

**Cosmopolitan Dry Cleaning Machinery Co., Inc. and United Mechanics Union, Local 150 Division, Joint Board Fur, Leather and Machine Workers Union, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO. Case 29-CA-2028**

January 27, 1972

**DECISION AND ORDER**

BY CHAIRMAN MILLER AND MEMBERS FANNING AND JENKINS

On August 31, 1971, Trial Examiner Melvin Pollack issued the attached Decision in this proceeding. Thereafter, the Respondent filed exceptions, a supporting brief, and a request for oral argument.

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

The Board has considered the record and the Trial Examiner's Decision in light of the exceptions and brief and has decided to affirm the Trial Examiner's rulings, findings, and conclusions and to adopt his recommended Order.<sup>1</sup>

**ORDER**

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Trial Examiner and hereby orders that the Respondent, Cosmopolitan Dry Cleaning Machinery Co., Inc., Brooklyn, New York, its officers, agents successors, and assigns, shall take the action set forth in the Trial Examiner's recommended Order.

<sup>1</sup> The Respondent has excepted to certain credibility findings made by the Trial Examiner. It is the Board's established policy not to overrule a Trial Examiner's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions were incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544, enf'd 188 F.2d 362 (C.A. 3). We have carefully examined the record and find no basis for reversing his findings.

The Respondent's request for oral argument is hereby denied, as in our opinion, the record in this case, including the exceptions and briefs, adequately presents the issues and positions of the parties.

**TRIAL EXAMINER'S DECISION**

**STATEMENT OF THE CASE**

MELVIN POLLACK, Trial Examiner: This case was tried at Brooklyn, New York, on January 18 and 19, February 9 and 10, and April 13, 1971, upon charges filed on June 5 and 25, 1970, and a complaint issued on August 20, 1970, amended on January 12, 1971, and further amended at the hearing. The complaint, as amended, alleges that Respondent Company violated Section 8(a)(1) and (3) of the National Labor Relations Act, as amended, by discharging 12 employees because they engaged in concerted and union activities, and that the Company violated Section 8(a)(1) of the Act by threats and

promises of benefit, and by instructing an employee not to cooperate in the Board's investigation of the case.

Upon the entire case, including my observation of the demeanor of the witnesses, and after due consideration of the briefs filed by the Company and the General Counsel, I make the following:

**FINDINGS AND CONCLUSIONS**

**I THE BUSINESS OF THE COMPANY**

The Company, a New York corporation, is engaged in the sale, distribution, and installation of drycleaning machines, pressers, boilers, and related drycleaning equipment. It maintained at all material times a principal office and place of business in Brooklyn, New York, and a warehouse in Sayreville, New Jersey. Its annual interstate purchases exceed \$50,000. I find that the Company is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

**II THE LABOR ORGANIZATION INVOLVED**

The charging Union is a labor organization within the meaning of Section 2(5) of the Act.

**III THE ALLEGED UNFAIR LABOR PRACTICES**

**A. The Discharge of the Brooklyn Employees**

The Company was incorporated in 1964 and initially operated as a sales organization. President Sheldon Kleinman and Secretary-treasurer George Schoenberg, operating out of Kleinman's home, "would go out, meet customers, sell the equipment," and call in outside contractors to install the equipment. Toward the end of 1966, the Company opened up an office and showroom in Flatbush. It hired an office manager, salesmen and utility men. A little later, Kleinman and Schoenberg decided to do their own installation work and hired electricians, carpenters, pipefitters, auto mechanics and servicemen. About January 1968, the Company leased a warehouse in Sayreville, New Jersey. The employees at the warehouse repaired machinery and also engaged in installation and service work. The Brooklyn and New Jersey men "worked together on jobs" and at time the Brooklyn men helped out at the New Jersey location.

