

In the Matter of **STYLECRAFT LEATHER GOODS COMPANY, INC. and
BENJAMIN MARSALA**

Case No. C-210.—Decided October 27, 1937

Ladies Pocketbook Manufacturing—Interference, Restraint or Coercion: surveillance of and questioning employecs regarding organizational activities; instigating arrest of leader of organizational activities—*Discrimination.* discharge—*Reinstatement Ordered—Back Pay:* awarded

Mr. Samuel J. Zack for the Board.

Mr. Archibald Palmer, of New York City, for the respondent.

Mr. S. G. Lippman, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On September 11, 1936, Benjamin Marsala filed a charge with the Regional Director for the Fourth Region (Philadelphia, Pennsylvania) alleging that Stylecraft Leather Goods Company, Inc., Scranton, Pennsylvania, herein called the respondent, had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1) and (3) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 14, 1937, the National Labor Relations Board, herein called the Board, by the Regional Director for the Fourth Region, issued its complaint against the respondent, alleging that the respondent had engaged in unfair labor practices affecting commerce within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the Act, in that the respondent discharged and refused to reinstate Benjamin Marsala for the reason that he joined and assisted a labor organization known as the International Ladies' Handbag, Pocketbook and Novelty Workers Union, herein called the Union, and engaged in concerted activities with other employees for the purpose of collective bargaining and other mutual aid and protection; and that the respondent instigated and encouraged the arrest and incarceration of Benjamin Marsala by false statements to the police for the purpose of interfering with and restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

The respondent in its verified answer dated June 19, 1937, in substance denied each and every material allegation of the complaint.

After two postponements at the request of the respondent's counsel, notice of a hearing to be held on July 6, 1937, in Scranton, Pennsylvania, was issued and duly served on the respondent. On July 2, the respondent's counsel telegraphed a request for a third continuance, which was denied by the Regional Director. The respondent then telegraphed a request for permission to cross-examine the witnesses at an adjourned hearing.

Pursuant to notice, a hearing was held in Scranton, Pennsylvania, on July 6, 1937, before Fred A. Hughes, the Trial Examiner duly designated by the Board. Though the respondent was given full opportunity to appear at the hearing and to introduce into the record documentary and other evidence, the respondent did not avail itself of such opportunity.

On August 4, 1937, the Trial Examiner filed his Intermediate Report, in which he treated the respondent's telegraphic requests as motions, and denied both of them. He also found and concluded that the respondent had engaged in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the Act, and recommended that the respondent reinstate Benjamin Marsala with back pay. The respondent thereafter filed exceptions to the Trial Examiner's rulings upon its motions as well as to findings of the Intermediate Report. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed. The Board has also considered the exceptions to the findings of the Intermediate Report and finds that they are without merit.

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

FINDINGS OF FACT

I. THE RESPONDENT AND ITS BUSINESS

The respondent is and has been since January 4, 1917, a corporation organized and existing by virtue of the laws of the State of New York. The respondent maintains and operates a plant in Scranton, Pennsylvania, where ladies' pocketbooks are manufactured and distributed. This plant resumed operation in July 1936, after having been closed for a period of approximately 10 months because of financial difficulties. The respondent employs 160 men and women, who produce 150 gross of pocketbooks per week. The respondent also operates a second plant at Bridgeport, Connecticut, for the manufacture and distribution of pocketbooks of a more expensive grade than those produced at the Scranton plant. The respondent maintains a general office in New York City. The two

plants are administered from this New York City office. The present case involves only the Scranton plant.

At its Scranton plant the respondent uses many kinds of raw materials, including silk, cotton goods, frames, buttons, imitation and genuine leather, cloth, cardboard and paper, and various other materials depending on the pattern and quality of the product. These raw materials for the most part have their source in the New England States.

The necessary raw materials are purchased by the New York City office and shipped from New York City by rail and truck to the respondent's plants in accordance with the manufacturing needs.

At the Stylecraft plant the material is first subjected to cutting in accordance with a pattern or design. The material then moves to the operating or the stitching and sewing department; thereafter it is framed; then the pocketbook is examined and packed and is ready for shipment.

The respondent employs salesmen who travel throughout the United States. Its products are sold throughout the United States and in many foreign countries. Ninety-five per cent of Stylecraft products are shipped in interstate commerce.

II. THE UNFAIR LABOR PRACTICES

Benjamin Marsala worked for the respondent in the capacity of a framer from 1933 to the date of his discharge. When discharged he was earning about \$14 a week.

