to insure that such notices are not altered, defaced, or covered by an other material.

(b) Sign and mail copies of said notice to the Regional Director for Region 6 for posting by Allegheny Airlines, Inc., if willing, at its facility located at the Greater Pittsburgh Airport.

(c) Notify the Regional Director for Region 6, in writing, within 20 days from date of the receipt of this Decision, what steps Respondent has taken to comply herewith.[11]

[11] In the event that this Recommended Order is adopted by the Board, this provision shall be modified to read: "Notify the Regional Director for Region 6, in writing, within 10 days from the date of this Order, what steps Respondent has taken to comply herewith."

APPENDIX

NOTICE TO ALL MEMBERS OF BUILDING SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL NO. 29, AFL–CIO, AND TO ALLEGHENY AIRLINES, INC.

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, as amended, we hereby notify you that:

WE WILL NOT threaten, restrain, or coerce Allegheny Airlines, Inc., or any other employer or person engaged in commerce or in an industry affecting commerce, where an object thereof is to force or require them to cease doing business with Columbus Services of Pittsburgh, Inc.

BUILDING SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL NO. 29, AFL–CIO
(Labor Organization)

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.

If members have any question concerning this notice or complaince with its provisions, they may communicate directly with the Board's Regional Office, 1536 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, Telephone 644–2977.

Pinkerton's Inc. *and* International Union, United Plant Guard Workers of America.
Case 25–CA–2602.

April 10, 1967

DECISION AND ORDER

BY CHAIRMAN MCCULLOCH AND MEMBERS BROWN AND JENKINS

Upon a charge filed by International Union, United Plant Guard Workers of America, herein called the Union, the General Counsel for the National Labor Relations Board, by the Regional Director for Region 25, issued a complaint dated September 22, 1966,[1] against Pinkerton's Inc., herein called the Respondent, alleging that the Respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge, the complaint, and notice of hearing before a Trial Examiner were duly served upon the Respondent and the Union.

With respect to unfair labor practices, the complaint alleges, in substance, that on or about June 16, the Union was duly certified as the exclusive bargaining representative of the Respondent's employees in the unit found appropriate,[2] and that since on or about July 20 the Respondent has refused and is refusing to recognize and bargain with the Union as such exclusive bargaining representative, although the Union has requested it to do so.

On October 26 the Respondent, Union, and General Counsel submitted a "Stipulation of Facts." On the same date all the parties petitioned the Board to transfer the proceedings to the Board. The parties agree that the charge, complaint and notice of hearing, answer, and the "Stipulation of Facts" constitute the entire record in the case, and that no oral testimony is necessary. The parties further stipulate that they waive a hearing before a Trial Examiner, the making of findings of fact and conclusions of law by a Trial Examiner, and the issuance of a Trial Examiner's decision.

On October 31, 1966, the Board issued an Order transferring the case to the Board and permitting the parties to file briefs. Thereafter, a brief was filed by the Respondent.

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

Upon the entire record in this case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The Respondent admits and we find that it is and has been at all times material herein a corporation duly organized under, and existing by virtue of, the laws of the State of Delaware, maintaining its principal office and place of business in New York and various other facilities in the State of Indiana and in other States of the United States. Respondent is, and has been at all times material herein,

[1] Unless otherwise noted, all dates are in 1966.

[2] Supplemental Decision and Certification of Representative in Case 25–RC–3100.

continuously engaged at said facilities in the business of providing guards, detectives, protection personnel, and related services.

During the past year, Respondent, in the course and conduct of its business operations, performed services valued in excess of $50,000 in States other than New York wherein Respondent's principal office headquarters is located. Respondent also performed services in excess of $50,000 in furtherance of the national defense.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

The Union is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

A. *The Representation Proceeding*

1. The unit

At all times material herein, the following employees of Respondent constituted and do now constitute a unit appropriate for collective bargaining within the meaning of the Act:

All full-time and regular part-time guards, patrolmen, and watchmen employed by the Employer in the cities of Kokomo and Peru, Indiana, including sergeants, but excluding office clerical employees, professional employees, lieutenants, and supervisors as defined in the Act, and all other employees.[3]

2. The certification

On or about April 20, 1966, a majority of the employees of the Respondent in the unit described above, in a secret-ballot election conducted under the supervision of the Regional Director for Region 25, designated the Union as their representative for the purpose of collective bargaining, and, on or about June 16, 1966, the Board certified the Union as the exclusive bargaining representative of employees in the said unit. In addition the Board overruled Employer's objections to the conduct of the election.

