

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.

VI. THE REMEDY

Having found that the Respondent has committed certain unfair labor practices, I shall recommend that it be ordered to cease and desist from such conduct and to take certain affirmative action designed to dissipate its affect.

Since I have found that NFL has entered into contracts with unlawful referral clauses with Sun States, United Electric, and Taube it will be recommended that Respondent cease entering into, maintaining, and enforcing any contract or agreement with those employers that unlawfully conditions hire or tenure of employment of employees or applicants for employment upon membership in the Respondent.

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

CONCLUSIONS OF LAW

1. The employers named in section I of this Decision are employers within the meaning of the Act.

2. National Federation of Labor, Inc., Carpenters District Council of Miami, Florida, and Vicinity, AFL-CIO, and Local Union No. 349, International Brotherhood of Electrical Workers, AFL-CIO, are labor organizations within the meaning of the Act.

3. By its execution of contracts with Sun State, United Electric, and Taube containing preferential hiring clauses, NFL restrained and coerced employees in violation of Section 8(b)(1)(A) and (2) of the Act.

4. By seeking recognition as the bargaining agent of employees of employers in the State of Florida, by maintaining agreements with such employers, and by its existence as a successor of USEA, NFL did not violate Section 8(b)(1)(A) of the Act.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

[Recommended Order omitted from publication.]

Royal Plating and Polishing Co., Inc. and Metal Polishers, Buffers, Platers and Helpers International Union, Local 44, AFL-CIO. *Case 22-CA-1640. September 8, 1966*

SECOND SUPPLEMENTAL DECISION AND ORDER

On August 27, 1964, the National Labor Relations Board issued its Decision and Order in the above-entitled proceeding, concluding, on the basis of the findings of fact set forth there and in the Trial Examiner's Decision attached thereto, that Respondent violated Section 8(a)(5) and (1) of the National Labor Relations Act, as amended, "by failing to disclose to the Union, while it and the Union were engaged in contract negotiations, its intention to shut down operations at its Bleeker Street plant, and by unilaterally, and without notice to the Union, closing down the plant."¹ The Board's Order required Respondent to cease and desist from the unfair labor prac-

¹ 148 NLRB 545, 546

tices found and to take certain affirmative action designed to remedy the unfair labor practices.² On April 21, 1965, the United States Court of Appeals for the Third Circuit, acting upon a motion of the Board to remand the case for reconsideration, ordered that the case be remanded to the Board for the limited purpose of considering whether, and to what extent, the decision by the Supreme Court of the United States in *N.L.R.B. v. Deering-Milliken, Inc. (Darlington Mfg. Corp.)*, 380 U.S. 263, affected this case.

Subsequently, on May 14, 1965, the Board issued its Supplemental Decision and Order Amending Order in which it concluded that the Supreme Court's decision in *Darlington* did not require alteration of its conclusions concerning Respondent's bargaining obligation, but amended its Order by limiting Respondent's backpay liability to the date Respondent went out of business by closing down the Sussex Avenue plant on August 31, 1963, and made the cease-and-desist provision of its original order applicable only in the event Respondent resumed operations.³

Thereafter, on the Board's petition to enforce the amended Order, the Court of Appeals denied enforcement and remanded the case to the Board to make further findings and, if necessary, to take additional evidence in order to determine whether Respondent unlawfully refused to bargain with respect to the effects of the closing of the Bleeker Street plant on the employees, notwithstanding the fact that, in the circumstances of the case, it was under no obligation to bargain about the decision to close down the plant;⁴ and whether, considering all relevant circumstances, the Board should issue a remedial order if it found such a violation to have been committed.⁵

On December 14, 1965, the Board, by letters served on all parties to the case, afforded the parties an opportunity to file briefs on the issues remanded to the Board. Thereafter, briefs were filed by the Charging Party and the Respondent.

