963, W. Bruce Gillis, Jr., on behalf of the Regional Director for Region 27, filed a motion to strike Flora's answer to the backpay specification and for summary judgment in accordance with the aforesaid specifications. The motion to strike Flora's answer was based on the alleged failure of Flora's answer to meet the requirements of Section 102.52 through 102.59 of the Board Rules. This motion to strike the answer and for summary judgment was referred to Trial Examiner Maurice M. Miller, who, on August 9, 1963, issued an order granting in part and denying in part the General Counsel's motion to strike, and denying General Counsel's motion for summary judgment. This order also reserved some questions for a ruling by the Trial Examiner conducting the supplemental hearing.

#### *D. The backpay hearing; the pretrial conference*

On August 13, 1963, the hearing on the backpay specification and answer of Flora came on regularly to be heard before this Trial Examiner at Denver, Colorado. The parties were represented at the backpay hearing by the representatives whose appearances have been listed above.

At the opening of the hearing, the Trial Examiner stated that he wished to conduct a pretrial conference on the record with the representatives of the parties (1) to ascertain, by joint study, what issues remained to be litigated, since much of Flora's answer had been stricken by Trial Examiner Miller's order dated August 9, 1963, and (2) to rule on those specific questions which Mr. Miller's order reserved for disposition by the Trial Examiner who conducted the hearing. The representatives of the parties cooperated in this endeavor, whereby the backpay specification, the answer, the motion, and Mr. Miller's order were analyzed, paragraph by paragraph. In the course of the pretrial conference on the record, the Trial Examiner, after hearing the arguments of counsel, ruled on the remaining questions raised by the motion to strike.

#### *E. The issues*

At the close of the pretrial conference on the record, the Trial Examiner stated that those portions of Flora's answer which had not been stricken pursuant to motion presented only three specific issues. These issues are embodied in the following questions:

1. Was Respondent's backpay obligation to Samuel K. Wilson tolled by Respondent's offer of employment to Wilson on February 12, 1960?
2. Was Respondent's backpay obligation to Vincent Jahner tolled by Respondent's offer of employment to Jahner in April 1960 or March 1961?
3. Is Respondent required to make whole D. R. McCaslin in view of the fact that during McCaslin's backpay period (a period of 2 weeks) there was no replacement employee in McCaslin's job classification?

F. *The evidence on the issues*

The parties agreed to certain stipulations of fact as to the issues outlined above. The stipulations are as follows:

1. Samuel K. Wilson

It was stipulated by the parties that Respondent's Exhibit No. 2 correctly stated the facts as to an offer of employment made to Wilson. This document reads as follows:

Respondent, on February 12, 1960, sent to Mr. Samuel K. Wilson, 1708 S. Chestnut Street, Casper, Wyoming, a registered letter, which was received by Mr. Wilson on the 13th, as evidenced by his signature on the return receipt, which read:

We are expecting to receive some of the screwed pipe over this week-end. We are intending to hire some pipefitters for this work. Our scale is \$3.42-1/2 for pipefitting work. If you are interested in the work at the Fremont Canyon Powerplant, it would be desirable that you start work Monday morning, February 15, 1960. Please contact our office in Casper and let us know your desire in this regard.

Very truly yours,  
FLORA CONSTRUCTION COMPANY  
ARGUS CONSTRUCTION COMPANY  
Walter W. Flora.

Wilson did not accept the employment offered.

The General Counsel conceded on the record that the rate of pay of the job offered to Wilson was the same as his former position and the place of employment was the same.

2. Vincent Jahner

The parties stipulated that the facts set forth in Respondent's answer and in Respondent's Exhibit No. 2 in evidence presented a true statement of fact in regard to the offers of employment made to Jahner. The pertinent portion of the answer reads as follows:

Jahner's principal experience had been as a backhoe operator with Flora Construction Company, and he was "borrowed" for this joint venture from his regular employment at Las Vegas, Nevada. Jahner was offered employment as backhoe operator in Las Vegas, April, 1960. He refused, stating he was permanently employed with a house mover in Casper. He was again offered employment as a backhoe operator in Las Vegas in March, 1961, which he refused on the basis his employment with the house mover was steady.

