

Aluminum Workers Trades Council and International Brotherhood of Electrical Workers, Local No. 768, AFL-CIO and Melvin C. Fairbanks. Case 19-CB-1423

August 25, 1970

DECISION AND ORDER

BY MEMBERS MCCULLOCH, BROWN, AND JENKINS

On January 8, 1970, Trial Examiner Benjamin B. Lipton issued his Decision in the above-entitled proceeding, finding that the Respondents, Aluminum Workers Trades Council¹ and International Brotherhood of Electrical Workers, Local No. 768, AFL-CIO,² had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the attached Trial Examiner's Decision. Thereafter, the Respondents filed exceptions to the Trial Examiner's Decision with briefs in support thereof. The General Counsel filed cross-exceptions with a brief in support thereof and in opposition to Respondents' exceptions.

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.

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 exceptions and briefs, and the entire record in this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner only to the extent consistent herewith.

The Trial Examiner found that the Respondents violated Section 8(b)(1)(A) of the Act by threatening and attempting to cause Anaconda Aluminum Company (herein called Anaconda or the Employer) to discharge Melvin C. Fairbanks under an existing union-security agreement for reasons other than his failure to tender the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the Council. We disagree.

The facts are not substantially in dispute and are fully described in the Trial Examiner's Decision. The Respondent Council is composed of 11 constituent

local unions, including the Respondent Local 768 and Aluminum Workers Local 320 (herein called Local 320). It is, and since 1955 has been, the certified bargaining representative of all Anaconda's production and maintenance employees with a contract containing a union-security provision requiring membership in the Council as a condition of employment.³

Melvin C. Fairbanks, the Charging Party, was hired by Anaconda as a "pouurer" in 1955, at which time he became a member of Local 320⁴ and executed a dues check-off authorization. On August 11, 1967, he transferred, at his own request, to a position in the electrical department classified as "substation attendant." Shortly thereafter, Fairbanks requested a membership application card from Local 768 and was advised by its shop steward that he would have to pay the full initiation fee provided in the bylaws⁵ for his job classification.⁶ Fairbanks submitted his application on October 6 and, on October 12, 1967, was accepted into membership by Local 768 upon payment of \$10. On November 11, 1967, Fairbanks was promoted to substation operator, a normal progression from substation attendant.⁷ The job of substation operator is a "journeyman" position and, for purposes of the Local 768 dues and admissions fee schedules, is thus subject to the higher admissions fee listed for that category rather than falling within "other classifications" paying lower rates.

³ The union-security clause itself is not in dispute and is fully cited in the Trial Examiner's Decision

Membership in the Council, as provided in its constitution and bylaws, consists of all employees in the certified unit who are members in good standing "of the appropriate member Local." The Council's constitution and bylaws do not spell out the manner of determining what is "the appropriate member Local" and, according to the record, this determination is traditionally and in practice made by the individual employee himself on the basis of the work he performs. The question of what constitutes "membership in good standing" is determined by each of the constituent local unions in accordance with its constitution and bylaws

Except for a uniform monthly "per capita tax" which all members must pay, the Council does not prescribe the amount of dues and initiation fees which its constituent locals may charge. Nor does its constitution and bylaws state any policy as to whether the locals may require additional fees of employees who transfer from one constituent local to another upon changing jobs within the bargaining unit. The record shows that at least one constituent local other than 320 and 768 charges a reduced initiation fee in such circumstances

⁴ As a "charter member" Fairbanks did not pay any initiation fee to Local 320

⁵ The bylaws of Respondent Local 768 provide for escalating "admissions fee" and dues schedules based upon the employee's job classification. The schedule of admissions fees ranges from \$10 (for clerical employees and "other classifications") to \$62.50 for the "journeyman" classification. A copy of the Local 768 constitution and bylaws was posted on the bulletin board at the substation

⁶ Since the classification of "substation attendant" was not listed in the admissions fee schedule, the Local 768 steward advised Fairbanks that he would have to pay the \$10 fee specified under the general category of "other classifications"

⁷ According to Fairbanks' uncontradicted testimony, the job of substation attendant is a trainee position from which employees advance to substation operator and substation chief operator