B. *The Request to Bargain and the Respondent's Refusal*

On or about June 24, 1966, and continuing to date, and more particularly on June 24 and August 8, the Union requested the Respondent to bargain collectively with it as the exclusive bargaining representative of all employees in the above-described unit. Commencing on or about July 20, and continuing to date, and more particularly on July 20 and August 10, the Respondent did refuse and continues to refuse to bargain collectively with the Union as the exclusive bargaining representative of all employees in the said unit.

Accordingly, we find that the Union was duly certified by the Board as the collective-bargaining representative of the Respondent's employees in the appropriate unit described above, and that the Union at all times since June 16, 1966, has been and now is the exclusive bargaining representative of all the employees in the aforesaid unit, within the meaning of Section 9(a) of the Act, and that Respondent has, since July 20, 1966, refused to bargain collectively with the Union as the exclusive bargaining representative of its employees in the appropriate unit. By such refusal, we hold that the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICE UPON COMMERCE

The acts of the Respondent, set forth in section III, above, occurring in connection with its operations as 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. REMEDY

Having found that the Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act, we shall order that it cease and desist therefrom, and, upon request, bargain collectively with the Union as the exclusive representative of all employees in the appropriate unit, and, if an understanding is reached, embody such understanding in a signed agreement.

As the employees do not work at plants owned by Respondent, the customary posting of notices by Respondent would not be adequate notice to its employees. The Respondent shall also be required, therefore, to mail a copy of the attached notice to each employee on Respondent's payroll in the cities of Kokomo and Peru, Indiana, at his or her last known address, as disclosed by Respondent's records, or as may be amplified by the Union.[4]

[3] The Employer contends that the present case should be governed by earlier decisions in which it was involved, i e , Case 35-RC-1516 and 25-RC-1945 In those cases it was found that only a branchwide unit was appropriate The Regional Director notes in detail the reasons which account for finding appropriate a smaller unit in this case. We agree with the Regional Director's reasoning

[4] *Standard Handkerchief Co.*, 151 NLRB 15, 20

CONCLUSIONS OF LAW

1. Pinkerton's Inc. is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. International Union, United Plant Guard Workers of America, is a labor organization within the meaning of Section 2(5) of the Act.

3. All full-time and regular part-time guards, patrolmen, and watchmen employed by the Employer in the cities of Kokomo and Peru, Indiana, including sergeants, but excluding office clerical employees, professional employees, lieutenants, and supervisors as defined in the Act, and all other employees, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

4. On June 16, 1966, and at all times thereafter, the above-named labor organization has been and is the certified and exclusive representative of all employees in the aforesaid appropriate unit for the purposes of collective bargaining within the meaning of Section 9(a) of the Act.

5. By refusing on or about July 20, 1966, and continuing to date, and more particularly on July 20 and August 10, to bargain collectively with the above-named labor organization as the exclusive bargaining unit, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

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

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Pinkerton's Inc., Indianapolis, Indiana, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively concerning wages, hours, and other terms and conditions of employment, with International Union, United Plant Guard Workers of America, as the exclusive and duly certified bargaining representative of its employees in the following appropriate unit:

All full-time and regular part-time guards, patrolmen, and watchmen employed by the Employer in the cities of Kokomo and Peru, Indiana, including sergeants, but excluding office clerical employees, professional employees, lieutenants, and supervisors as defined in the Act, and all other employees.

(b) In any like or related manner, interfering with the right of the above-named labor organization to bargain as the exclusive representative of the employees in the aforesaid appropriate unit.

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

(a) Upon request, bargain with the above-named labor organization as the exclusive representative of all employees in the aforesaid appropriate unit with respect to rates of pay, wages, hours, and other terms and conditions of employment, and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Forthwith, mail to the last known address of each employee on its payroll in the cities of Kokomo and Peru, Indiana, a copy of the attached notice marked "Appendix."[5] The copies to be so mailed shall be those furnished for the purpose by the Regional Director for Region 25 of the Board (Indianapolis, Indiana), and shall be duly signed by an authorized representative of Respondent. Additional copies shall be posted by it and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify said Regional Director for Region 25, in writing, within 10 days from the date of this Decision and Order, what steps have been taken to comply herewith.