On Friday, May 29, 1970,<sup>1</sup> the Company employed two salesmen, an office manager, and ten installation employees at its Brooklyn location, and three repairmen at the New Jersey warehouse. That morning, the Brooklyn installation employees asked Ralph Ronga to find out from Secretary-treasurer George Schoenberg if they were going to be paid for Memorial Day. Ronga testified that he spoke to Schoenberg and reported back to the men that Schoenberg said they were not going to be paid for the holiday. According to Ronga, the men "had a meeting" and said they were "going to join the union." Schoenberg approached them and asked electrician Ralph Spero if he wanted to be paid for Memorial Day. Spero replied, "I want to get paid for Memorial Day, and I'd like to join the union." Schoenberg said, "What did you say?" and when Spero repeated he wanted a union, Schoenberg said "you are fired." Schoenberg then asked each man if he wanted to join the union. The men, except for Louis Webb, gave answers similar to Spero's. Schoenberg told each man he was fired and to get out. He directed Webb, a serviceman, to leave the office and to go to work. Webb did so.

Ronga further testified that about an hour later, he asked Schoenberg if he could speak to President Kleinman, who was hospitalized. Schoenberg said, "Okay. Call him up on the

<sup>1</sup> All dates hereafter are in 1970, unless otherwise stated.

phone. He is in the hospital." Ronga called Kleinman who said "the orders came from him. The men weren't going to get paid for Memorial Day, and if we did join the union, we're all fired." Ronga told Kleinman they "would see him after the weekend."

Walter Townes testified that Schoenberg told Ronga that he did not know whether the men would be paid for Memorial Day because President Kleinman was in the hospital. Ronga spoke to Kleinman on the telephone. Ronga "came outside" followed by Schoenberg. Ronga said, "George, if you don't pay the guys for the holiday, they're going to the union." Schoenberg pointed at each man and asked him if he was going to work. Each man but Webb said "no" and Schoenberg said, "you are fired." Webb left for work.

Ralph Spero testified that when Ronga reported that Respondent would not pay them for the holiday, Spero and his son, in the presence of other employees, spoke to Schoenberg, who told them that they were not getting paid for the holiday. Spero said, "I am going to join the union." Schoenberg said, "You are fired." Spero asked for his pay and Schoenberg said, "I can't give you the pay right now." As Spero walked out, he heard the rest of the men ask if they were going to be paid for the holiday. Schoenberg said "no" and the men, except for Webb, said they were going to join the union. Schoenberg said, "You are all fired." Webb went to work.

Mitchell Hamilton testified that after Ronga reported they were not going to be paid for the holiday, Schoenberg came out and asked whether they were going to work. The men said they wanted to know first whether they were going to be paid for the holiday. Schoenberg said, "No." The men said they were going to join a union, and Schoenberg declared, "Since you are going to join a union, you all are fired."

Prentis Gillispie testified that after Ronga reported they were not going to be paid for the holiday, Schoenberg came out and asked Spero if he was working today. Spero said he was with the boys and would not work unless they got paid for the holiday. The other men also refused to work unless they were paid for the holiday and said they were in favor of joining the union. When Schoenberg asked Gillispie if he was going to work. Gillispie said he would "have to wait and see what the other fellows are going to do. Really I am interested in the union." Schoenberg said there would be "no union in this shop. Either you pick up your tools and go to work or you are fired."

George Schoenberg testified that he told Ronga that he "would probably do whatever is being done in the industry" about pay for Memorial Day but that he wanted to speak to Kleinman. He called Kleinman, who suggested that he find out what other employers were doing. After this conversation, Schoenberg noticed that except for Webb the men had not gone out on their assignments. He asked them, "What is the matter?" When they insisted on knowing whether they were going to be paid for the holiday, he called Kleinman again, said he could not take the men anymore, and "we will just have to start contracting out a few weeks earlier." He returned to the men and asked Spero if he wanted to work. Spero said "No, I quit, I quit." Schoenberg asked each man "Do you want to work?" The men said "no" and Schoenberg instructed office manager Stanley Vesper to "get all their pay." Spero came "running into the office" and said, "I don't want to quit. I got to be fired, I got to get unemployment." Schoenberg replied, "Spero it is worth it for me, I will give you unemployment, I will put down anything on the record you want. You want to be fired, you're fired. You other men want to be fired, you are fired, you can do anything you want, you know what I mean. Just I want some peace." As Vesper made up the checks, Schoenberg took them outside two or

three at a time, handed them out, and asked the men to return any company property they had to him.

