

West Coast Liquidators, Inc.; and Mrs. Gladys Selvin and Wholesale Delivery Drivers and Salesmen, Local Union No. 848, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. Case 21-CA-11402

August 13, 1973

DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS FANNING AND PENELLO

On June 14, 1973, Administrative Law Judge James S. Jenson issued the attached Decision in this proceeding. Thereafter, Respondents filed 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 authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and has decided to affirm the rulings, findings,¹ and conclusions of the Administrative Law Judge and to adopt his recommended Order.

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 Administrative Law Judge and hereby orders that the Respondents, West Coast Liquidators, Inc. and Mrs. Gladys Selvin, Los Angeles, California, their officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order.

¹ The Respondents have excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544, enfd 188 F 2d 362 (C A 3, 1951). We have carefully examined the record and find no basis for reversing his findings.

DECISION

STATEMENT OF THE CASE

JAMES S. JENSON, Administrative Law Judge: This matter was heard before me in Los Angeles, California, on March 1, 1973. The complaint, which issued on December 12, 1972, as amended on February 23, 1973, alleges that West Coast Liquidators, Inc., and Mrs. Gladys Selvin, herein jointly called Respondents, violated Section 8(a)(1) and (5) of the National Labor Relations Act, as amended, by refusing to

bargain collectively in good faith with Wholesale Delivery Drivers and Salesmen, Local Union No. 848, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called Union. Respondents' answer admits many of the factual allegations of the complaint, but denies the Union made a request to bargain or that any bargaining had taken place or any violation of the Act. The complaint was based on a charge filed on November 24, 1972.

All parties were afforded full opportunity to appear, to introduce evidence, to examine and cross-examine witnesses, to argue orally on the record, and to file briefs. A brief was filed by the General Counsel and has been duly considered.

Upon the entire record¹ in the case, and from my observation of the witnesses and their demeanor, I make the following:

FINDINGS OF FACT

I THE BUSINESS OF WEST COAST LIQUIDATORS, INC

West Coast Liquidators, Inc., is a corporation engaged in the wholesale and retail sale of general merchandise, with its principal place of business located at 7401 South Santa Fe Avenue, Los Angeles, California. West Coast annually derives gross revenue in excess of \$500,000 and annually purchases and receives goods, products, and services valued in excess of \$50,000 from suppliers located outside the State of California.

West Coast is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II THE LABOR ORGANIZATION INVOLVED

Wholesale Delivery Drivers and Salesmen, Local Union No. 848, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America is a labor organization within the meaning of Section 2(5) of the Act.

III THE ALLEGED UNFAIR LABOR PRACTICES

A. Background

On October 5, 1972,² the Union won a secret ballot election conducted under the supervision of the Regional Director for Region 21 of the Board, and on October 16 was certified as the collective-bargaining representative of all shipping and receiving employees, drivers, helpers and warehousemen employed at West Coast's warehouse located at 4701 South Santa Fe Avenue, Los Angeles, California, excluding all other employees, office clerical employees, guards, watchmen, professional employees, and supervisors as defined in the Act.³

Approximately 1 week prior to November 1, Joe Ruiz, the

¹ The General Counsel filed a motion to correct the transcript of the record. In the absence of any opposition, the motion is granted.

² All dates hereafter are in 1972, unless otherwise stated.

³ These facts are alleged in the complaint and admitted by the Respondents.

Union's president, called West Coast for the purpose of finding out who he should talk to regarding negotiations for a contract, and was referred to Mrs. Selvin.⁴ Accordingly, Ruiz called Mrs. Selvin and the two agreed to meet on November 1 at Selvin's office which is located in her residence-apartment.

