

In the Matter of BLACK DIAMOND STEAMSHIP CORPORATION and
MARINE ENGINEERS' BENEFICIAL ASSOCIATION, LOCAL NO. 33

Case No. C-174.—Decided July 21, 1937

Water Transportation Industry—Unit Appropriate for Collective Bargaining: craft; occupational differences; licensed personnel; established labor organization in industry—*Representatives:* proof of choice; election; prior certification of union by Board—*Collective Bargaining:* employer's duty to bargain after certification; refusal to meet and bargain collectively with union certified by Board as exclusive representative—*Strike:* prolonged because of employer's refusal to bargain and to reinstate employees—*Employee Status:* during strike—*Discrimination:* in reinstatement of strikers—*Reinstatement Ordered, Strikers:* strike provoked by employer's refusal to bargain; displacement of employees hired during strike—*Back Pay:* awarded.

Mr. Philip Phillips for the Board.

Hunt, Hill & Betts, by *Mr. John W. Crandall* and *Mr. Allen Gordon Miller*, of New York City, for the respondent.

Mr. Hyman A. Schulson, of counsel to the Board.

DECISION

STATEMENT OF CASE

Upon charges duly filed by Marine Engineers' Beneficial Association, Local No. 33, herein called the M. E. B. A., the National Labor Relations Board, herein called the Board, by Elinore Morehouse Herrick, Regional Director for the Second Region (New York, New York), issued its complaint dated February 17, 1937, against Black Diamond Steamship Corporation, New York City, herein called the respondent. The complaint and notice of hearing thereon were duly served upon the respondent and the M. E. B. A.

At the hearing the complaint was amended by striking three names from paragraph eight and by adding the name of Carl Kraigh.¹ The complaint as amended alleged:

1. That the respondent is engaged in foreign and interstate commerce.
2. That the licensed engineers employed by the respondent constitute a unit appropriate for the purpose of collective bargaining.

¹The names of John Platt and Charles E. Smith were stricken from the allegation that the respondent refused to reinstate them following the strike. The name of Frank M. French was stricken from the allegation that the respondent reinstated him on or about February 1, 1937.

3. That since August 1935, a majority of the licensed engineers have designated the M. E. B. A. as their representative for purposes of collective bargaining with the respondent by becoming members thereof.

4. That in August 1935, and at various times thereafter, the M. E. B. A. requested the respondent to bargain collectively but that on all such occasions the respondent refused to bargain collectively.

5. That on December 11, 1936, the Board certified that a majority of the licensed engineers on the respondent's vessels had designated the M. E. B. A. as their representative for purposes of collective bargaining with the respondent, and that pursuant to the provisions of Section 9 (a) of the National Labor Relations Act, 49 Stat. 449, herein called the Act, the M. E. B. A. was the exclusive representative of all such employees for purposes of collective bargaining.

6. That despite the certification, the respondent continued to refuse to bargain collectively with the M. E. B. A.

7. That the above-described acts of the respondent constitute unfair labor practices within the meaning of Section 8, subdivision (5) of the Act.

8. That "as a result of and because of the refusal of the respondent to bargain collectively * * * approximately all of the employees of the respondent in said unit did strike on or about November 23, 1936. On and about December 31, 1936, said striking employees did apply for reinstatement to their former positions."

9. That the respondent refused to reinstate 24 named employees and has at all times since continued to refuse them reinstatement, except that three of the employees named were reinstated on about February 1, 1937, and one was reinstated on about January 15, 1937.

10. That the respondent refused to reinstate these employees for the reason that they "joined and assisted the M. E. B. A. and engaged in concerted activities with other employees of the respondent for the purposes of collective bargaining and other mutual aid and protection", thereby engaging in an unfair labor practice within the meaning of Section 8, subdivision (3) of the Act.

11. That the respondent by refusing to bargain collectively and to reinstate the employees named in the complaint is engaging in unfair labor practices within the meaning of Section 8, subdivision (1) of the Act.

12. That the alleged unfair labor practices occur in the course and conduct of commerce, and are unfair labor practices affecting commerce within the meaning of Section 2, subdivisions (6) and (7) of the Act.