Stanley Vesper testified that Schoenberg told him to make up the paychecks and said the men could speak to Kleinman on Monday if he was out of the hospital.

Sheldon Kleinman testified that Schoenberg called him at the hospital Friday morning and told him the men wanted to know if they were going to be paid for Memorial Day. He told Schoenberg to tell them they would be told that evening after Schoenberg had found out "what the competitors were doing." Schoenberg called again to say the men wanted their answer "right now." Kleinman said "George, that does it. That's it. All the men are finished as of today. We have no more installation department. We can start shipping everything out to the contractors now." Schoenberg replied, "Okay."<sup>2</sup>

Kleinman further testified that he checked out of the hospital and came to the Brooklyn plant about 4:30 p.m. He spoke to Ronga and Townes in the office. He asked Ronga why he had created the issue over holiday pay, reminded him that Schoenberg a year ago had "washed his hands clean" of installation work, and said, "Right now I made up my mind. All the installation work is going to go out to contractors."<sup>3</sup> He invited Ronga to work as a salesman but Ronga refused to do so.

I find from the foregoing testimony that except for Louis Webb, the installation employees refused to go to work without assurances that they would be paid for the Memorial Day holiday, and that Schoenberg asked each man to go to work and fired him upon his refusal to do so. I find below that the employees joined the Union after May 29 and not, as they testified, immediately after their discharge that day. In these circumstances, I do not credit the employees' testimony to the effect that each man said he was going to join the Union and that Schoenberg responded by declaring Respondent would not have a union and discharging him.

#### B. *The Employees' Union Activity*

Employees Ronga, Spero, Townes, Hamilton, and Gillispie testified that the discharged employees and Office Manager Vesper went to the union hall about noon on May 29 in two cars, including Vesper's. At the union hall, they signed union cards and elected Ronga, Spero, and Townes as committeemen. The union representatives explained a contract to them and gave a copy of the contract to the committeemen to show to the Company. Business Manager Friedman of the Union gave similar testimony.

Secretary-treasurer Schoenberg and salesman Stanley Blumenfeld testified that Vesper was in the office the entire day, that his car was blocked in the Company's parking lot that day, and that the discharged employees did not leave the plant area until the end of the day. Vesper initially corroborated the employees' testimony but subsequently said he had testified falsely and changed his testimony to corroborate that of Schoenberg and Blumenfeld. He said he did accompany the employees to the union hall on June 2 after Kleinman and Schoenberg refused to talk to them in the morning. The Union refused to accept a card from him because of his position as office manager. He did not see the other employees sign cards at that time.

<sup>2</sup> Kleinman testified that he "would say up until the time I went to the hospital I wasn't in favor of changing the operation."

<sup>3</sup> Townes testified that Vesper told the men that afternoon that Kleinman had nothing to say to them because they had been fired. Ronga could not "remember" talking to Kleinman that afternoon.

The testimony of Ronga, Townes, and Gillispie indicates that at least one employee who purportedly signed a card on May 29—Beaver Brook Syms—did not report for work that morning. Schoenberg, however, testified that Syms was discharged on May 29. He offered no testimony that Syms was not paid off at the same time as the other employees. John Jepsen, an employee at the New Jersey warehouse, testified that the three New Jersey employees were given undated cards to sign on June 5 and that something was said about bringing the cards “back retroactively to the date when the fellows first signed up.” He could not recall whether this date was May 29 or June 1.

It is undisputed that President Kleinman came to the Brooklyn premises about 4:30 p.m. on May 2. I credit his testimony that he spoke to Ronga and Townes and that nothing was said to him about the Union. The Union first requested recognition and bargaining by a telegram sent about 1:30 p.m. on Tuesday, June 2, and received by the Company that same afternoon.