*B. The First Bargaining Session—
November 1, 1972*⁵

The first bargaining session was held on November 1 in Mrs. Selvin's office located in her residence-apartment. As in the two subsequent meetings, Mrs. Selvin alone appeared on behalf of West Coast. Appearing at the first meeting on behalf of the Union were Ruiz and Stevenson. The two union representatives arrived at Mrs. Selvin's apartment shortly after 10 a.m. and were ushered into the office by the maid, who brought each of the men a cup of coffee and TV

⁴ Respondents admitted Selvin was West Coast's agent for the purpose of engaging in collective bargaining with the Union

⁵ The events which took place during the negotiation sessions hereafter related, are based on the credited and mutually corroborative testimony of Ruiz and Charles Stevenson, a business agent for the Union who was present at the first and third bargaining sessions, and Jim Santangelo, another business agent who was with Ruiz at the second bargaining session. Mrs. Selvin, on the other hand, testified she never bargained with the Union and that the only time she met with any union official was on a date which she places alternately as November 1 and 10, when three men came to her office, shook hands with her and left right away, ostensibly to attend a special meeting at the union hall. In the answer to complaint, Mrs. Selvin placed this alleged meeting in October. I do not credit Mrs. Selvin's denial that she met with Ruiz and the other two union representatives for several reasons. Mrs. Selvin impressed me as being confused, of having a very poor memory, and/or of not telling the truth. Her appointment book disclosed a meeting scheduled with Ruiz for November 1 and that another was scheduled for November 10. She testified that it was her practice during negotiations to write on the margin of the contract proposals whether a proposal was accepted, held for further negotiation, or rejected and the date. Her copy of the Union's proposals (received in evidence as ALJ Exh 1) disclosed longhand notations, identified by Mrs. Selvin as her handwriting, alongside various articles, which convinces me that she did in fact meet with the Union on November 1, 10, and 17. Her notations as to dates and the action taken coincides with the testimony of the union representatives regarding what action was taken on those same articles. Her testimony that she had made the notations in meetings with "the employer" is discredited. Arthur Frankel, West Coast's president, testified that Mrs. Selvin had never called him regarding the Union's demands, except on one occasion when she called him and asked that the Company prepare a list of employees, their wages, job descriptions, and dates of hire. Regarding notations in her handwriting on p 19 of the exhibit, she testified "The order clerk, the company told me got three sixty-five. I am not sure that these are the figures we paid or whether these are the figures they asked for." (Emphasis supplied) As Resp Exh 2 discloses that West Coast was paying order clerks at the rate of \$2 50, \$2 35, and \$3 00, it is obvious that Mrs. Selvin's handwriting on her copy of the Union's proposals represents the Union's proposed wage rate for that classification and is further proof that Mrs. Selvin met with the union representatives. When asked if the marginal notations on p 15 were in her handwriting, Mrs. Selvin stated "I said I would give them a counter proposal." When pressed as to whom she had told that, she reverted to her story that she had not talked to Ruiz, Stevenson, or Santangelo, but to a Mr. Amador, whom she had identified as one of the three men who had met with her on November 10, but who had left without negotiating. Testimony regarding the layout and content of Mrs. Selvin's office, the view from the office, conversations had with her maid, Mrs. Selvin's practice of whistling for the maid and her explanation therefor, the serving of coffee in a particular set of china cups and on TV trays, much of which was confirmed by Mrs. Selvin, further convinces me that the course of negotiations occurred as hereafter set forth, that the testimony of the three union representatives is credible and that of Mrs. Selvin is not credible where it conflicts with theirs.

tray, the tray serving a dual function, e.g., to hold the coffee cup and provide a writing surface.⁶ After approximately 15 minutes, Mrs. Selvin entered using a cane, stating she had fallen and hurt herself and didn't feel too well. Ruiz gave her a copy of the Union's proposals at the beginning of the meeting. Both Ruiz and Stevenson testified that during the meeting Mrs. Selvin constantly changed the subject away from negotiations and talked about a myriad of unrelated subjects including her husband, the companies she represented, the fact very few "ever become union" and other unrelated events that happened in the 1920's and 1930's. The following is a resume of the Union's contract proposals which were discussed and the action taken.⁷