¹ Herein called the Council

² Herein called Local 768

Therefore, shortly after his promotion, Fairbanks executed a new check-off authorization,⁸ increasing the amount of his regular dues deductions from \$4.15 to \$7.05, the sum specified for "journeyman." In January or February 1968, Local 768 demanded that Fairbanks pay an additional sum of \$52.50 to meet the full initiation fee obligation of \$62.50 as provided in the bylaws for journeyman positions. Fairbanks refused to pay this additional amount. More than a year later, on March 19, 1969, Respondent Local 768 wrote separate letters to Fairbanks⁹ and to the Council advising that Fairbanks was no longer a member in good standing with Local 768 and had, in fact, been dropped from membership for failure to pay his initiation fee as required by the Local's bylaws.¹⁰ Local 768 therefore requested that the Council, pursuant to its bylaws, also suspend Fairbanks from membership, and that "the Company be notified of this action and that Brother Fairbanks be terminated from his employment" under the union-security agreement. By letter of April 21, 1969, the Respondent Council gave Fairbanks 15 days in which to pay all back dues and initiation fees to Local 768, advising that his failure to do so ". . . will result in your discharge from employment with Anaconda . . . pursuant to Articles [sic] 3 Section 2 of the current Collective Bargaining Agreement."¹¹ On April 22, 1969, Fairbanks mailed to Local 768 his check for \$52.50, plus the three checks for dues, which previously had been refunded to him. Fairbanks was thereupon restored to membership in good standing.

The basic issue presented is whether, under the provisions of Section 8(a)(3) and (b)(2) of the Act, a labor organization may lawfully require its members to make a further initiation fee payment upon their promotion from a lower to a higher paying job classification within the bargaining unit, and threaten to cause their discharge under a union-security agreement for failure to do so.¹² Section 8(a)(3) and (b)(2) of

the Act makes it an unfair labor practice for an employer to discriminate, and for a labor organization to cause or attempt to cause an employer so to discriminate, against an employee under a union-security agreement for nonmembership in the union if such membership was denied or terminated for reasons other than the employee's failure "to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership." The answer to the basic issue, therefore, depends on whether the sum of \$52.50 which Respondents required Fairbanks to pay on pain of discharge constituted "initiation fees" which are "uniformly required" within the meaning of Section 8(a)(3) and (b)(2) of the Act.

Based on the entire record, we find that the \$52.50 here involved was, in fact, intended by Respondents as an initiation fee.¹³ Specifically, it represented the difference between the \$10 initiation fee which Fairbanks paid on first joining Local 768 as a substation attendant and the initiation fee of \$62.50 prescribed in its bylaws for the classification of journeyman. The fact that the Local 768 established an escalating schedule of initiation fees is of itself not unlawful. The Board has long held, with court approval, that a labor organization holding a union-security agreement may lawfully charge, as a condition of acquiring or retaining membership, different rates for initiation fees and dues provided that they are based on a reasonable general classification; that is, one that is not discriminatory.¹⁴ Thus, dues based on the employees' earnings have been held to be nondiscriminatory.¹⁵ The rationale which permits labor organizations to charge different dues, based on reasonable and nondiscriminatory criteria, in our opinion applies equally to initiation fees. In the instant case it is neither contended nor established in the record that the criterion of job classifications for charging different initiation

⁸ Dues deducted pursuant to the check-off authorizations are transmitted by Anaconda to the Council. The latter, in turn, divides these dues among the several constituent local unions.

⁹ The letter to Fairbanks explained that his suspension from membership was "in accordance with Article XXII, Section 6 of the I B E W Constitution, which requires payment of initiation fees within 90 days, and Article XXIII, Section 3, which gives the Local Union the right to refuse dues . . . until full payment of all indebtedness." Enclosed in this letter was copy of the I B E W constitution, the Local 768 bylaws, and a copy of the letter sent to Respondent Council.

¹⁰ Because of Fairbanks' failure to pay the initiation fee, Local 768 refused to accept his dues, making him 3 months delinquent in dues payments.

¹¹ The Council's letter charged Fairbanks with failing to maintain his "membership in good standing in the appropriate Local Union" as required by the Council's constitution.