The respondent filed an answer to the complaint admitting the nature of its business and that its operations occur in the course and

conduct of commerce between the several States and with foreign countries. The answer alleged that on November 26, 1935, the respondent entered into an agreement with the United Licensed Officers of the United States of America, herein called the U. L. O., as the representative of all licensed officers, both deck and engineer, on the vessels of the respondent, which agreement became effective December 1, 1935, and continued in force for one year. It admitted that on about December 11, 1936, the Board certified that the M. E. B. A. had been designated by a majority of the licensed engineers employed on the respondent's vessels and that pursuant to the provisions of the Act the M. E. B. A. was the exclusive representative of all such employees for the purposes of collective bargaining. The answer also alleged that between the time of the Board's decision directing an election on September 24, 1936, and the resulting certification of representatives on December 11, 1936, the M. E. B. A. instructed its members aboard the respondent's vessels to support the strike of the unlicensed personnel then in existence, and that on November 23, 1936, the M. E. B. A. called a strike of its members employed on the respondent's vessels; that the respondent on December 4, 1936, sought to have the engineers return to work, but the engineers remained on strike; that vacant positions were then filled, and when the M. E. B. A. requested the reinstatement of the striking employees, the jobs were not available. The answer further alleged that the Act is unconstitutional, and denied all the other allegations of the complaint.

Pursuant to notice, a hearing was held in New York City commencing on February 23, 1937, before Robert M. Gates, the Trial Examiner duly designated by the Board. The Board and the respondent were represented by counsel. At the hearing the respondent moved to dismiss the complaint on the grounds that the members of the M. E. B. A. named in the complaint are not employees of the respondent and that the Board has no power under the Act to order their reinstatement. Counsel for the respondent argued that if the Board does have the latter power under the Act, it is an unconstitutional delegation of power. The Trial Examiner denied the motion. At the conclusion of the Board's case counsel for the Board moved to amend the pleadings to conform to proof. The motion was granted. Certain documents were submitted by stipulation following the hearing and were admitted by the Trial Examiner.

Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded to all parties. The parties were offered an opportunity for argument at the close of the hearing, which was declined. The respondent filed a brief to which we have given due consideration.

Subsequently the Trial Examiner filed an Intermediate Report finding that the respondent had committed unfair labor practices affecting commerce within the meaning of Section 8, subdivisions (1) and (5), and Section 2, subdivisions (6) and (7) of the Act. Although the Trial Examiner recommended the reinstatement of the employees alleged to have been refused reinstatement, he found that the respondent had not engaged in a violation of Section 8, subdivision (3) of the Act. Exceptions to the Intermediate Report and a brief thereon were thereafter filed by the respondent.

We find no error in the Trial Examiner's rulings upon the respondent's motions and objections, and such rulings are hereby affirmed. As set forth below, we also find that the evidence supports the findings and conclusions made by the Trial Examiner in his Intermediate Report that the respondent has engaged in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1) and (5), and Section 2, subdivisions (6) and (7) of the Act. However, for the reasons set forth below, we find that the Trial Examiner has erred in finding that the respondent has not engaged in a violation of Section 8, subdivision (3) of the Act. We have fully considered the exceptions to the Trial Examiner's Intermediate Report and find no merit in them. They are hereby overruled.

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

FINDINGS OF FACT

I. THE RESPONDENT AND ITS BUSINESS.²

Black Diamond Steamship Corporation is a corporation organized and existing under the laws of the State of Delaware, and is and has been at all times hereinafter mentioned, engaged in the general cargo and passenger business with general offices in New York, New York. It owns and operates eight vessels which sail according to a fixed posted schedule from New York, New York, to Rotterdam, Holland; Antwerp, Belgium; Boston, Massachusetts; Philadelphia, Pennsylvania; Baltimore, Maryland; Norfolk, Virginia; Newport News, Virginia; Portland, Maine; and return.³ Each of the respondent's vessels docks at Pier K, Weehawken, New Jersey, and each is regularly engaged in both outport and foreign sailings, transporting primarily freight and mail, and affording a limited pas-

²The findings of fact as to the respondent and its business are taken from Board's Exhibit No. 2, which is the decision of the Board, *Matter of Black Diamond Steamship Corporation and Marine Engineers' Beneficial Association, Local 33*, Case No. R-107, decided September 24, 1936, 2 N L R B. 241.