Mrs. Selvin approved the "Witnesseth" clause which reads in its entirety "That the Employer and the Union acting by their duly authorized agents agree as follows:" article I—union security, she rejected, stating she didn't believe in it, that employees should have the right to determine whether or not they belong to a union. She also rejected article II—work periods, and article III—discharges and seniority. Article IV—plant management and direction of personnel, has six subsections. She rejected subsections A, B, and D. Regarding subsection C—uniforms, Mrs. Selvin did not know whether the company had uniforms. Ruiz asked her to find out and marked the item "hold." As Mrs. Selvin did not know how employees were paid, subsection E, which stated in its entirety—"All employees shall be paid weekly," was marked "hold." She also rejected article V—incentive pay, stating "I don't believe in incentive pay." Ruiz suggested they leave article VI—wages and classifications, to the last since it was an economic item and that it would be better to clear up all noneconomic language before taking up the economic package. At this point Ruiz asked Mrs. Selvin for a list showing the names of employees in the bargaining unit, their job classifications, wage rates, and dates of hire. She stated she would get the information. Article VII—hours and overtime was bypassed as an economic item. At this point Mrs. Selvin stated that her leg hurt and she would have to stop. After agreeing to meet again at the same location on November 10, the union representatives left Mrs. Selvin's apartment about 11:30 a.m. Ruiz and Stevenson testified that because of Mrs. Selvin's insistence on talking about subjects unrelated to collective bargaining, no more than 30 minutes was consumed in discussing the Union's proposals.

*C. The Second Bargaining Session—
November 10, 1972*

Ruiz and Santangelo arrived at Mrs. Selvin's apartment office about 10:15 the morning of November 10, and again the maid ushered them into the office. When notified of their arrival, Mrs. Selvin replied, "I didn't think they would show up. Have them seated." The maid again brought coffee on TV trays. While waiting for Mrs. Selvin, the men engaged the maid in conversation and learned that her daughter is a member of a musical group. She agreed to

⁶ Mrs. Selvin's office does not contain a conference table or other writing surface for the union negotiators

⁷ As Mrs. Selvin denies the meeting took place, the account is based on the credited testimony of Ruiz and Stevenson

bring Santangelo a picture of the group for his children. After waiting approximately 25 minutes Mrs. Selvin entered and again remarked that she had taken a fall and could not get around too well. The first 25 or 30 minutes were taken up by Mrs. Selvin's conversations regarding subjects unrelated to collective bargaining.

The following is a resume of the discussions on this date:

Mrs. Selvin proposed, and the Union agreed, to include the unit description in the first paragraph of the Union's proposal. Selvin's copy of the proposal states "Agreed substitute the unit described in the petition, 10th of Nov. 1972."

Selvin rejected article I—union security. She agreed to article II—work periods, a one-line article which reads "Work period not to exceed five (5) hours without a lunch period." On article III—discharges and seniority, Selvin agreed to Section A, covering the Employer's right to discharge for good cause, rejected Sections C and D which cover seniority, and stated that she would make a counter-proposal with respect to Section B, a provision for resolving differences arising under section A. On article IV—plant management and direction of personnel, it appears that Mrs. Selvin agreed to section D, a three-line provision covering the costs of medical examinations for drivers, rejected Section A, B, C, and E⁸ and the Union agreed to delete section F, which is marked "dropped" on Selvin's copy of the proposals. Article V—incentive pay, was rejected by Selvin. Article VI—wages and classifications, was bypassed as an economic item. Article VII—hours and overtime, was also bypassed as an economic item. Article VIII—runs, provides, in substance, for equal distribution of trips among the drivers. It and article IX—delivery restrictions, were rejected by Selvin. Article X—vacations, and article XI—holidays, were bypassed as economic items. When the parties arrived at article XII—maintenance of more favorable conditions, Mrs. Selvin stated that she did not feel well and could not continue. Agreement was then reached to meet again on November 17 at 10 a.m. in Mrs. Selvin's office. The union representatives left sometime between 1 and 1:30 p.m. Ruiz testified that due to Mrs. Selvin's insistence on talking about subjects unrelated to the contract negotiations, no more than 45 minutes was consumed in discussing the Union's proposals.

D. The Third Bargaining Session— November 17, 1972

Ruiz and Stevenson arrived at Mrs. Selvin's office at approximately 10:15 a.m. and were again served coffee on TV trays by the maid. After waiting approximately 15 or 20 minutes, Mrs. Selvin arrived and again mentioned the fact that she had fallen and hurt her leg. Mrs. Selvin commenced talking about an unfair labor practice charge which had been filed against the Employer, and throughout the session brought up other subjects having nothing to do with collec-

tive-bargaining negotiations. As she had in earlier sessions, she again expounded the reasons for her position that Mexican employees should not be paid as much as other employees.