Pursuant to the court's remand, the Board has reconsidered its Supplemental Decision and Order Amending Order. In doing so,

² Affirmatively, the Board's Order required Respondent to create a preferential hiring list for use in the event the Respondent voluntarily resumed operations, containing the names of all employees laid off between April 30 and July 1, 1963, i.e., the Bleeker Street plant employees, to bargain with the Union upon request in the event Respondent resumed operations, and to make Bleeker Street plant employees whole for any loss of pay they may have suffered by reason of the unfair labor practices by paying to each of them a sum of money equal to the amount he would have earned as wages from the date of his termination of employment on or after April 30, 1963, to the time he secured equivalent employment elsewhere, but in no event past the date of December 4, 1963, the date Respondent was required to vacate the Bleeker Street premises under its agreement concerning the sale of such premises.

³ 152 NLRB 619

⁴ The court noted that the Board's finding that Respondent had failed to bargain about the effects of the closing was, in part, based on its finding that the closing was itself an unfair labor practice

⁵ *N.L.R.B. v. Royal Plating and Polishing Co. Inc.*, 350 F.2d 191.

the Board has considered the Trial Examiner's Decision, the exceptions and briefs, the supplemental briefs, its earlier Decision and Supplemental Decision, and the entire record in the case. Based on the evidence in the record as a whole⁶ and for the reasons hereinafter set forth, the Board finds that, by withholding information of its intention to terminate the Bleeker Street plant while engaging in ostensible collective-bargaining negotiations with the Union, and by discouraging any attempt by the Union to bargain over the effects of the closing on employees following its announcement to the Union on June 14, 1963,⁷ that it had sold the plant, Respondent violated Section 8(a)(5) and (1) of the Act; and further finds that it is necessary, in order to effectuate the policies of the Act, to issue the remedial order contained herein.

The entire sequence of events between April 1, when Respondent's President Barile decided to close the Bleeker Street plant, and August 31, when the Sussex Avenue plant was sold and Respondent went out of business, reveals a course of conduct on the part of Respondent to withhold from the Union its plan to sell the Bleeker Street plant, even though Respondent's decision was reached prior to the commencement of collective-bargaining negotiations with the Union. Without repeating the entire factual context, which is set forth in detail in the Board's prior decisions in the instant case, the events concerning the sale of the Bleeker Street plant and Respondent's negotiations with the Union demonstrate clearly the deception practiced upon the latter. On April 1, Barile reached a definite decision to close down the Bleeker Street plant. On April 30, the first bargaining session between Respondent and the Union took place. Barile admitted that he did not mention to the Union at this meeting his plan to discontinue the Bleeker Street operation. Nor did Barile so advise the Union at the second bargaining session on May 7. On May 14, Barile gave the Housing Authority of the City of Newark an irrevocable option to purchase the Bleeker Street property and, later that month, asked the authority to expedite its purchase of the property. Barile also failed to advise the Union of his plans at either of the bargaining sessions on May 17 or at the signing, on May 23, of the new contract, which was to remain in effect until April 18, 1964. Shortly after the signing of the agreement, Respondent began turning down new work orders and laid off six of the Bleeker Street employees. When the Union then inquired of Barile if he was going out of business, he replied that he was merely "liquidating" and that

⁶ At the outset, the Board finds that the present record is sufficient to consider the issues remanded by the court and, therefore, does not deem it necessary to adduce additional evidence.

⁷ All dates are 1963 unless otherwise indicated.

liquidating did not mean going out of business. Similarly, he claimed that he was only "getting smaller" and "trying out something," and denied that he was closing down. Thereafter, on June 3, Respondent conveyed the Bleeker Street property to the authority, received the purchase price, and obtained the right to remain on the premises as a tenant for up to 6 months. On June 14, the Union was told for the first time that the Bleeker Street plant had been sold and that operations there would be discontinued.⁸ Subsequently, on or about June 15, Respondent ceased all operations at Bleeker Street, and, on July 10, the machinery and equipment of that plant were sold at public auction.