¹² The General Counsel contends that the basic and indispensable issue which must be decided is whether, under the union-security agreement, the Respondents could lawfully require Fairbanks to join Local 768 upon his transfer within the bargaining unit to the electrical depart-

ment. The Trial Examiner considered it unnecessary to decide that issue because he found, contrary to the General Counsel's contention, that Fairbanks had voluntarily applied for membership in Respondent Local 768 upon his transfer to the job of substation attendant and, therefore, had assumed the obligations of membership in that Local. We agree with the Trial Examiner and find no merit in the General Counsel's contention that Fairbanks' application for membership in Local 768 was not voluntary because Fairbanks took that step thinking he had to join that Local in order to work in the electrical department. Cf. *Ormet Corporation*, 151 NLRB 117, in which the employee's transfer of membership was clearly involuntary.

¹³ It is not contended, nor is there evidence in the record showing, that Local 768's charge of \$52.50 was a penalty, a fine, or some other assessment disguised as an initiation fee. See *Anaconda Copper Mining Company*, 110 NLRB 1925, 1926.

¹⁴ Cf., *Food Machinery and Chemical Corporation*, 99 NLRB 1430, 1433, *The Electric Auto-Light Company*, 92 NLRB 1073, 1077, enf'd 196 F.2d 500 (C.A. 6).

¹⁵ *Local 409, International Alliance of Theatrical Stage Employees and Motion Picture Machine Operators of the United States and Canada, AFL-CIO (RCA Service Company)*, 140 NLRB 759, fn 1.

fees was based on discriminatory considerations or was inherently unfair. Nor is it contended or established that the Local 768 initiation fee schedule was not "uniformly required" of all employees who progressed from lower to higher job classifications. Rather, the presumption that the initiation fee schedule was uniformly applied is buttressed by Fairbanks' testimony that he knew another employee who, upon promotion from substation attendant to operator, paid the additional sum of \$52.50 toward his new initiation fee obligation.

While we agree with the Trial Examiner that a labor organization which is party to a union-security contract must make perfectly clear to the employees what their initiation fee and dues obligations are, we disagree with his finding that, unlike its dues schedule, the bylaws of Local 768 failed clearly to specify the initiation fee obligation. For, both the dues and the initiation fee schedules are based on the same job classifications and were contained in the same copy of the bylaws posted on the bulletin board at the substation. Inasmuch as Fairbanks, upon his promotion to substation operator (a classification not expressly delineated in either the dues or the initiation fee schedule), obviously was aware of the higher dues which applied, since he voluntarily executed a new dues check-off authorization increasing his regular dues deductions to the amount specified under "journeyman" classification, he must, or should, also have been aware of the higher admissions fee schedule. Under all the circumstances, we are persuaded that Fairbanks was fully aware of his obligation in this respect.

In view of the foregoing, we conclude that Respondents did not violate Section 8(b)(1)(A) of the Act by threatening Fairbanks with discharge under the union-security agreement if he failed to pay his initiation fee.¹⁶ Accordingly, we shall dismiss the complaint herein in its entirety.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the complaint herein be, and it hereby is, dismissed in its entirety.

¹⁶ The fact that Respondents continued to accept dues from Fairbanks for a considerable period after Fairbanks became delinquent in his initiation fee obligation does not establish that the delinquency was condoned

TRIAL EXAMINER'S DECISION

STATEMENT OF THE CASE

BENJAMIN B. LIPTON, Trial Examiner: This proceeding was tried before me on October 21, 1969, in Kalispell, Montana, upon a complaint by the General Counsel of the Board,¹ alleging that the above-captioned Respondents violated Section 8(b)(1)(A) of the Act. At the hearing, all parties participated² and were afforded full opportunity to present relevant evidence, to examine and cross-examine witnesses, to argue orally on the record, and to file briefs. After the close, a brief was filed by General Counsel and by Respondent Local 768.

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

FINDINGS OF FACT

I. COMMERCE AND LABOR ORGANIZATIONS INVOLVED

Anaconda Aluminum Company, herein called the Employer or Anaconda, operates at Columbia Falls, Montana, an aluminum reduction plant (the sole facility involved herein), from which annually it has a direct outflow in interstate commerce valued in excess of \$50,000. Accordingly, Anaconda is an employer engaged in commerce within the meaning of the Act.

Aluminum Workers Trades Council of Columbia Falls, Montana, AFL-CIO, herein called Respondent Council, is organized to represent in a single labor organization all production and maintenance employees of Anaconda and is composed of 11 specific constituent local unions, including so far as pertinent, International Brotherhood of Electrical Workers, Local No. 768, AFL-CIO, herein called Respondent Local 768, and Aluminum Workers Local 320. It is admitted, and I find, that Respondent Council, Respondent Local 768, and Aluminum Workers Local 320 are labor organizations within the meaning of the Act.