The parties commenced with article XII—maintenance of more favorable conditions. This provides, in substance, that if more favorable conditions are now in effect, those conditions won't be made less favorable except through negotiations or governmental decree. Selvin's copy of the Union's proposal states "Okay 11-17-72." Selvin agreed to article XIII—leave of absence, and her copy of the proposals is so marked. Article XIV—sick leave, was bypassed as an economic item, as was article XV—jury duty. Selvin marked "hold" beside both articles. Selvin rejected article XVI—funeral leave, but stated that she would submit a counter-proposal. Article XVII—health and welfare and article XVIII—pensions were bypassed as economic items. Both items were marked "hold" by Selvin. Article XIX—picketing and article XX—boycotting were rejected. Selvin stated that she did not know if the employer had any new locations, so article XXI—new locations was marked "hold" by both parties. This time provides, in substance, that if the Employer opens new locations or moves to another location within the geographical jurisdiction of the Joint Council of Teamsters No. 42, present employees shall have preference, subject to the Employer's work force requirement, for vacancies at such locations. Article XXII—jurisdictional disputes was rejected by Selvin and marked "hold" by both parties. Article XXIII—separability clause was rejected and marked "hold." Selvin stated that she would study article XXIV—grievance and arbitration procedure. This item was marked "hold" by both parties. Article XXV—company security appears to have been withdrawn and Selvin crossed it out on her copy of the Union's proposals. Selvin rejected article XXVI—successors and assigns. Both parties marked the item "hold." Selvin rejected article XXVII—bulletin board and union visits, and marked "counter propose" alongside that article. No agreement was reached with respect to article XXVIII—term of agreement, the Union orally proposing a 1-year agreement. Articles XXIX and XXX are deleted from the Union's proposals and were not raised. Article XXXI—subcontracting of work was rejected and marked "hold" by Selvin.

At this time Selvin stated that she had to stop because she was not feeling well. Ruiz asked for the list of employees, wages, classifications, and hiring dates which he had first requested on November 1 Selvin advised him that it was still not available. Ruiz then attempted to arrange another negotiation meeting. Selvin stated that she could not meet in November because of Thanksgiving. Ruiz proposed that they meet early in December, to which Selvin replied she could not meet in the month of December because she had too many things to do and was expecting company. She then stated that she could not meet with the Union until sometime in January 1973. Ruiz informed her that the Union would file an unfair labor practice charge against her. Ruiz had proposed during the course of this meeting that the parties meet somewhere other than in Mrs. Selvin's apartment. Mrs. Selvin refused on the ground she was not able to get around very well. As they were leaving, Mrs. Selvin

⁸ A covers reporting of faulty equipment B provides that if an employee is on a trip requiring a "lay over," all food and lodging expenses shall be paid by the Employer C provides that distinctive clothing required by the Employer shall be provided and maintained at the Employer's expense Also that employees shall be clean and well groomed E states "All employees shall be paid weekly"

told Stevenson that in the "last 10 or 12 years, none of her clients have signed a contract"; and that a business agent "from one of the other locals . . . had met with her 12 or 14 times . . . and then he stopped coming, I don't know why." Stevenson testified that because of Mrs. Selvin's insistence on talking about things unrelated to the negotiations, no more than 45 minutes was taken up in discussions regarding the Union proposals.

The Union filed the unfair labor practice charge on November 24, and no further negotiations have been held.

E. Analysis and Conclusions

Section 8(d) of the Act imposes upon an employer and the Union the duty "to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder . . ." In determining whether an employer has bargained in good faith, it is necessary to scrutinize the totality of its conduct in order to decide whether it is lawfully engaging in hard bargaining to achieve a contract that it considers desirable or is going through the motion of bargaining as an elaborate pretense with no sincere desire to reach an agreement. *N.L.R.B. v. Reed & Prince Manufacturing Company*, 205 F.2d 131 (C.A. 1), cert. denied 346 U.S. 887. An appraisal of the circumstances and particular facts of this case convinces me, and I find, that West Coast, through its agent, Mrs. Selvin, "did not approach the bargaining table with an open mind and purpose to reach agreement consistent with the respective rights of the parties." *L. L. Majure Transport Company v. N.L.R.B.*, 198 F.2d 735, 739 (C.A. 5).