In his Decision, the Trial Examiner concluded that:

Barile's course of conduct is consistent only with the conclusion that he acted as he did with a deliberate purpose in mind, and that his purpose must have been to avoid bargaining with the Union during the April 30 to May 23 period of negotiations, over such matters as severance and termination pay, insurance and pension funds, and like subjects that might be expected to arise when a business is being closed. Barile's failure to inform the Union while negotiations were in progress, of his intention to close the plant, reduced the bargaining which did occur, and the agreement which resulted therefrom, to no more than an exercise in frivolity, and constituted bad-faith bargaining.⁹

We agree with this conclusion of the Trial Examiner,¹⁰ and with the opinion of the court above, that Respondent, "by withholding information of its intention to terminate the Bleeker Street Operations, deterred the Union from bargaining over the effect of the shut-down on the employees."¹¹ The so-called bargaining which took place between April 30 and May 23 was in reality no bargaining at all. The subject of the effects of a closing upon the employees of the plant was not discussed, for the Union had no knowledge that any closing was planned. Indeed, Business Agent Scheuermann testified that the Union did not seek, among other things, a provision for severance pay in the 1963 negotiations, because "There was no reason [known to the Union] for it."

⁸ During cross examination, Barile admitted that, at the time of these conversations with the Union concerning the future of the Bleeker Street plant and the employees there, he felt that he had no duty or obligation to discuss these matters with the Union. He added that, "I feel that way today, too."

⁹ 148 NLRB at 556. See also *Standard Handkerchief Co., Inc.*, 151 NLRB 15.

¹⁰ In our prior Decisions in this case, we accepted these findings of the Trial Examiner and concluded, as noted by the court, that Respondent was guilty of an unfair labor practice, based on its unilateral decision to close the Bleeker Street plant and its failure to bargain about the effects of that closing.

¹¹ 350 F.2d at 196.

The Board and the courts have held on numerous occasions that an employer violates Section 8(a) (5) when it conceals from the bargaining representative of its employees its intention with respect to its future operations.¹² In a recent case¹³ involving the related issue of an employer's misrepresentation of the existence of certain job classifications, the United States Court of Appeals for the Seventh Circuit affirmed the Board's finding of an unlawful refusal to bargain, and, in a description appropriate to the circumstances present herein, stated in part:

An employer is not, and may not be, required to yield on positions fairly maintained, but it may not use those positions as a "cloak" behind which to conceal a purposeful strategy to give the union a "runaround while purporting to be meeting with the union for the purpose of collective bargaining." *N.L.R.B. v. Herman Sausage Co.*, 275 F.2d 229, 232 (C.A. 5); *N.L.R.B. v. Southwestern Porcelain Steel Corp.*, 317 F.2d 527 (C.A. 10).

On the record before us, we find that Respondent concealed from the Union during the 1963 bargaining negotiations its intention to close the Bleeker Street plant, thereby preventing the Union from bargaining over the effects of such closing on the employees. We further find that there is nothing in the record concerning events on and after June 14 which would warrant a different conclusion with respect to the unlawful nature of Respondent's failure to give the Union notice of its intention to terminate the Bleeker Street operation and to afford the Union an opportunity to bargain about the effects of the termination of operations on employees. First, when Respondent did advise the Union on that date of the sale of the property and the imminent closing of the plant, the Union was handed what the Trial Examiner accurately called a *fait accompli*. Moreover, when the Union attempted to pursue the matter with Barile at that time, Barile stated that no one could help him and that there was "nothing that could be discussed" with respect to the closing.

The Union's attempts, during the 2-week period preceding the June 14 meeting, to learn from Barile the actual situation at the

¹² *Standard Handkerchief Co., Inc.*, *supra*; *Sidele Fashions, Inc.* [Philadelphia Dress Joint Board, Garment Workers'], 133 NLRB 547, 553-554, *enfd.* 305 F.2d 825 (C.A. 3); *Quality Coal Corporation*, 139 NLRB 492, 494, *enfd.* in pertinent part 319 F.2d 428 (C.A. 7), *enfd.* in full *sub nom N.L.R.B. v. International Union, Progressive Mine Workers of America*, 375 U.S. 396; *Aluminum Tubular Corporation*, 130 NLRB 1306, *enfd.* in pertinent part 299 F.2d 595 (C.A. 2); *Rapid Bindery, Inc.*, 127 NLRB 212, *enfd.* 293 F.2d 170 (C.A. 2); *Vac-Art, Inc.*, 124 NLRB 989, 997-998; *Mount Hope Finishing Company*, 106 NLRB 480, 496, reversed on other grounds, 211 F.2d 365 (C.A. 4); *Brown Truck and Trailer Manufacturing Company, Inc.*, 106 NLRB 999, 1000-02; *Eva-Ray Dress Manufacturing Company, Inc.*, 88 NLRB 361, 362, *enfd.* 191 F.2d 850 (C.A. 5); *Howard Rome, d/b/a Rome Products Company*, 77 NLRB 1217, 1220.