³The names of the vessels are as follows: Black Eagle, Black Gull, Black Hawk, Black Falcon, Black Tern, Black Heron, Black Condor, Black Ospray.

senger service. The respondent accepts through bills of lading to Europe. It employs the customary means of advertising for cargo and passengers. Victor J. Sudman is president and Michael J. Hanlon is vice-president and general manager of the respondent.

We find, therefore, that the respondent is engaged in trade, traffic, commerce, and transportation among the several States and between the United States and foreign countries, and that the licensed chief and assistant engineers employed on the vessels of the respondent are directly engaged in such trade, traffic, commerce and transportation.

II. THE UNION

Marine Engineers' Beneficial Association, Local No. 33, is a labor organization whose membership is limited to licensed marine engineers. Approximately 1100 members operate out of the port of New York.

III. THE UNFAIR LABOR PRACTICES

A. *The refusal to bargain collectively*

1. The appropriate unit

Upon the basis of the Board's decision in the representation case,⁴ which is part of the record in this case, and for the reasons there stated, we find that a unit composed of all licensed chief and assistant engineers employed as engineers on the vessels operated by the respondent would insure to these employees the full benefit of their right to self-organization and to collective bargaining, and otherwise effectuate the policies of the Act, and constitutes a unit appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.⁵

2. Representation by the union of the majority in the appropriate unit

It is clear from the Board's Decision and Direction of Election in *Matter of Black Diamond Steamship Corporation and Marine Engineers' Beneficial Association, Local 33*, Case No. R-107, decided September 24, 1936 (*supra*), and from the record in this case, that for over a period of two years the M. E. B. A. had been unsuccessfully attempting to bargain collectively with the respondent. Because of the M. E. B. A.'s abortive endeavors to induce the respondent to enter

⁴ Board's Exhibit No. 2; *Matter of Black Diamond Steamship Corporation and Marine Engineers' Beneficial Association, Local No. 33*; Case No R-107 (*supra*).

⁵ The decision of the Board in the representation case also included licensed junior engineers employed as engineers within the appropriate unit found by the Board. The evidence at this hearing indicated that there were no such individuals in this classification. It is, therefore, unnecessary to include them in the unit.

into an agreement, Joseph F. Lahey, business manager of the M. E. B. A., on July 2, 1936, filed with the Regional Director for the Second Region a petition for an investigation and certification of representatives pursuant to Section 9 (c) of the Act. After a hearing, the Board directed an election, and as a result thereof, certified on December 11, 1936, that Marine Engineers' Beneficial Association, Local No. 33, had been designated by a majority of the employees in the appropriate unit as their representative for purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, the M. E. B. A. is the exclusive representative of all such engineers for purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

3. The refusal to bargain

On about October 27, 1936, all the maritime unions on the Pacific Coast, constituting the Maritime Federation of the Pacific, called their members out on strike, which completely tied up American shipping on that Coast. On October 29, the rank-and-file of the International Seamen's Union, herein called the rank-and-file, went out on strike against the respondent and other steamship lines on the Atlantic Coast in support of the Maritime Federation of the Pacific. As a result the respondent had great difficulty in obtaining competent crews for its vessels. On about November 10, 1936, the members of the M. E. B. A. refused to sail unless the respondent obtained competent crews.

On November 12, 1936, Edward Patrick Trainer, business manager of the M. E. B. A., called Hanlon to request that the respondent negotiate an agreement with the M. E. B. A. Hanlon replied, "I am too busy to bother much with an agreement * * * I am having a strike." Trainer did not press him further at that time. On about November 15, a letter dated November 13, on a letterhead of the national M. E. B. A., was mailed to New York City over the signature of William S. Brown, the national president, to all companies on the Atlantic and Gulf Coasts, and to the American Steamship Owners Association, herein called the Association, with the request that the "Association meet with the representatives of our organization in the hope that we will be able to reach an agreement that will be to our mutual advantage".⁶ A form of a proposed agreement was also enclosed.⁷ R. J. Baker, president of the Association, replied that he had no authority to negotiate an agreement for the individual steamship lines. The respondent, however, did not reply to the letter.

⁶ Respondent's Exhibit No. 8.

⁷ Respondent's Exhibit No. 9.