Under all the circumstances, I find that the employees did not join the Union on the afternoon of May 29. I find, rather, that they joined the Union upon becoming convinced, probably on the morning of June 2, that the Company did not intend to take them back.

According to Office Manager Vesper, the union committeemen—Ronga, Townes, and Spero—asked Kleinman and Schoenberg to read a proposed union contract about 4 or 5 p.m. on Tuesday, June 2. Vesper and the committeemen testified that Kleinman made a vulgar comment and tore up the contract. Although Kleinman completely denied the incident, I credit the employees’ testimony.<sup>4</sup> However, I do not credit Ronga’s testimony that Kleinman said, “We don’t talk to Communists.” Nor do I credit Spero’s testimony that Kleinman said, “No Communist union is ever coming in my place. I’d rather shut down before any union gets in here.”

Three union representatives and the three committeemen met with Kleinman and Schoenberg on the morning of June 3. Business Manager Friedman proposed that the men return to work for 30 days while the parties tried to reach agreement on a contract. Kleinman rejected the proposal, saying that the men had been discharged and that the Company intended to contract out to its installation work.<sup>5</sup> Friedman said they had no alternative but to strike. Picketing began that day.

### C. The Discharge of the New Jersey Employees

Kleinman discharged the three New Jersey employees on Friday, June 5. Nicholas Benenati testified that the three men signed cards on Wednesday or Thursday, that they told Kleinman on Friday that they too had joined the Union and were going out on strike and that Kleinman said, “This is it.” Kleinman testified that he told the men, “We [are] going to give out all our work. We [are] phasing out.” John Jepsen testified that the New Jersey men signed union cards after Kleinman told them the Company could not keep the New Jersey operation. The New Jersey employees picketed at the Brooklyn and New Jersey locations after their discharge. I find that the Company closed down the New Jersey operation as a consequence of its decision on May 29 to discharge the Brooklyn employees and to subcontract the installation work.

## D. Analysis and Conclusions

### 1. The discharges

The Company contends that the discharges were unlawful because the refusal of the Brooklyn employees to work on May 29 simply accelerated a decision made in March to complete the work on hand and operate thereafter exclusively as a sales organization. The Company principally relies on *N.L.R.B. v. Rapid Bindery*, 293 F.2d 170 (C.A. 2); *Jays Foods, Inc. v. N.L.R.B.*, 292 F.2d 317 (C.A. 7); and *N.L.R.B. v. New England Web, Inc.*, 309 F.2d 696 (C.A. 1). The primary issue in the cited cases was whether the employer’s conduct in moving its plant (*Rapid Bindery*), in subcontracting work (*Jays Foods*), or in closing down its business (*New England Web*), was motivated by antiunion considerations or by economic reasons. In each case, the court found as a matter of fact that the employer was motivated by sound business reasons and that the advent of a union was only *incidental* to the economic action taken.

Assuming that the Company accelerated a decision made in March to operate exclusively as a sales organization, the cited cases are distinguishable on their facts, for its clear from the testimony of Kleinman and Schoenberg that they would not have discharged the Brooklyn employees until some time after May 29 *but for* their refusal to work that day.

I find, moreover, that the Company, in deciding to subcontract its installation work on May 29, did not accelerate a prior decision to do so.