I have found it difficult in the fact of all the evidence to believe that Mrs. Selvin could seriously contend that she did not meet with the union representatives on November 1, 10, and 17. Perhaps she seeks to avoid the consequences of her bargaining conduct by denying that any bargaining in fact occurred. She has, after all, been found by the Board to have ". . . repeatedly engaged in a pattern of bad-faith bargaining which has resulted in numerous findings of 8(a)(5) and (1) violations against employers she represented." *Chalk Metal Co., Inc., and Mrs. Gladys Selvin*, 197 NLRB 1133. In that case the Board found that Mrs. Selvin's conduct, ". . . when viewed in conjunction with those in our many other decisions involving Selvin, clearly demonstrate that Selvin has a proclivity to violate the Act which, in our opinion, requires the broad remedial order recommended by the Trial Examiner." Her conduct in the instant case requires, and I recommend, a similar remedy.

The following considerations convince me that Mrs. Selvin did not "approach the bargaining table with an open mind and purpose to reach agreement consistent with the respective rights of the parties."

From the very inception of the collective-bargaining process, Mrs. Selvin engaged in delaying tactics. The three negotiation sessions were held at her apartment, yet on each occasion Mrs. Selvin was late in meeting with the union representatives. She delayed at each meeting to discuss bargaining items, insisting instead on talking about a variety of subjects unrelated to collective bargaining. The first session was concluded at Mrs. Selvin's insistence after 1 hour and

15 minutes, with no more than 30 minutes having been devoted to discussing the Union's contract proposals; the second session was concluded after approximately 2 hours with no more than 45 minutes consumed with negotiations; and the third session was concluded after approximately 1-1/2 hours with only about 30 minutes consumed by negotiations. The testimony discloses that at each meeting the Union was prepared and attempted to engage in collective bargaining, while Mrs. Selvin insisted on talking about unrelated subjects. At the first negotiation session the Union requested certain information which was essential to formulate a wage proposal. While the information appears to have been prepared by the Respondent Employer and delivered to Mrs. Selvin, she failed to deliver it to the union representative.⁹ It is further clear from the record that Mrs. Selvin lacked sufficient knowledge of the Employer's operations to engage in meaningful collective bargaining, and that she never took steps to find out necessary information.¹⁰ Instead, she summarily rejected virtually all of the Union's proposals, and although she professed an intent to do so, never prepared and presented to the Union any counter-proposals, other than orally proposing that the unit description be added to the first paragraph of the contract, to which the Union agreed, and that an open-shop clause be substituted for the union-security clause in article I. In short, she made no effort to resolve differences. The rejection of so many of the union's proposals which are traditional in most collective-bargaining agreements, and the failure to make counter-proposals, is evidence of an underlying intention to avoid reaching agreement. *Chalk Metal Co., Inc., supra*.

To meet its duty to bargain in good faith, an employer is obligated to negotiate with the Union at reasonable times and places. Regarding the Union's request that negotiations be conducted on "neutral ground" away from Mrs. Selvin's apartment, I find that her refusal to do so on the ground that she "was unable to get around too much," was part of her campaign to prevent meaningful bargaining in violation of the Act. Mrs. Selvin's insistence on bargaining only in her office-apartment has already been considered by the Board and found to be a violation of Section 8(a)(5) of the Act. See, for example, *West Coast Casket Company, Inc.*, 192 NLRB 624, enf. 469 F.2d 871 (C.A. 9, 1972); *KFXM Broadcasting Company*, 183 NLRB 1187.

I further find that Mrs. Selvin's refusal on November 17 to schedule another negotiation session until sometime in January 1973, was an apparent attempt to delay negotiations and to discourage the union representatives from further seeking to bargain with her. In this regard, she told Stevenson at the conclusion of the third and last negotiation session that in the "last 10 or 12 years, none of her clients

⁹ I do not credit Mrs. Selvin's statement that she delivered the list of employees' names, wage rates, job classifications and dates of hire to a union representative on November 10. It is clear that Ruiz and Santangelo, whom I credit, met with her on that date and they denied receiving it. Had she delivered the data to anyone, it would have been to Ruiz who had requested it. Moreover, I am convinced that if the Union had received the document, it would have been prepared to present a wage proposal at the November 17 meeting.