¹³ *N.L.R.B. v. My Store, Inc.*, 345 F.2d 494, 498 (C.A. 7), *enfg.* 147 NLRB 145, cert. denied 382 U.S. 927.

Bleeker Street plant, and the latter's evasions of those inquiries, reveal still further the futility of any additional attempts by the Union to pursue the matter after that date. As noted above, when Scheuermann first asked Barile on June 1 about the reasons for layoffs at the plant, Barile replied that he was merely liquidating and was not closing down. At the next meeting on this subject, on June 5, Barile repeated that, "I am not closing down. I am just liquidating." Scheuermann testified that he found this "a very confusing setup, but that is the answers I got from Mr. Barile." Finally, when the sale and closing were revealed to the Union on June 14, Scheuermann asked Barile why he was laying people off and closing down. According to Scheuermann, Barile said that "I can sell my plant. This is America." But no definite answers were given to me outside that remark." Scheuermann added that Barile "did not seem to be in a discussing mood." And, as previously indicated, Barile admitted at the hearing that he felt that he had "no duty or obligation" to discuss the situation with the Union.¹⁴

In view of the foregoing, although the Union made no specific request to bargain about the effects of the closing at the June 14 meeting or thereafter, we find that it sufficiently evidenced its desire to so bargain and that Barile's conduct effectively foreclosed any such bargaining. Moreover, it is understandable that the Union would have concluded that it would have been fruitless for it to continue to seek such bargaining with Barile; a conclusion we find reasonable under the circumstances set forth above. Particularly is that so when the Union had been deprived, by Respondent's course of concealment, of its effective opportunity for bargaining during the negotiations completed only 3 weeks earlier, and again during the discussions with Barile between June 1 and 14.

On the basis of the foregoing, and independent of our previous finding with respect to the decision to terminate the Bleeker Street operation, we find that Respondent, by concealing the decision to terminate operations at that plant until after negotiations had been completed and agreement had been reached with the Union on future terms and conditions of employment, until after Respondent had commenced curtailing its operations and laying off employees, and until the very day it closed its doors, prevented the Union from

¹⁴ Footnote 8, *supra*. In addition to the admissions of Barile and the credited testimony of Scheuermann concerning the June 14 discussion, the failure of Respondent to meet its statutory obligation with respect to bargaining about the effects on employees of the sale of the Bleeker Street plant is pointed up by contrast with its conduct concerning the shutdown of the Sussex Avenue plant some 2 months later. Several days prior to the later shutdown, Respondent addressed a letter to the Union advising it of the closing of the plant and offering to discuss the same. The record is devoid of any such expression of willingness on the part of the Respondent concerning the Bleeker Street operation here in issue.

engaging in realistic bargaining concerning the effects on employees of the decision to terminate those operations.

Accordingly, we find that Respondent refused to bargain with the Union over the effects of the closing of its Bleeker Street plant, in violation of Section 8(a)(5) and (1) of the Act.

THE REMEDY

In the Board's original Decision, it was determined that, in order to effectuate the policies of the Act, it was necessary to order Respondent, *inter alia*, to make the employees of the Bleeker Street plant whole for any loss of pay suffered by reason of the unfair labor practices by paying each of them a sum of money equal to the amount he would have earned as wages from the date of his termination of employment to the time he secured equivalent employment elsewhere, but in no event later than December 4, 1963, the date Respondent was required to vacate the Bleeker Street premises under its agreement of sale with the Housing Authority of the City of Newark. In the first Supplemental Decision, the order was amended to terminate Respondent's backpay liability on August 31, 1963, the date it went out of business entirely by closing the Sussex Avenue plant.