Until October 1935 the employees were paid time and one-half for all overtime work. At that time the management decided to stop the extra payment for overtime work. A committee of five, consisting of Benjamin Marsala, James Reed, John Sysko, Eugene Donaldson, and Harry Shopay, all employees in the framing department, went to Meyer Nitsky, the then general manager, and protested the cut in overtime payments and asked for a general raise. Nitsky is alleged to have replied, "If you like it, stay. If you don't like it, go."

The men decided that their only recourse was to form a union in order to secure effective collective bargaining. On October 12, 1935, the same committee of five went to the local office of the Amalgamated Clothing Workers and asked to be organized. They were informed that the Amalgamated had no jurisdiction, but that their case would be referred to the proper union organizer.

The men had gone to the union headquarters about lunch time. When Marsala returned to work, Nitsky called him into his office and accused Marsala of going to a union office. When Marsala denied this, Nitsky stated, "I have a man watching you. I know every move you made. Tell me or I'll fire you." Marsala then re-

turned to work. An hour and a half later Nitsky discharged him. Soon afterwards Nitsky also discharged Eugene Donaldson and James Reed, two other members of the committee.

Detective Donaldson of the local police was called by Nitsky and informed of the fact that Marsala was discharged because he had visited the union headquarters. Nitsky accused Marsala of threatening girls employed by the respondent with bodily harm if they went to work. On October 14, 1935, at about 2 o'clock in the morning, local police officers called at Marsala's home and took him to police headquarters. Marsala was held on no specific charge, merely as a suspicious character. About 10 o'clock the same morning detective Donaldson¹ came in and, according to Marsala's testimony, said, "What was I trying to organize a shop for? Aren't you making enough money . . ." He says, "I have a notion to give you a slap in the face." When Marsala inquired the reason for his being held, detective Donaldson answered, "For union activities."

Marsala was released at about 5 o'clock, being first, however, accused of having attempted the kidnapping of Nitsky's wife and children. He was released on condition that he hand over to detective Donaldson a list of all the employees he had visited in connection with his attempts to organize a union. Marsala kept his promise. It is obvious that Marsala's incarceration and detective Donaldson's statements were directly instigated by the respondent and that the charges against Marsala of threatening the employees of the respondent and attempting the kidnapping of Nitsky's wife and children were entirely unfounded but made for the purpose of punishing him for his union activities.

After this incident Marsala applied for but was denied reinstatement.

When the factory reopened, Marsala again applied for reinstatement, but the new general manager, Harry Wolitsky, was made acquainted with Marsala's union activities by Morris Brenner, the office manager, and his reinstatement was refused.

We find that the respondent's conduct in discharging and refusing to reinstate Benjamin Marsala, and causing his subsequent incarceration, had the necessary effect of discouraging union membership. We find that the respondent has discriminated in regard to hire and tenure of employment in order to discourage membership in a labor organization, and has interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

The work of Benjamin Marsala having ceased as a result of an unfair labor practice, he at all times retained his status as an em-

¹ Father of Eugene Donaldson, one of the discharged men who was reinstated by the respondent after being out of work for one day.

ployee of the respondent within the meaning of Section 2 (3) of the Act. He has not obtained any regular or substantially equivalent employment so as to terminate his status as an employee of the respondent. At the time of the hearing, Benjamin Marsala had earned in all between \$15 and \$20 after his discharge.

III. EFFECT OF UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the respondent set forth in Section II above, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact the Board makes the following conclusions of law:

1. Benjamin Marsala was, at the time of his discharge, and at all times thereafter, an employee of the respondent, within the meaning of Section 2 (3) of the Act.

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

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

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

ORDER

On the basis of the foregoing findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Stylecraft Leather Goods Company, Incorporated, and its officers, agents, successors and assigns, shall:

1. Cease and desist from discharging or refusing to reinstate any of its employees, or from in any other manner discriminating in regard to hire or tenure of employment of any of its employees, in order to discourage membership in any labor organization of its employees;

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

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

(a) Offer to Benjamin Marsala immediate and full reinstatement to his former position without prejudice to his seniority or other rights and privileges;

(b) Make whole Benjamin Marsala for any loss of pay he may have suffered by reason of his discharge, by payment to him of a sum equal to that which he would normally have earned during the period from the date of his discharge on October 12, 1935, to the date of such offer of reinstatement, less the amount earned by him during such period. This excludes the period in which the plant was not in operation;

(c) Post notices in conspicuous places where they will be observed by the respondent's employees stating (1) that the respondent will cease and desist as aforesaid, and (2) that such notices will remain posted for a period of thirty (30) consecutive days from the date of posting;

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