II. THE UNFAIR LABOR PRACTICES

A. *Essential Issue*

Did Respondents restrain and coerce employees in violation of Section 8(b)(1)(A) by threatening and attempting to cause Anaconda, under a union-security contract (not as such in issue), to discharge Melvin C. Fairbanks because he failed to pay a further admission or initiation fee demanded of him when he was promoted from substation attendant to substation operator?

¹ The original charge and an amended charge were filed, respectively, on or about April 29 and July 31, 1969. The amended complaint thereon was issued on September 24, 1969.

² Neither of the Respondents has been represented by legal counsel.

B. *Relevant Facts*¹

On December 1, 1955, Respondent Council was certified by the Board as exclusive representative for all production and maintenance employees of Anaconda at the Columbia Falls plant—embracing about 800 employees in the unit. Successive collective-bargaining contracts between Anaconda and Respondent Council covering the certified unit have at all times material contained the following union security clause:⁴

Section 2: Within thirty-one (31) days after the date of this Agreement or the commencement of employment, whichever is the later, all present and new employees of the Company performing work covered by this Agreement will become *members of the Council* and maintain such membership in good standing throughout the life of this Agreement as a condition of employment, provided however, that the Company shall not require such Council membership if the Company or its representatives (a) have reasonable grounds for believing that such membership was not available to the employee involved on the same terms and conditions generally applicable to other members or (b) if the Company or its representatives have reasonable grounds for believing that membership was denied or terminated for reasons other than failure of the employee to tender the periodic dues and the initiation fees uniformly *required by such Council* as a condition of acquiring or retaining membership.⁵

As provided in its constitution and bylaws, membership in Respondent Council consists of employees in the certified unit who are members in good standing “of the appropriate member Local.” The contract also contains provision for checkoff, upon written authorization of the employee, in the following form and terms:

I, the undersigned, hereby direct the Anaconda Aluminum Company to deduct from my wages the duly approved monthly dues and/or initiation fee. This amount to be advised in writing by the Council to the Company.⁶

After Fairbanks was hired as a pourer in 1955, he became a member of Aluminum Workers Local 320—without payment of initiation fee because he was a “charter member.” By virtue of his checkoff authorizations, as above, his regular membership dues were deducted and paid to Respondent Council. On August 11, 1967, Fairbanks was transferred at his request from the classification of pourer to substation attendant. Thereafter, he voluntarily sought to apply for membership in Respondent Local 768, because,

as he testified, all other employees at the substation belonged to such local.⁷

Among the 11 constituent locals of Respondent Council, there are different scales of initiation fees and dues. It was a practice among certain of these locals to levy a reduced initiation fee of \$5 (which Fairbanks called a transfer fee) when an employee applied for a transfer of membership from one local to another after a change in job classification. Fairbanks was not aware that Respondent Local 768 did not follow such practice. He spoke to Shop Steward Peterson, of Local 768, offering to pay a \$5 transfer fee, but Peterson mentioned the necessity of a full admission fee. As pertinent, the bylaws of Respondent Local 768 provide a schedule of “admission fees,” as follows:

Journeyman	\$62.50
Welder	62.50
Equipment Operators	60.00
Powderman	60.00
T.V. Maintenance Installers	50.00
Apprentices	50.00
Sub-Station Apprentices	50.00
Groundman	50.00
Government Employees	10 00
Telephone Operators	10.00
Office Workers	10 00
Other Classifications	10.00

On October 6, 1967, Fairbanks filed application, and on October 12, 1967, he was accepted into membership of Respondent Local 768. As substation attendant, not specified in the schedule of admission fees, above, he paid \$10, the amount provided in the general category of “other classifications.” On November 11, 1967, Fairbanks was reclassified as substation operator, a normal progression from substation attendant. He executed a new checkoff authorization for dues deduction of \$7.05, raised from the previous dues of \$4.15, conforming with the specific monthly dues schedule in the bylaws of Respondent Local 768.