In its opinion, the court suggested that, under all relevant circumstances of the case, a remedial order might not be required to effectuate the purposes of the Act, even if a "technical violation" of the Act were found, citing *New York Mirror, Division of the Hearst Corporation*, 151 NLRB 834.¹⁵

We note at the outset that, in view of the findings made above, Respondent's unlawful refusal to bargain over the effects of the closing of its Bleeker Street plant may not accurately be described as merely a technical violation. To the contrary, the refusal of Respondent to bargain, as required by the Act, over the effects of the closing of the Bleeker Street plant has resulted in the deprivation of all economic protection for the 75-80 former employees of that plant. Moreover, a comparison with the Board's decision in the *New York Mirror* case emphasizes the difference between that situation and the instant one, and illustrates the need for a meaningful remedial order herein. In *New York Mirror*, "The sale and total cessation of the Mirror's operations . . . permanently abolished all unit jobs formerly held by employees represented by the Unions, and restoration thereof and reinstatement of the employees with the Unions as their recognized bargaining representatives are not sought by any party."¹⁶ In the instant case, as found by the Board and the court, the sale of

¹⁵ 350 F 2d at 197

¹⁶ 151 NLRB 834, 841.

the Bleeker Street property and the cessation of Respondent's operations there did not eliminate all unit jobs, inasmuch as the Sussex Avenue plant continued in operation at that time. Second, and most significantly, the parties in *New York Mirror* specifically "had reached contractual settlement of the employees' severance pay and termination rights in the event of abolishment of unit jobs."¹⁷ Here, however, Barile's deception, discussed above, prevented discussion of those matters precisely at the time when invocation and utilization of the practices and procedures of collective bargaining would have been most likely to result in contractual settlement of the effects of termination on the employees of the Bleeker Street plant. Finally, in *New York Mirror*, "the Respondent continued the bargaining relationship after the shutdown by meeting and negotiating with the Unions whenever requested."¹⁸ But, in the instant case, Barile abruptly rebuffed the Union's attempt to discuss the effects of the shutdown when he apprised union representatives of the sale on June 14, after misleading them as to his plans for some time prior to that date. We think that these differences between the two cases, particularly as they relate specifically to the question of whether there had been opportunity for bargaining, or actual bargaining on the effects of the shutdown on the employees, are critical and that, contrary to our decision in the *New York Mirror* case, a remedial order is both warranted and required herein.

As we stated in our initial decision, "In fashioning remedies the Board must bear in mind that the remedy should 'be adapted to the situation that calls for redress,' with a view toward 'restoring the situation as nearly as possible, to that which would have obtained but for [the unfair labor practice].'"¹⁹

It is essential, of course, that Respondent be required to bargain, upon request, about the effects of the closing on the Bleeker Street plant employees. Under the present circumstances, however, a bargaining order, alone, cannot serve as an adequate remedy for the unfair labor practices committed. The Act requires more than *pro forma* bargaining, but *pro forma* bargaining is all that is likely to result unless the Union can now bargain under conditions essentially similar to those that would have obtained, had Respondent bargained at the time the Act required it to do so. If the Union must bargain devoid of all economic strength, we would perpetuate the situation created by Respondent's deliberate concealment of relevant facts from the Union which prevented the Union from meaningful bargaining.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ 148 NLRB at 548-549, quoting from *NLRB v. Mackay Radio & Telegraph Co.*, 304 U.S. 333, and *Phelps Dodge Corp. v. N.L.R.B.*, 313 U.S. 177, 194.

We cannot assure such meaningful bargaining without first restoring some measure of economic strength to the Union, since the Respondent should have bargained when it was still in need of its employees' services.