Trainer testified that he telephoned Hanlon again on November 17, and repeated his request to negotiate an agreement. Hanlon denied that he talked with Trainer at any time during November except on the 12th. The national M. E. B. A. declared a strike effective November 23, 1936, against the respondent and some other ship lines. It is clear that the reason the strike was declared was the failure of the steamship lines to respond satisfactorily to the letter of November 13, requesting them to bargain collectively with the M. E. B. A.

On December 4, 1936, after the ballots had been counted by the Board and it was known that the M. E. B. A. had won the election, Hanlon called a meeting of about 24 of the striking engineers and deck officers at the respondent's office at Pier K, Weehawken, New Jersey. Twenty-six of 32 engineers employed by the respondent were out on strike at this time. Hearing of the meeting, Trainer dispatched George M. Molloy, an organizer of the M. E. B. A., to attend the meeting. He introduced himself to Hanlon and asked if he might stay, but also added that he would leave the room if Hanlon so wished. Hanlon replied that he would like to have Molloy leave the room "because the meeting was only of a friendly get together sort, nothing official". Molloy left. At the meeting Hanlon told the engineers that "we are going to endeavor to sail ships, and if we go out and get men to take your positions it is going to be too bad for we will have to promise the men permanent jobs and we will be morally obligated to keep them on permanent jobs. The door is still open and the opportunity is here. Let's get together." The engineers replied that they would have to consult the M. E. B. A. about the matter. During the week of December 6, 1936, the respondent sailed two of its vessels with other engineers.

On December 12, 1936, the day after the Board certified the M. E. B. A., the respondent wrote letters to its engineers urging them to return to their vessels.⁸ Paul Stewart was the only engineer who replied to this letter, stating, "My own self respect as well as instructions from the engineers association prohibit me from taking employment on a vessel which is manned by strikebreakers."⁹

Trainer testified that on December 14, three days after the Board's certification, he telephoned Hanlon and told him that "we are designated as representatives of the marine engineers in your company. Now we are willing to go ahead and bargain with you." According to Trainer, Hanlon replied: "All of the engineers, or most of the engineers are out of this company now. You represent no engineers; we are not going to bargain with you."

⁸ Board's Exhibit No. 11.

⁹ Respondent's Exhibit No. 6

Hanlon denied that he had a telephone conversation with Trainer on December 14. Certainly Trainer's testimony is more consistent with the realities. It would be only reasonable and natural for Trainer, upon being notified that the M. E. B. A. had been certified, to renew his request that the respondent bargain with the M. E. B. A.; it cannot be supposed that this victory, coming after such a long struggle to achieve collective bargaining status, would find the M. E. B. A. sleeping on its rights. In view of the conflicting testimony, we give credence to that version which appears reasonable. Accordingly, we find that Trainer's request to bargain and Hanlon's refusal took place on December 14, 1936, three days after the certification.

On December 31, 1936, when the vessels of the respondent began to sail with more regularity, a committee of two members of the M. E. B. A., consisting of Anderson and French, called upon Hanlon requesting reinstatement of all the engineers and an opportunity to negotiate an agreement. Hanlon told the committee that they were unfortunately too late, that no vacancies existed on the respondent's vessels, but as the vacancies did occur the engineers who had been on strike would be reinstated. On January 4, 1937, Trainer telephoned Sudman and told him that the M. E. B. A. wanted reinstatement of its men and an agreement with the respondent. Sudman replied that he would let him know in a few days. When Trainer called again on January 7, 1937, Sudman told him that any negotiations would have to be conducted with the American Steamship Owners Association. Thereupon Trainer talked to R. J. Baker, president of the Association, who told him: "I am signing no contract with you or no other steamship company will sign a contract with you, Mr. Trainer." On January 9, 1937, Trainer filed his charge with the Board. On about January 16, Trainer sent letters to the respondent advising that the strike had been called off as of January 14, and enclosing the applications of the engineers for reinstatement.¹⁰

We find that on December 14, 1936; December 31, 1936; January 4, 1937; and January 7, 1937, the respondent refused to bargain collectively with the Marine Engineers' Beneficial Association, Local No. 33, as the representative of the respondent's engineers.