As testified, in January and February 1968, Respondent Local 768 demanded that Fairbanks pay an additional sum of \$52.50, which would bring him up to the \$62.50 initiation fee prescribed in the bylaws for journeyman, as he was now regarded by Local 768 in the classification of substation operator. Fairbanks refused. More than a year transpired. On March 19, 1969, Respondent Local 768 wrote separate letters to Respondent Council and Fairbanks, stating that Fairbanks “was no longer in good standing” because he “refused to pay initiation fee required by our Local Union’s Bylaws;” that “existing dues from this member” have been refused; that he is now 3 months’ delinquent in dues and stands suspended; and that Respondent Council is requested to notify Anaconda to terminate Fairbanks pursuant to the contract. On April 21, 1969, Respondent Council wrote to Fairbanks extending him an additional 15 days from date “in which to pay all

¹ The pertinent facts in the case are substantially undisputed.

⁴ Taken from the most recent agreement effective from October 15, 1968, until March 1, 1972.

⁵ Emphasis supplied.

⁶ The Council, in turn, allocated and remitted all or part of the checked-off funds to the appropriate member local. It is provided in Council’s bylaws (art III) that—“All persons eligible for membership in this Trades Council shall submit the initiation fee and one (1) months Per Capita Tax by cash or written authorization of checkoff,” and that candidates for membership “shall be proposed by the appropriate affiliated Local Union, and shall assume the responsibility for Initiation Fees and Per Capita Tax of proposed member.”

⁷ It is unnecessary to decide whether Fairbanks would have been protected against discharge if he had persisted in maintaining membership in Aluminum Workers Local 320.

back dues and an initiation fee" of \$52.50, and indicating that failure to comply "will result in your discharge from employment" under the collective-bargaining agreement. Fairbanks then paid the additional \$52.50 in view of the threat of discharge, and resubmitted to Respondent Local 768 the "three refund checks" on his monthly dues. Thereafter, he was restored to membership in good standing.

Respondent Council admitted that determination of the question of membership in good standing, for purposes of the union-security contract, is "left pretty much" to the local union. Respondent Council's president testified that basically it is the employee who makes his own decision: "If he wants to be a good union man, he joins the appropriate union." Asked "how the Council decides which jobs are in the jurisdiction of which locals within the Council," he answered:

Hum, that is a tough one. How we decide it is basically by the type of work that is done by the individual or crew that each individual employee works with and under out there at the plant. This has bearing on what type of work is done, whether it is mechanical, electrical, or what not. This is where it has been established from the day one, that this is the way it has always been. Whenever anybody transfers into one of the crews—

CONCLUSIONS

The Act generally provides that it shall be an unfair labor practice for an employer to discriminate, and for a labor organization to cause or attempt to cause an employer to discriminate, against employees for joining or not joining a labor organization, with the specific proviso or exception that membership in a labor organization may be required as a condition of employment by reason of a union-security agreement conforming to the provisions of the statute.⁸ A further proviso states, "That no employer shall justify any discrimination against an employee for nonmembership in a labor organization . . . if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership."

As a specific exception to the Act's general prohibition of discrimination against employees, union-security clauses are narrowly and strictly construed. Thus, for example, only the statutory bargaining representative of the employees is permitted to require payment of its membership dues as a condition of employment under a valid union-security contract.⁹

The Board has recognized that "the requirement of fair dealing owed employees under union-security agreements includes the duty to inform the employee of his rights and obligations respecting such agreements so that the employee may take all necessary steps to protect his job."

⁸ Sec 8(a)(3) and (b)(2)

⁹ E.g., *Sucrest Corporation*, 165 NLRB No 72

Thus, where parties rely upon oral agreements, or, as a logical extension, upon unwritten union security requirements, they must "satisfy a stringent burden of proof in establishing the existence and precise terms and conditions of the agreement and in further establishing that affected employees have been fully and unmistakably notified thereof."¹⁰

To acquire or retain membership in Respondent Council for purposes of the Act, especially in view of the inherently diffused type of membership structure in this certified bargaining agent, it should have been made unmistakably clear to the employees the precise amounts and terms of the required initiation fees and dues for all classifications in order to provide them with ready knowledge of the full effects of the union-security agreement upon their jobs. Expressly contemplated within the terms of the instant contract are transfers and promotions among approximately 800 employees in the single bargaining unit, while all such employees are required to maintain membership in one of the 11 component local unions comprising Respondent Council. The regular membership dues are uniformly required and plainly specified pursuant to the bylaws of Respondent Local 768, in question. However, initiation or admission fees are scheduled only according to certain classifications without attempting to delineate all classifications. Such initiation fees are demanded by Respondent Local 768 not only for purposes of admission into membership, but also where an existing member is transferred or promoted into a new job classification within its claimed work jurisdiction, as in the case of Fairbanks.