¹⁰ Respondent's president testified that the only contact he had with Mrs. Selvin was when she asked the Company to prepare a list of employees' names, wage rates, job classifications, and dates of hire pursuant to the Union's request.

have signed a contract"; and that a business agent "from one of the other locals . . . had met with her 12 or 14 times . . . and then he stopped coming." The Board has repeatedly held that parties are obligated to apply as great a degree of diligence and promptness in arranging and conducting their collective-bargaining negotiations as they display in other of their affairs, and a duty to strive toward agreement in a positive and expeditious manner falls equally upon the employer as well as the Union. In this regard, the Board held in *Insulating Fabricators, Inc.*, 144 NLRB 1325, enfd. 338 F.2d 1002 (C.A. 4):

The record here quite clearly supports a finding that Respondent, in arranging meetings with the Union, failed to display the degree of diligence that proper performance of its bargaining obligations required. This is so whether or not the delays were inspired by a deliberate scheme to engage in dilatory tactics. One may sympathize with the problem of Respondent's negotiator in fitting the negotiation meetings into the schedule of his busy law practice, but this provides the Respondent with no legal excuse for the consequent inordinately long delays tending to impair employee statutory rights. Labor relations are urgent matters, too. If the other activities of Respondent's attorney made it impossible for him to devote adequate time to reasonably prompt and continuous negotiations, it was the Respondent's obligation to furnish a representative who could. The duty to bargain in good faith includes the duty to be available for negotiations at reasonable times as the statute requires. That duty is not discharged by turning over the conduct of negotiations to one whose other activities make him not so available.

I find that Mrs. Selvin's refusal to meet from November 17 until January 1973, when viewed in the context of the Respondent's entire course of conduct, had as its purpose to avoid, delay and frustrate meaningful bargaining with the Union. Accordingly, on the basis of the foregoing and the entire record, I find that West Coast and Mrs. Selvin failed and refused to bargain in good faith, thereby violating Section 8(a)(5) and (1) of the Act.

IV THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondents, West Coast and Mrs. Gladys Selvin, set forth in section III, above, occurring in connection with the operations of West Coast described in section I, above, have a close, intimate, and substantial relationship 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 THE REMEDY

Having found that Respondents, West Coast and Mrs. Gladys Selvin, have engaged in certain unfair labor practices, I shall recommend that they be ordered to cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Having found that West Coast and Mrs. Gladys Selvin engaged in unfair labor practices within the meaning of

Section 8(a)(1) and (5) of the Act, I shall recommend that they be ordered to cease and desist therefrom and bargain collectively with the Union as the exclusive representative of all employees in the unit set forth above, and, if an understanding is reached, embody such understanding in a signed agreement.

In order to insure that the employees will be accorded the statutorily prescribed services of their selected bargaining agent for the period provided by law, it will be recommended that the initial year of certification begin on the date West Coast commences to bargain in good faith with the Union as the recognized bargaining representative in the appropriate unit. *Mar-Jac Poultry, Inc.*, 136 NLRB 785; *Commerce Co., d/b/a Lamar Hotel*, 140 NLRB 226, 229, enfd. 328 F.2d 600 (C.A. 5).

I shall recommend that Mrs. Gladys Selvin be ordered to cease and desist from in any manner interfering with rights guaranteed employees by Section 7 of the Act when she is an agent for West Coast or for any other employer subject to the jurisdiction of the National Labor Relations Board; and I shall recommend that she be ordered to cease and desist from refusing to bargain in good faith with any labor organization where she is agent for any employer subject to the jurisdiction of the Board, that has an obligation under the Act to bargain with said labor organization. See *Chalk Metal Co., Inc.*, and *Mrs. Gladys Selvin*, *supra*.

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

CONCLUSIONS OF LAW

1. West Coast Liquidators, Inc., and Mrs. Gladys Selvin are employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Wholesale Delivery Drivers and Salesmen, Local Union No. 848, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America is a labor organization within the meaning of Section 2(5) of the Act.