The Company receives down payments from customers and, upon completion of jobs, notes payable in 60 monthly installments. Kleinman testified that the Company sold customers’ notes to factors, who held back money to guarantee payment of the notes.<sup>6</sup> As a result, “We had a tremendously high reserve, which was the amount of money that [factors] held back to guarantee payment on our accounts.” Although the Company did “a lot of business,” by the fall of 1969 the money received from factors was not sufficient to cover expenses. In January 1970, the Company’s principal factor, Dick Hawkes, said “he would have to limit the amount of new deals that he could take from us.” In March, Kleinman and Schoenberg reviewed the situation with Stabner and concluded that the only way to stay in business was to follow the example of other companies in the industry “who run only selling organizations” and who give all of their work to contractors after a sale is made. They informed Hawkes of their decision. Hawkes said if they worked along that line he would take “a limited amount of new paper” from them. Kleinman and Schoenberg spoke to Jerry Rosenberg, an electrical contractor, who agreed to work for them. They also told Hank Greenberg, a plumbing contractor, who was doing “sign off” work for them, that after the Company finished off a few jobs, they wanted him to “install the entire plant” for them. Kleinman and Schoenberg said they had to make arrangements for carpentry, rigging, and warehousing, and, as soon as they were ready, they would “sit down with him again.” According to Kleinman, the Company intended to phase out the installation work “the beginning of July.”

Schoenberg testified that the decision to become solely a selling organization was “finalized” no later than March 1970.

Accountant Stabner testified that in March the Company had six jobs to be completed, representing about \$150,000 worth of sales, and that Dick Hawkes of Pioneer Credit Cor-

<sup>4</sup> While I do not consider the employees reliable witnesses with respect to antiunion statements attributed by them to the company’s officers, I do not believe they fabricated the June 2 contract incident.

<sup>5</sup> I do not credit the testimony of Ronga and Townes to the effect that Kleinman said he would not deal with a union, nor do I credit the testimony of business agent Parnes that Kleinman said he would rather close his business down than sign with the Union.

<sup>6</sup> Accountant Lloyd Stabner explained that a \$15,000 sale plus interest over 5 years would result in \$21,000 worth of paper. When the notes were turned over to a factor, he would pay the Company \$13,500 and retain \$1,500 until the notes were paid.

poration said he would "accept this paper" but he would take only \$40,000 worth of paper after that, or about 2 jobs. The Company at this time was behind about \$18,000 in its social security and withholding taxes, and its unemployment insurance payments. Stabiner advised Kleinman and Schoenberg to complete the \$150,000 worth of work "in house," use the money that would come in from Pioneer to meet these obligations, and start subcontracting the installation work. He also advised them to break their New Jersey lease "if possible." He did not advise them to subcontract the New Jersey work because "at the present time it was not feasible to cut out the work in New Jersey." Kleinman and Schoenberg decided to "complete the jobs in house. Whenever these jobs were completed it was their plan to turn over as much work as possible to subcontractors."

Jerome Rosenberg, an electrical contractor, testified that he stopped working for the Company in September 1969 because they owed him \$4,000 to \$5,000. He had several conversations with Kleinman and Schoenberg between December 1969 and February 1970 when he dropped by to try to collect money from them. He pointed out to them that "they were spending \$200 to \$300 more a job than I could do it with my men." In March, Kleinman and Schoenberg talked to him about "coming back to do their work." They said "they were thinking of giving out most of their work to subcontractors like most of the trade does." No definite understanding was reached at that time. Rosenberg started to do work for the Company in July.

Salesman Stanley Blumenfeld testified that Schoenberg told him in February that he wanted "to contract out the work" but that Kleinman was "reluctant." Schoenberg also talked to him about contracting out the installation work at the end of February and in the middle of March.

It does not appear from the testimony of Rosenberg that the Company had reached a firm decision in March to subcontract its installation work.<sup>7</sup> Blumenfeld's testimony indicates that Kleinman was "reluctant" to go into subcontracting in February and Kleinman himself testified that he was not in favor of changing the operation until he entered the hospital in May, and that he reminded Ronga on the evening of May 29 about the Company's "problems" and said he had decided "right now" that all the work would be done by subcontractors.