B. Refusal to reinstate

As already set forth in connection with the discussion of the respondent's refusal to bargain collectively, applications for reinstatement on behalf of all of the striking engineers were made by Anderson and French on December 31, 1936, and by Trainer on January 4, 7, and 16. The respondent can find no refuge in the fact that the applications for reinstatement may have been cou-

¹⁰ Board's Exhibits Nos. 21a, 21b, 21c, 22, 23.

pled with demands for collective bargaining. Such demands the M. E. B. A. was entitled to make, and the respondent was required to heed under the Act.

The respondent refused and continues to refuse reinstatement to the members of the M. E. B. A. who went on strike, except eight men who have been reinstated. It is clear that the only basis upon which the respondent has refused to reinstate the men is that they were on strike. Most of the men had worked for the respondent a considerable number of years. They were regarded as thoroughly competent, satisfactory, permanent, and regular employees. Hanlon readily admitted that as a group they were more competent than the engineers hired to replace them during the strike. He also stated that as vacancies occurred among the new men the respondent would rehire the old employees.

The strike of the engineers, commencing on November 23, 1936, and terminating on January 14, 1937, constituted a labor dispute. By striking the engineers did not sever their status as employees of the respondent, since they had ceased work as a consequence of and in connection with a current labor dispute. The continuance of the strike after the Board's certification on December 11, 1936, was caused by the respondent's refusal to bargain collectively with the M. E. B. A. thereafter, and its refusal to reinstate the strikers. Hence the strikers thereafter maintained their status as employees for two reasons: their work had ceased as a consequence of and in connection with a current labor dispute, and the strike was prolonged because of unfair labor practices on the part of the respondent. Since they had not obtained any other regular and substantially equivalent employment, the engineers were entitled to reinstatement when they applied for their jobs after the Board's certification.

We find, therefore, that by its refusal to reinstate the engineers who applied for reinstatement on December 31, 1936, and January 4, 7, and 16, 1937, the respondent has discriminated in regard to hire and tenure of employment, and has thereby discouraged membership in a labor organization.

We find that the respondent, by the acts above set forth, has interfered with, restrained, and coerced its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining and other mutual aid and protection as guaranteed in Section 7 of the Act.

We find that the refusal of the respondent to bargain collectively and to reinstate the engineers has led to and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

THE REMEDY

We have found that the strike of the respondent's engineers on November 23, 1936, was prolonged because of the respondent's continued refusal to bargain on December 14, 1936, three days after the Board's certification. Since the strike was prolonged by the respondent's unfair labor practices, the strikers were entitled to reinstatement to their former positions after the respondent's refusal to bargain on December 14. In order to restore the status quo as it existed prior to the time the respondent committed the unfair labor practices and in order to enable the processes of collective bargaining to function, we will order that all strikers be reinstated to their former positions, dismissing if necessary all engineers employed for the first time since December 14, 1936, the date of the first refusal to bargain after the Board's certification.¹¹

The first request for reinstatement of the strikers was made on December 31, 1936. The respondent's refusal to reinstate the strikers on December 31, 1936, constituted a discriminatory discharge. They are, therefore, entitled to back pay from the date of the first sailing, after December 31, of the vessel upon which each of the engineers, respectively, was employed on November 23, 1936, to the date of the respondent's offer of reinstatement.¹² Since engineers "sign articles" and are paid only for such voyage they make, we choose the first sailing date after December 31, 1936, as the date from which back pay is to commence.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact and upon the entire record in the proceeding, the Board finds and concludes as a matter of law:

1. Marine Engineers' Beneficial Association, Local No. 33, is a labor organization, within the meaning of Section 2, subdivision (5) of the Act.

2. The strike of the licensed chief and assistant engineers employed on the vessels operated by the Black Diamond Steamship Company was a labor dispute, within the meaning of Section 2, subdivision (9) of the Act.

3. James Anderson, Eugene Topping, Geo. Pyne, Benj. R. Castles, Henry K. Berry, Charles Steffenson, Wm. Serviss, Herbert O'Sullivan, Ernest Peterson, John Eiler, (Frederick) Oscar Schwartz, Paul

¹¹ *Matter of Columbian Enameling and Stamping Company and Enameling and Stamping Mill Employees Union, No. 1969*, Case No C-14, decided February 14, 1936 (I N. L. R. B. 181).