3. The following employees constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9 of the Act: All shipping and receiving employees, drivers, helpers and warehousemen employed at West Coast Liquidators, Inc., warehouse located at 4701 South Santa Fe Avenue, Los Angeles, California, excluding all other employees, office clerical employees, guards, watchmen, professional employees and supervisors as defined in the Act.

4. As certified by the National Labor Relations Board on October 16, 1972, the Union is the exclusive representative of the employees in the aforesaid unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

5. By failing and refusing on October 16, 1972, and thereafter, to bargain in good faith with the Union as the exclusive representative of the employees in the said appropriate unit, West Coast and Mrs. Selvin have engaged in, and are engaging in, unfair labor practices within the meaning of Section 8(a)(1) and (5) 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.

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER ¹¹

A. West Coast Liquidators, Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain in good faith with the above-named labor organization as the exclusive representative of its employees in the following unit: All shipping and receiving employees, drivers, helpers and warehousemen employed at West Coast Liquidators, Inc., warehouse located at 4701 South Santa Fe Avenue, Los Angeles, California, excluding all other employees, office clerical employees, guards, watchmen, professional employees and supervisors as defined in the Act.

(b) In any manner interfering with, restraining, or coercing its employees in the exercise of rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Upon request, bargain in good faith with the above-named Union as the exclusive representative of all employees in the unit set forth above and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Post at all of its plants copies of the attached notice marked "Appendix A."¹² Copies of the notice, on forms provided by the Regional Director for Region 21, after being duly signed by West Coast's authorized representative, shall be posted by West Coast immediately upon receipt thereof, 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 West Coast to insure that said notices are not altered, defaced, or covered by any other material.

(c) Post at the same places and under the same conditions as set forth in (b) above, as they are forwarded by the Regional Director, copies of the Respondent Mrs. Gladys Selvin's notice marked "Appendix B."

(d) Mail signed copies of the attached notice marked "Appendix A" to said Regional Director for posting at the offices maintained by Mrs. Gladys Selvin. Copies of the notice, to be furnished by the said Regional Director, shall be returned forthwith to the Regional Director after they have been signed by an official representative of Respondent West Coast.

(d) Notify the Regional Director for Region 21, in writing, within 20 days from the date of this Order, what steps West Coast has taken to comply herewith.

B. Mrs. Gladys Selvin shall:

1. Cease and desist from:

(a) Refusing to bargain in good faith with the above-named labor organization as the exclusive representative of the employees of West Coast in the above-mentioned unit.

(b) Refusing to bargain in good faith with any labor organization when she is agent for any employer subject to the jurisdiction of the Board, that has an obligation under the Act to bargain with said labor organization.

(c) When she is an agent for any employer subject to the jurisdiction of the Board, in any manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Upon request, bargain in good faith with the above-named labor organization, as the exclusive representative of all employees in the unit set forth above, and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Bargain in good faith with any labor organization when she is agent for any employer subject to jurisdiction of the Board, that has an obligation under the Act to bargain with said labor organization.

(c) Post at her offices, in places where meetings with union representatives are conducted, copies of the attached notice marked "Appendix B."¹³ Copies of said notice, on forms provided by the Regional Director for Region 21, shall, after being duly signed by Mrs. Gladys Selvin, be posted by her immediately upon receipt thereof, and be maintained by her for 60 consecutive days thereafter, in conspicuous places in her offices. Reasonable steps shall be taken to insure that said notices are not altered, defaced, or covered by any other material.

(d) Post at the same places and under the same conditions as set forth in (c) above, as soon as they are forwarded by the Regional Director, copies of the Respondent West Coast's notice marked "Appendix A."

(e) Mail signed copies of the attached notice marked "Appendix B" to said Regional Director for posting by Respondent West Coast. Copies of the notice, to be furnished by the said Regional Director, shall be returned forthwith to the Regional Director after they have been signed by Respondent Mrs. Gladys Selvin.

(f) Notify the Regional Director for Region 21, in writing, within 20 days from the date of this Order, what steps Mrs. Gladys Selvin has taken to comply herewith.

¹¹ In the event no exceptions are filed as provided by Sec 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec 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.

¹² 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"

¹³ See footnote 12, *supra*

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 direct-

ed to the Board's Office, Eastern Columbia Building, 849 South Broadway, Los Angeles, California 90014, Telephone Number 213-688-5229.