The record shows no phasing out of the Company's installation work after March in preparation for subcontracting. According to Stabiner, the Company in March had six jobs "in house" to be completed before subcontracting out the installation work.<sup>8</sup> Ralph Spero testified that the Company on May 29 had 7 jobs in process, two jobs where machinery had been delivered but installation had not yet started, and seven or eight jobs awaiting the delivery of machinery. The Company's payroll book shows that the installation employees worked a substantial amount of overtime in the week preceding their discharge on May 29. Arthur Monaldi, a drycleaner,

credibly testified that he entered into a contract with the Company in April, that the machinery was delivered to his store on May 8, that the store was scheduled to be in operation by May 15, that he called the Company "just about every day," but that the installation work did not begin until June. Schoenberg testified that the Monaldi machinery was delivered on May 29 and that the Company at that time had only a single job on the Grand Concourse to be completed by its installation crew. According to Schoenberg, the Monaldi jobs was subsequently completed in 2 days and the Grand Concourse job in 3 days by contractors. Schoenberg's testimony about the limited amount of work on hand is inconsistent with his prior testimony that the Company because of the work stoppage decided on May 29 to start contracting out "a few weeks earlier." In view of the foregoing, I find that the Company had a substantial amount of installation work on hand on May 29 for completion by its installation crew.

Under all the circumstances, I reject the testimony of Kleinman, Schoenberg, and Stabiner, and find that the Company did not make a firm decision at any time before May 29 to subcontract its installation work.

I have found that the Company discharged the Brooklyn employees on May 29 because they refused to work unless paid for the Memorial Day holiday. As their concerted refusal to work for this reason was a protected activity within the meaning of Section 7 of the Act, I find that the Company violated Section 8(a)(1) of the Act by discharging them for this activity. The New Jersey employees were discharged as a direct consequence of the Company's unlawful discharge of the Brooklyn employees. I find accordingly, that Respondent further violated Section 8(a)(1) of the Act by discharging the New Jersey employees on June 5.

## 2. Other alleged unfair labor practices

I have rejected testimony that Kleinman threatened to close down rather than deal with the Union and that he made other antiunion statement on June 2 and 3. I also reject testimony of Ronga, Gillispie, and Spero to the effect that Schoenberg solicited them to abandon the strike which began on June 3 by promises of wage increases and other benefits. I find no violation of the Act in Vesper's testimony that Kleinman and Schoenberg advised him to have his attorney present if he wanted to speak to a Board investigator.

## CONCLUSIONS OF LAW

1. The Respondent, Cosmopolitan Dry Cleaning Machinery Co., Inc., is an employer engaged in commerce within the meaning of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. By discriminating in the hire and tenure of employment of Jack Blaufarb, Matthew Spero, Mitchell Hamilton, Ralph Ronga, George Grant, Beaver Brook Syms, Prentis Gillispie, Ralph Spero, Walter L. Townes, Nicholas Benenati, John Jepsen and Frank Baka, the Company has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.
4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

## THE REMEDY

Having found that the Company has engaged in certain unfair labor practices, it will be recommended that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act

<sup>7</sup> The Company's claim of financial distress in March finds no support in statements prepared by Stabiner and submitted to factors before the alleged decision to subcontract installation work. These statements *inter alia* show growing sales, no increase in percentage of reserves held by factors, and, on February 28, 1970, an excess of current assets over current liabilities compared to an excess of current liabilities over current assets on July 31, 1968, and on May 31, 1969.

<sup>8</sup> The record contains no documentation of the work performed by the Company after its alleged decision in March to finish up the work on hand and thereafter subcontract all its installation work. Kleinman testified that Company records subpoenaed by the General Counsel had been so vandalized after a fire at the Brooklyn premises that no effort was made to salvage them. Stabiner testified that Company records in his possession were thrown out by his former wife.

Having found that the Company has discriminated in regard to hire and tenure of the 12 employees named above, it will be recommended that the Company, except for Ralph Ronga and Walter L. Townes,<sup>9</sup> offer them immediate and full reinstatement to their former or substantially equivalent jobs, and make them whole for any loss of pay they may have suffered by reason of the discrimination against them by payment of a sum equal to that which they would normally earn from the date of the discrimination to the date of reinstatement, less net earnings during said period, if any.<sup>10</sup> The backpay provide herein shall be computed in accordance with the Board's formula set forth in *F. W. Woolworth Co.*, 90 NLRB 289, with interest thereon at the rate of 6 percent per annum computed in a manner prescribed in *Isis Plumbing & Heating Co.*, and 138 NLRB 716.