¹² *Matter of Elbe File and Binder Co., Inc. and Bookbinders, Manifold and Pamphlet Division, Local Union No 119, International Brotherhood of Bookbinders*, Case No. C-158, decided June 2, 1937, 2 N. L. R. B. 906

Stewart, Walter Hasenfus, James M. Lamb, John B. Fetzer, Henry L. Mosher, Homer Lohse, S. M. Elonka, H. Gonzales, William Hodgkiss, Clarence Ackershock, William J. Scott, Willard L. Davis, Frank French, Carl Nilson, A. W. Pryde, George J. Portvliet, Edward Hoefner, Jack Peelen, Theodore R. Ender, Erie J. Green, Merlin LaFleur, Herman Mellema, B. Pearson, and Carl Kraigh were employees of the respondent at the time of the strike, and are still employees of the respondent, within the meaning of Section 2, subdivision (3) of the Act.

4. The respondent, by discriminating in regard to hire and tenure of employment, and thereby discouraging membership in a labor organization, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the Act.

5. The licensed chief and assistant engineers employed as engineers on vessels operated by the respondent constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

6. Marine Engineers' Beneficial Association, Local No. 33, having been designated by a majority of the licensed chief and assistant engineers employed as engineers on vessels operated by the respondent as their representative for purposes of collective bargaining, is, by virtue of Section 9 (a) of the Act, the exclusive representative of all such engineers for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

7. By refusing to bargain collectively with the M. E. B. A. as the representative of its engineers, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (5) of the Act.

8. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the Act.

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

ORDER

Upon the basis of the findings of fact and conclusions of law and pursuant to Section 10, subdivision (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Black Diamond Steamship Corporation, and its officers, agents, successors, and assigns shall:

1. Cease and desist from interfering with, restraining, or coercing its employees in the exercise of their rights of self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection, as guaranteed in Section 7 of the National Labor Relations Act;

2. Cease and desist from refusing to bargain collectively with Marine Engineers' Beneficial Association, Local No. 33, as the exclusive representative of its licensed chief and assistant engineers in respect to rates of pay, wages, hours of employment, and other conditions of employment;

3. Cease and desist from discouraging membership in Marine Engineers' Beneficial Association, Local No. 33, or any other labor organization of its employees, by refusing to reinstate the engineers named below in paragraph 4 (a), or otherwise discriminating in regard to hire and tenure of employment or any term or condition of employment, or by threat of such discrimination;

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

a. Offer to James Anderson, Eugene Topping, Geo. Pyne, Benj. R. Castles, Henry K. Berry, Charles Steffenson, Wm. Serviss, Herbert O'Sullivan, Ernest Peterson, John Eiler, (Frederick) Oscar Schwartz, Paul Stewart, Walter Hasenfus, James M. Lamb, John B. Fetzer, Henry L. Mosher, Homer Lohse, S. M. Elonka, H. Gonzales, William Hodgkiss, Clarence Ackershoek, William J. Scott, Willard L. Davis, Frank French, Carl Nilson, A. W. Pryde, George J. Portvliet, Edward Hoefner, Jack Peelen, Theodore R. Ender, Eric J. Green, Merlin LaFleur, Herman Mellema, B. Pearson, and Carl Kraigh immediate and full reinstatement in their former positions, without prejudice to their seniority and other rights and privileges, dismissing if necessary engineers employed for the first time since December 14, 1936;

b. Make whole the engineers who, individually or through their representatives, applied for and were refused reinstatement for any losses of pay they have suffered by reason of the refusal of the respondent to reinstate them by payment to each of them, respectively, of a sum of money equal to that which each of them, respectively, would normally have earned as wages from the date of the first sailing of the vessel after December 31, 1936, upon which each of them, respectively, was employed on November 23, 1936, to the date of the respondent's offer of reinstatement, less any amount earned by each of them, respectively, during such period;

c. Upon request, bargain collectively with Marine Engineers' Beneficial Association, Local No. 33, as the exclusive representative of all its licensed chief and assistant engineers, for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment;

d. Post notices at a conspicuous place on each of the respondent's vessels stating (1) that the respondent will cease and desist in the manner aforesaid, and (2) that said notices will remain posted for at least thirty (30) consecutive days from the date of the posting;

e. Notify the Regional Director for the Second Region in writing within ten (10) days from the date of this order what steps the respondent has taken to comply herewith.