In order to recreate as nearly as possible the economic situation that would have prevailed if the Respondent had not refused to perform its bargaining obligations in 1963, and in order to effectuate the policies of the Act in the labor dispute before us, it is our considered judgment that Respondent should be ordered to pay its Bleeker Street employees amounts at the rate of their normal wages when last in Respondent's employ, from the date of this Supplemental Decision until the occurrence of the earliest of the following conditions: (1) The date Respondent bargains to agreement with the Union on those subjects pertaining to the effects of the closing on employees of the Bleeker Street plant; (2) A bona fide impasse in bargaining; (3) The failure of the Union to request bargaining within 5 days of this Supplemental Decision, or to commence negotiations within 5 days of the receipt of Respondent's notice of its desire to bargain with the Union; or (4) The subsequent failure of the Union to bargain in good faith; but in no event shall the sum paid to any employee exceed the amount he would have earned as wages from June 14, the date on which Respondent terminated the Bleeker Street operations, to the time he secured equivalent employment elsewhere, or August 31, whichever occurred sooner.²⁰

We believe that the limited wage payment period specified above, which cannot be protracted by the Union through dilatory bargaining practices, assures a remedial order which is tailored to the needs of the situation presented and does not impose an undue or unfair burden upon the Respondent. In these circumstances, the imposition of a wage payment requirement in the present context is well within the bounds of administrative discretion, as interpreted by the United States Supreme Court. In the *Fibreboard* case,²¹ the Court upheld the Board's order requiring the employer, *inter alia*, to resume its subcontracted maintenance operation and to reinstate the affected employees with backpay. In affirming the more sweeping order in that case, the Court stated that:

There has been no showing that the Board's order restoring the *status quo ante* to insure meaningful bargaining is not well designed to promote the policies of the Act. Nor is there evidence

²⁰ See, in this regard, *Winn-Dixie Stores, Inc.*, 147 NLRB 788, 791-792, *aff'd* in pertinent part 361 F.2d 512 (C.A. 5, May 19, 1965).

Nothing stated herein shall be construed as precluding the parties from agreeing, or Respondent from urging in good faith, that the amounts which may accrue to employees under the terms of our order be deducted from such monetary amounts as the parties may agree are to be paid employees.

²¹ *Fibreboard Paper Products Corp. v. N.L.R.B.*, 379 U.S. 203.

which would justify distributing the Board's conclusion that the order would not impose an undue or unfair burden upon the Employer.²²

Here, though our order does not require restoration of the *status quo ante*, it is designed to insure meaningful bargaining without disturbing the present economic posture of all concerned. In our view, this order contains the minimum requirement necessary to assure the statutory bargaining which has been delayed until now by Respondent's earlier unlawful course of conduct.

Still another consideration supports the order set forth herein. It is appropriate to presume, as in *Winn-Dixie, supra*, that the employees would have retained their jobs at least until Respondent had fulfilled its bargaining obligation with respect to subjects pertaining to the effects of the closing, either by reaching agreement or by negotiating to a genuine impasse. Particularly is this so since the parties had been engaged in negotiations before the shutdown, and Respondent retained the right to remain on the premises beyond the June 14 closing. Of course, had Barile notified the Union of his decision to close the Bleeker Street operation when the parties began negotiations for a new contract on April 30, the negotiations might well have concluded at the time they did, with no losses suffered by the employees. Barile, however, waited until June 14 to notify the Union that he was terminating operations at the plant, thereby foreclosing the employees from engaging in meaningful collective bargaining in support of their economic demands for severance and other benefits. Under these circumstances, we think it both reasonable and necessary to require that "the employees whose statutory rights were invaded by reason of Respondent's unlawful . . . action, and who may have suffered losses in consequence thereof, be reimbursed for such losses until such time as the Respondent remedies its violation by doing what it should have done in the first place."²³ In any event, we believe that an order embodying the remedy described above is the most appropriate means of insuring that Respondent engage in meaningful good-faith bargaining as required by the Act.

For all of the foregoing reasons, as well as those stated in its prior decisions in this case, the Board adopts as its Order its previously amended Order,²⁴ as modified herein and set forth below in its entirety.

²² *Id.*, 216. In reaching its conclusion, the Court quoted with approval its language in *Virginia Electric and Power Company v. N.L.R.B.*, 319 U.S. 533, 540, that the Board's orders are not to be disturbed "unless it can be shown that the order is a patent attempt to achieve ends other than those which can fairly be said to effectuate the policies of the Act."

See also *Town & Country Manufacturing Company, Inc. v. N.L.R.B.*, 136 NLRB 1022, 1030-31, enf'd 316 F.2d 846 (C.A. 5).