Upon the foregoing findings of fact and conclusions of law, and upon the entire record, I recommend, pursuant to Section 10(c) of the Act, issuance of the following:<sup>11</sup>

### ORDER

Respondent, Cosmopolitan Dry Cleaning Machinery Co., Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging concerted activities of its employees by discriminatorily discharging any of its employees, or by discriminating in any other manner in regard to their hire or tenure of employment or any term or condition of employment.

(b) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of their rights under the Act.

2. Take the following affirmative action which I find is necessary to effectuate the policies of the Act:

(a) Offer to Jack Blaufarb, Matthew Spero, Mitchell Hamilton, George Grant, Beaver Brook Syms, Prentis Gillispie, Ralph Spero, Nicholas Benenati, John Jepsen, and Frank Baka, immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions without prejudice to their other rights and privileges, and make them and Ralph Ronga and Walter T. Townes whole for any loss of pay they may have suffered as a result of the discrimination against them, in the manner set forth in the section entitled "The Remedy."

(b) Notify the above-named employees, other than Ronga or Townes, if presently serving in the Armed Forces of the United States, of their right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act, as amended, after discharge from the Armed Forces.

(c) Preserve and, upon request, make available to the Board or its agents, for examining and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to ascertain any backpay due under the terms of this recommended Order.

<sup>9</sup> Following strike misconduct, the complaint was amended to delete allegations that the Company had unlawfully refused to bargain with the Union and that the Company had unlawfully refused to reinstate Ronga and Townes after June 15 and October 1, 1970, respectively.

<sup>10</sup> Backpay for Ronga and Townes is limited to June 15 and October 1, 1970.

<sup>11</sup> In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions and Order, and all objections thereto shall be deemed waived for all purposes.

(d) Post at its office and any other place of business, copies of the notice attached hereto, and marked "Appendix."<sup>12</sup> Copies of said notice, to be furnished by the Regional Director for Region 29, shall, after being duly signed by a representative of Respondent, be posted by Respondent immediately upon receipt thereof and maintained by it for a period of 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director for Region 29, in writing, within 20 days from the receipt of this Decision, what steps Respondent has taken to comply herewith.<sup>13</sup>

IT IS FURTHER RECOMMENDED that, except as hereinabove found, all other allegations in the complaint be dismissed.

<sup>12</sup> In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall be changed to read "Posted pursuant to a judgment of the United States Court of Appeals enforcing an order of the National Labor Relations Board."

<sup>13</sup> In the event that this recommended Order is adopted by the Board after exceptions have been filed, this provision shall be modified to read: "Notify the Regional Director for Region 29, in writing within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith."

### APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

WE WILL NOT discourage concerted activity by discriminatorily discharging any of our employees or in any other manner discriminating against them in regard to their hire or tenure of employment or any other term or condition of employment.

WE WILL NOT in any like or related manner interfere with the rights of our employees under the National Labor Relations Act, as amended.

WE WILL offer to Jack Blaufarb, Matthew Spero, Mitchell Hamilton, George Grant, Beaver Brook Syms, Prentis Gillispie, Ralph Spero, Nicholas Benenati, John Jepsen, and Frank Baka immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions without prejudice to any seniority or other rights and privileges previously enjoyed, and make them, Ralph Ronga, and Walter T. Townes whole for any loss of pay suffered as a result of the discrimination.

COSMOPOLITAN  
DRY CLEANING  
MACHINERY CO.,  
INC.  
(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

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.

Any questions concerning this Notice or compliance with

its provisions, may be directed to the Board's Office 4th Floor, 16 Court Street, Brooklyn, New York 11201, Telephone 212-596-3750.