Respondent's Exhibit No. 2<sup>4</sup> has the following reference to the offers of employment:

II. C. The wage classification rate for a backhoe operator on the job that was offered to Jahner in 1960, and again in 1961, was as an equipment operator, for which the Davis-Bacon scale was \$3.81. This type of equipment operator, variously termed and described in respondent's Answer as "backhoe operator" was in no way similar to the crane operator position which Jahner had previously occupied at this power plant.

Counsel for the parties also stipulated that Jahner's rate of pay as a crane operator was \$3.04 per hour and as a laborer was \$1.875 per hour, and that the Davis-Bacon scale of pay for the job which was offered to Jahner was \$3.81 per hour.

<sup>4</sup> Page 4 of exhibit

## 3. D. R. McCaslin

The resolution of this issue was submitted by the parties on the record without additional evidence.

## CONCLUDING FINDINGS

As noted above, certain contentions of Flora as to its backpay liability were first raised in the instant proceeding. At the hearing the General Counsel and the representative of Flora stipulated to certain facts involving the offer of employment to Wilson, which stated in brief that the Company had offered Wilson employment in the same job classification, at the same rate of pay, and at the same location. This job offer was received by Wilson on February 13, 1960, with the employment to start on Monday, February 15, 1960. Wilson refused the employment offered.

In his brief herein, the representative of the General Counsel with commendable frankness and fairness stated that under the circumstances it appeared to him that the Company had tolled its backpay liability to Wilson by this offer of reinstatement to Wilson's former position. As authority for his position in this matter, the General Counsel has cited certain authorities.<sup>5</sup> Consistent with the General Counsel's new position, he amended the specification in his brief to eliminate any claim for backpay beyond February 15, 1960, the date upon which Wilson was to report for work under the terms of Respondent's offer. After a review of all the evidence on this point, I agree that the General Counsel's new position is factually and legally correct.

Therefore, in accordance with the amended specification, it is found that the total amount of backpay due Samuel K. Wilson by the Respondents, pursuant to the Order of the Board and the decree of the court, is, prior to applicable tax deductions, the sum of \$344.72.

*Vincent Jahner*: Counsel for the parties stipulated the circumstances under which the Company made two offers of employment to Jahner. It is the position of the General Counsel that these job offers were not sufficient to comply with the terms of the Board's Order and the court's decree and thus toll the Company's liability for backpay due Jahner.

From an analysis of the job offers it seems clear that the offer of employment in Las Vegas, Nevada, rather than at the jobsite in Casper, Wyoming, would have required Jahner to move a substantial distance (approximately 800 miles) in order to accept the employment. While it is true that Jahner had previously lived in Las Vegas, Nevada, it seems apparent that at the time of both offers of reemployment in April 1960 and March 1961 he was a resident of Casper, Wyoming. Therefore, it would seem to follow that an offer to Jahner of employment at Las Vegas, Nevada, was not "reinstatement to his former, or substantially equivalent position." Furthermore, from the entire record it appears that both offers of reemployment to Jahner were made at times when the employers were still employing other employees in Jahner's job classification of "laborer" and/or "crane operator."

The Board had a similar case before it in *The Chase National Bank of the City of New York, San Juan, Puerto Rico, Branch*, 65 NLRB 827, at page 829. In that case the Board wrote:

The Act is remedial in nature and our affirmative orders, made pursuant to Section 10(c) thereof, are designed to effectuate the policies of the Act. To that end, our reinstatement order in the instant case, as in all cases, envisages "a restoration of the situation, as nearly as possible, to that which would have obtained but for the employer's illegal discrimination."<sup>4</sup> Thus, where a discriminatee's former position is in existence as of the date of our Order, the restoration of the status quo requires that the employer reinstate him to *that* position, . . . However, in order to meet a contingency where reinstatement to the former position may not be possible, paragraph 2(a) makes the alternative provision for reinstatement to a substantially equivalent position. This contingent method of complying with our

<sup>4</sup> *Phelps Dodge Corp. v. N.L.R.B.*, 313 U.S. 177, 194; *N.L.R.B. v. Remington Rand, Inc.*, 94 F. (2d) 862, 872, cert. denied 304 U.S. 576.