²³ *Winn-Dixie, supra*, 792.

²⁴ 148 NLRB 545 and 152 NLRB 619, *supra*.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Royal Plating and Polishing Co., Inc., Newark, New Jersey, its officers, agents, successors, and assigns, shall:

1. Cease and desist from refusing to bargain with Metal Polishers, Buffers, Platers and Helpers International Union, Local 44, AFL-CIO, with respect to the effects on employees of its decision to sell the Bleeker Street plant.

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

(a) Pay the employees of the Bleeker Street plant their normal wages for the period set forth in the section of this Decision entitled "The Remedy."

(b) Upon request, bargain collectively with Metal Polishers, Buffers, Platers, and Helpers International Union, Local 44, AFL-CIO, with respect to the effects on its employees of its decision to close its Bleeker Street plant, and reduce to writing any agreement reached as a result of such bargaining.

(c) Preserve and, upon request, make available to the National Labor Relations Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary or useful in checking compliance with this Order.

(d) Mail an exact copy of the attached notice marked "Appendix," to Metal Polishers, Buffers, Platers, and Helpers International Union, Local 44, AFL-CIO, and to all employees of the Bleeker Street plant. Copies of said notice, to be furnished by the Regional Director for Region 22 of the Board (Newark, New Jersey), after being signed by its authorized representative, shall be mailed immediately upon receipt thereof, as herein directed.

(e) Notify the aforesaid Regional Director, in writing, within 10 days from the date of this Order, what steps have been taken to comply herewith.

MEMBER JENKINS took no part in the above Second Supplemental Decision and Order.

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify you that:

WE WILL, upon request, bargain collectively with Metal Polishers, Buffers, Platers and Helpers International Union, Local

44, AFL-CIO, with respect to the effects on our employees of our decision to close the Bleeker Street plant, and reduce to writing any agreement reached as a result of such bargaining.

WE WILL pay the employees of the Bleeker Street plant their normal wages for the period required by a Decision and Order of the National Labor Relations Board.

ROYAL PLATING AND POLISHING CO., INC.,
Employer.

Dated _____ By _____
(Representative) (Title)

Employees may communicate directly with the Board's Regional Office, 614 National Newark Building, 744 Broad Street, Newark, New Jersey 07102, Telephone Market 4-6151, if they have any question concerning this notice or compliance with its provisions.

Zoe Chemical Co., Inc. and Margaret Weber, Esther Hay, Florence Gagan, Mary Di Guiseppe, Madeline Gioletti, Margaret Pisarra, Elizabeth Enzman, Helen Sujkowski, Rose De Giacomo, Julia Struffolino, Mary Fink, Ana Bustos and Local 803, Allied Aluminum and Industrial Union, Party to the Contract

Local 803, Allied Aluminum and Industrial Union (Zoe Chemical Co., Inc.) and Mary Di Guiseppe, Madeline Gioletti, Elizabeth Enzman, Rose De Giacomo, Julia Struffolino, Margaret Pisarra, Esther Hay, Margaret Weber, Florence Gagan, Helen Sujkowski, and Zoe Chemical Co., Inc., Party to the Contract. Cases 29-CA-39-1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, 29-CB-16-1, 2, 3, 4, 5, 6, 7, 8, 9, and 10. September 9, 1966

DECISION AND ORDER

On September 30, 1964, Trial Examiner Samuel M. Singer issued his Decision in the above-entitled proceeding, finding that Respondent, Zoe Chemical Co., Inc., had not violated Section 8(a) (1) and (3) of the National Labor Relations Act, as amended, and Respondent, Local 803, Allied Aluminum and Industrial Union, had not violated Section 8(b) (1) (A) and (2) of the Act, and he therefore recommended dismissal of the complaint, as set forth in the attached Trial Examiner's Decision. The Charging Parties filed exceptions to the Trial Examiner's Decision and the General Counsel also filed exceptions to the Decision and brief in support thereof.

On June 22, 1965, the National Labor Relations Board ordered that the proceeding be remanded to the Trial Examiner for the purpose
160 NLRB No. 76.