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[5] In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "a Decision and Order" the words "a Decree of the United States Court of Appeals Enforcing an 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 our employees that:

WE WILL NOT refuse to bargain collectively with International Union, United Plant Guard Workers of America, as the exclusive representative of the employees in the bargaining unit described below.

WE WILL NOT in any like or related manner interfere with the right of the above-named labor organization to bargain as the exclusive representative of the employees in the appropriate unit.

WE WILL, upon request, bargain with the above-named Union as the exclusive representative of all employees in the bargaining unit described below with respect to wages, hours, and other terms and conditions of employment, and, if an understanding is reached, embody such understanding in a signed agreement.

The bargaining unit is:

All full-time and regular part-time guards, patrolmen, and watchmen employed by the

Employer in the cities of Kokomo and Peru, Indiana, including sergeants, but excluding office clerical employees, professional employees, lieutenants, and supervisors as defined in the Act, and all other employees.

PINKERTON'S 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, Sixth Floor, ISTA Center, 150 West Market Street, Indianapolis, Indiana 46204, Telephone MElrose 3-8921.

Formfit-Rogers Company *and* International Ladies Garment Workers Union, AFL-CIO, Petitioner. Case 38-RC-303.

April 10, 1967

DECISION, ORDER, AND DIRECTION OF SECOND ELECTION

BY MEMBERS BROWN, JENKINS, AND ZAGORIA

Pursuant to a Stipulation for Certification upon Consent Election executed by the parties and approved by the Regional Director for Region 13 on December 2, 1966, an election by secret ballot was conducted on December 21, 1966, under his direction, among employees in the stipulated unit. At the conclusion of the election, the parties were furnished with a tally of ballots which showed that, of approximately 252 eligible voters, 243 cast ballots, of which 98 were for the Petitioner, 135 were cast against the Petitioner, and 10 ballots were challenged. Thereafter, the Petitioner filed timely objections to conduct affecting the results of the election.

In accordance with the National Labor Relations Board's Rules and Regulations, Series 8, as amended, the Regional Director conducted an investigation and, on January 19, 1967, issued and duly served upon the parties his report on objections, in which he recommended that the election be set aside and a new election directed. Thereafter, the Employer filed timely exceptions to the Regional Director's report.[1]

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

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The Petitioner is a labor organization claiming to represent certain employees of the Employer.

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

4. We find, in accord with the agreement of the parties, that the following employees at the Employer's Monmouth, Illinois, plant, constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.

> All production and maintenance employees at the Company's plant in Monmouth, Illinois, including floorgirls, but excluding office clerical employees, professional employees, guards, cafeteria workers, and supervisors, as defined in the Act.

5. The Regional Director in his report of January 19, 1967, recommended that the election held on December 21, 1966, be set aside and a new election directed because the Employer had refused to furnish a list of employees' names and addresses as required pursuant to the rules established in *Excelsior Underwear Inc.*, 156 NLRB 1236. In its exceptions, the Employer contends, in effect, that the *Excelsior* rule is invalid as it exceeds the powers conferred upon the Board by the National Labor Relations Act. Respondent further contends that the Employer notified the Board's Regional Office orally and in writing prior to Employer's signing Stipulation for Certification upon Consent Election: (1) the *Excelsior* requirement was not considered by the Employer as part of the stipulation; (2) it would not furnish the *Excelsior* list; and (3) the Employer would only enter in the stipulation with this understanding. Accordingly, the Employer urges that this notification effectively modified and revised the stipulation and eliminated the *Excelsior* requirement therefrom; thus, Employer contends the *Excelsior* requirement was completely abrogated and superseded by the Employer's revisions. In addition, the Employer contends that, in view of its written and oral statements as to its position regarding the *Excelsior* rule, the duty then devolved upon the Petitioner to refuse to execute the stipulation and it was the duty of the Regional

[1] The Employer also submitted with its exceptions copies of correspondence between its attorneys and Board agents. This correspondence, which was concurrent with and prior to the execution of the Stipulation for Consent Election, sets forth, *inter alia*, the Employer's refusal to comply with the *Excelsior* rule and the reasons therefor

The Regional Director, on February 20, 1967, issued a Supplemental Report on Objections for the purpose of furnishing to the Board copies of the preelection correspondence between Board agents and the Employer so that the Board would be fully apprised of the factual basis underlying the original report of January 19, 1967