<sup>5</sup> *Eastern Die Company*, 142 NLRB 601; *Research Designing Service, Inc.*, 141 NLRB 211.

reinstatement order was not designed to give the employer a choice as to positions to be offered; on the contrary it was specifically intended thereby to impose a continuing obligation on the employer to restore the status quo as nearly as possible when it is not possible to restore the absolute status quo. Thus, consistent with the remedial purposes of the Act, reinstatement orders, like paragraph 2(a) of the Order herein, are, and always have been, interpreted by us to require restoration of the discriminatee to his former position wherever possible, but if such position is no longer in existence then to a substantially equivalent position.

Upon the basis of all the evidence, it is found that the employer's two offers of reemployment were not the immediate and full reinstatement to his "former or substantially equivalent position," which was directed by the Board's Order. Therefore, I find that Jahner is entitled to be awarded full backpay as set forth in the specification, which is, prior to applicable tax deductions, the sum of \$1,746.58.

*D. R. McCaslin:* The sole question in regard to backpay for McCaslin is whether he should receive no backpay, as contended by Flora, because during his backpay period (December 11, 1959, to January 12, 1960) there was no replacement employee who performed any work in McCaslin's job classification. There is no dispute as to McCaslin's rate of pay and hours worked, and it appears that the specification sets forth an obviously reasonable formula for compensating McCaslin. The only peculiarity about McCaslin's case is that no employee replaced him during the backpay period. However, it appears from the terms of the Board's Order that it had this situation in mind when it awarded backpay to McCaslin. Apparently, the Board was familiar with the facts as to McCaslin, including the fact that no electrical work was performed during his backpay period. Notwithstanding this situation, the Board ordered McCaslin to be made whole, although without reinstatement. The Board's discretion in the fashioning of backpay remedies is very broad and the Board has frequently awarded backpay in situations where there were no replacement employees present to be used as a standard for computation.<sup>6</sup>

Upon all the evidence, it is found that McCaslin is entitled to the award of backpay set forth in the specification, which is, prior to applicable tax deductions, the sum of \$403.20.

The above findings dispose of the only issues raised by such portions of Flora's answer which were not stricken on motion by either Trial Examiner Miller in his order of August 9, 1963, or by the Trial Examiner at the hearing.

In that posture of the case, the General Counsel is entitled to a decision awarding backpay to the other discriminatees in accordance with the computations contained in the specification. Upon a review of the specification, I find the computations to be accurate and in accordance with Board precedent in all respects.

Therefore, upon all the evidence, I find that the Respondents, Flora Construction Company and Argus Construction Company, d/b/a Flora and Argus Construction Company, are each jointly and severally obligated to pay, by virtue of the Board's Order and the court's decree, to the discriminatees named below the sum of money set opposite each name. Said sums are each subject to applicable tax deductions required by Federal and State laws.

Name:	<i>Net backpay</i>
Bolan, Steve.....	\$2,347.47
Cuddy, John R.....	1,558.36
Jahner, Vincent.....	1,746.58
McCaslin, D. R.....	403.20
Schuchardt, Herbert O.....	2,529.86
Sutton, Jerry M.....	2,931.61
Wilson, Samuel K.....	334.72

It is recommended that the Board adopt the foregoing findings and conclusions and take such action in the premises as it deems appropriate.

<sup>6</sup> *Philadelphia Marine Trade Association and its Members*, 138 NLRB 737; *Missouri Transit Company and its President, P. W. Fletcher*, 116 NLRB 587; *Darlington Manufacturing Company et al.*, 139 NLRB 241; *Esti Neiderman et al., doing business as Star Baby Co.*, 140 NLRB 678.