Reference in the statute to "initiation fees" must be narrowly construed and accorded the natural meaning of the term; i.e., as uniformly required for the purposes of *admission* into membership of a labor organization. The apparent interest of Respondent Local 768, and indirectly of Respondent Council, was to exact a larger share of financial support from a member who attains a higher classification or salary. This is already reflected in the bylaws by the appropriate provision for payment of higher membership dues. In the classification of substation operator, Fairbanks tendered such higher dues, which were accepted by Respondent Local 768 over a substantial period of time. Here in question, the amount of \$52.50 was demanded of Fairbanks as representing an additional initiation fee over and above the sum he had already fully paid when he initially acquired membership in Respondent Local 768.¹¹

It cannot properly be held that such an additional payment of \$52.50 constitutes an initiation fee or periodic dues uniformly required within the sanction of the provisos of Section 8(a)(3). Even if considered as some other form

¹⁰ *Pacific Iron and Metal Co*, 175 NLRB No 114

¹¹ It seems anomalous that Respondent Local 768 would accept Fairbanks' checked off regular dues in the job of substation operator and then make claim against him for failure to pay a fee purportedly for admission into membership. After receiving such dues for more than a year, Respondent Local 768 refused to accept further dues for 3 months in order to effect its suspension of Fairbanks from membership. In the circumstances, its reliance on Fairbanks' failure to pay *dues* as a basis for seeking to enforce the union security contract is devoid of any merit.

of charge "uniformly required," such as an assessment, it is well established that the union security clause in the contract cannot be invoked in an attempt to collect such a charge.¹² Furthermore, even assuming *arguendo* that Respondent Local 768 could validly invoke the union security clause to collect an additional initiation fee from an existing member in good standing when such member transfers into a new classification, I find that Fairbanks did fully comply with the bylaws of Local 768 in the present circumstances. Thus, the schedule of initiation or admission fees in the bylaws, *supra*, does not specify a fee for the classification of substation operator, but rather provides the fee of \$10 for "other classifications." And Fairbanks had already paid the \$10 fee within this category. Indeed, he had good reason so to construe the bylaws, and to assume that Respondent Local 768 accepted such interpretation at the time of his transfer to substation attendant.

Accordingly, it is concluded that Respondents Council and Local 768 violated Section 8(b)(1)(A), as alleged, by threatening and attempting to cause Anaconda to discharge Fairbanks for reasons other than the failure to tender the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership.¹³

III THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondents as set forth in section II, above, occurring in connection with the Employer'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.

CONCLUSIONS OF LAW

1. Anaconda Aluminum Company is an employer engaged in commerce within the meaning of Section 2(2) and (7) of the Act.

2. Respondent Council, Respondent Local 768, and Aluminum Workers Local 320 are labor organizations within the meaning of Section 2(5) of the Act.

3. By threatening to cause Anaconda to discharge Melvin C. Fairbanks for failure to pay a fee, other than the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in Respondent Council under the terms of the existing union-security agreement, Respondent Council and Respondent Local 768 have engaged in and are engaging in unfair labor practices within the meaning of Section 8(b)(1)(A) of the Act.

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

IV. THE REMEDY

Having found that Respondent Council and Respondent Local 768 have engaged in certain unfair labor practices, I shall recommend that they cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

It has been found that these Respondents violated Section 8(b)(1)(A) of the Act by threatening to cause Fairbanks' discharge for failure to pay an additional initiation fee of \$52.50, which they could not legally require of Fairbanks pursuant to the existing union security agreement. As it appears in the evidence that Fairbanks paid this sum only as a result of the unlawful coercion practiced upon him, to effectuate the purposes of the Act I shall recommend that Respondents, jointly and severally, reimburse Fairbanks in the amount of \$52.50, with interest at the rate of 6 percent per annum.¹⁴

[Recommended Order omitted from publication.]

¹² Assessments are not periodic dues even though levied uniformly among members, since they do not contain the necessary element of regularity or periodicity. *International Harvester Company, Foundry Division, (Louisville Works)*, 95 NLRB 730

¹³ See, e.g., *Ormet Corporation*, 151 NLRB 117

¹⁴ *Isis Plumbing & Heating Co.*, 138 NLRB 716