

IN THE MATTER OF THE HEWITT SOAP COMPANY, INC. and GAS, BY-  
PRODUCT COKE & CHEMICAL WORKERS LOCAL NO. 13001 OF DISTRICT  
NO. 50, UNITED MINE WORKERS OF AMERICA

*Case No. C-510.—Decided April 21, 1938*

*Soap Manufacturing Industry—Settlement:* stipulation providing for reinstatement of employee and payment of back pay to employees discharged or laid off; withdrawal of recognition of company-dominated union. *Order:* entered on stipulations.

*Mr. William Perricelli*, for the Board.

*Estabrook, Finn, & McKee*, by *Mr. Samuel L. Finn*, of Dayton, Ohio, for the respondent.

*Mr. Otis Jarnagan* and *Mr. Harvey B. Rector*, for the United.

*Mr. Robert C. Knee*, of Dayton, Ohio, for the Independent.

*Mr. Howard S. Friedman*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon charges duly filed November 22, 1937, by Harry R. Doll, sub-regional director of the Committee for Industrial Organization, and amended charges duly filed January 17, and March 11, 1938, by Gas, By-Product Coke & Chemical Workers Local No. 13001 of District No. 50, United Mine Workers of America, herein called the United, the National Labor Relations Board, herein called the Board, by Philip G. Phillips, Regional Director for the Ninth Region (Cincinnati, Ohio), issued its complaint dated March 8, 1938, against The Hewitt Soap Company, Inc.,<sup>1</sup> Dayton, Ohio, herein called the respondent. The complaint and notice of hearing were issued on March 8, 1938, and duly served upon the respondent, the United, and the Employees Independent Association of The Hewitt Soap Company, Inc., herein called the Independent. The complaint alleged that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section

<sup>1</sup> The charges designated the respondent as The Hewitt Soap Company and the original complaint designated it as Hewitt Soap Company; the name was corrected in a stipulation between the parties.

8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Neither the respondent nor the Independent filed an answer to the complaint.

On March 16, 1938, prior to the hearing, the Board, the United, and the respondent entered into a stipulation.

## I

Upon the basis of this stipulation the Board makes the following:

### FINDINGS OF FACT

#### THE BUSINESS OF THE RESPONDENT

The respondent, The Hewitt Soap Company, Inc., of Dayton, Ohio, is and has been since May 10, 1933, a corporation, organized and existing under and pursuant to the laws of the State of Ohio, having its principal offices and place of business at Dayton, Ohio. It is in the business of manufacturing, selling, and distributing soap and soap products.

The respondent operates a manufacturing plant in Dayton, Ohio, hereinafter called the Dayton Plant, and has sales offices and sales agents in Dayton but not elsewhere. During the period between June 1 and December 31, 1937, the respondent manufactured and processed at the Dayton Plant and caused to be sold in both interstate and foreign commerce, finished soap and soap products approximating one million dollars in volume. Of the goods so manufactured, processed, and sold in this period, over 50 per cent were shipped to destinations located in States other than the State of Ohio, in nearly all the States of the United States.

During the same period, the company purchased the following principal raw materials: Coconut oil, tallow, caustic soda, silicate of soda, palm oil, and hydrogenated oil for use in its manufacturing and processing of soap and soap products. The sources of these raw materials are all within the United States and its possessions, but approximately 90 per cent of these materials are purchased outside the State of Ohio, in value about \$600,000.

The percentage of goods above stated as having been shipped from the Dayton Plant by the respondent to points located in States other than the State of Ohio, and the percentage of goods purchased and above stated as having been shipped to the Dayton Plant of the respondent from points located outside the State of Ohio, are substantially equivalent to shipments to and from the Dayton Plant in similar periods since the effective date of the Act.

The average length of production for finished goods is from 4 to 6 days.

The respondent employs approximately 150 people, who are approximately all engaged in the manufacturing, processing, and shipping of the goods of the respondent referred to in previous paragraphs.

We find that the respondent's operations at the Dayton Plant, constitute a part of a continuous flow of trade, traffic, and commerce among the several States and with foreign countries.

## II

Also on March 16, 1938, the respondent, through its attorney, in writing, waived its right to a hearing and consented to the Board making an order in accordance with the following stipulation entered into by the Board, the respondent, the United, and the Independent:

It is stipulated and agreed to by all the parties hereto, viz., The Hewitt Soap Company, Inc. respondent herein, through its attorney Samuel L. Finn of Dayton, Ohio, The Gas, By-Product Coke & Chemical Workers Local No. 13001 of District No. 50 United Mine Workers of America, through Otis Jarnagan, President of Local No. 13001, and through Harvey B. Rector, Acting Sub-Regional Director of the Committee for Industrial Organization, Dayton, Ohio, the Employees Independent Association, through its attorney Robert C. Knee of Dayton, Ohio, and William Perricelli, attorney for the National Labor Relations Board, by subscribing below:

1. That Appendix A of the complaint in this matter be amended in the following manner, by striking therefrom the names and dates of Wilford Swiggart, Mrs. Ada Browne, Amos Hill, Edna Slanker, C. M. Driskill and Charles Owens; that Appendix B be amended in the following manner, by striking therefrom the name and dates with respect to Helen Walters, and by adding thereto the following names and dates:

Wilford Swiggart.....	12/31/37
Mrs. Ada Browne.....	10/5/37, 11/12/37
Amos Hill.....	10/29/37
C. M. Driskill.....	12/27/37;

2. That the name Employees Independent Association wherever it appears in the complaint be amended to read The Employees Independent Association of The Hewitt Soap Company, Inc.;

3. That service of an Amended Complaint is hereby waived;

4. That the National Labor Relations Board be permitted to enter the following ORDER: \* \* \* (Here follow the provisions of the order as set forth below on page 719).

4. [sic] That the Employees Independent Association of The Hewitt Soap Company, Inc., a corporation pursuant to the laws of the State of Ohio, acting through its attorney Robert C. Knee, having been duly served with a copy of the complaint in this matter, and having appeared through its attorney at settlement conferences on the issue involved herein on March 3 and March 12, of 1938, CONSENTS to the above terms of settlement and hereby agrees to institute dissolution proceedings of itself, a corporation known as The Employees Independent Association within thirty (30) days after the signing of this stipulation of agreement;

5. [sic] That within a week after the date of approval by the National Labor Relations Board, of this settlement, The Hewitt Soap Company pay to the following the amounts set after their names:

Otis Jarnagan, 133 McLain St.....	\$240. 00
Jean Drake, 709 Kolping St.....	121. 00
Ada Browne, 709 Kolping St.....	106. 80
Cecil Driskill, 15 Eagle St.....	70. 00
A. W. Hill, 804 Wyoming St.....	40. 00
Wilford Swiggart, 1215 Ashland Ave.....	27. 00
Victor Claunch, 1706 E. Third St.....	11. 00
R. P. Williams, 1530 McLain St.....	5. 70

The above mentioned sums have been calculated and agreed upon by the parties hereto as the sums making the respective individuals named within this paragraph whole. Cecil Driskill, A. W. Hill, Wilford Swiggart, Victor Claunch and R. P. Williams, at the time of this agreement, are regular employees of the company;

6. [sic] That the pen and ink corrections throughout this agreement have been properly noted and agreed to by all parties hereto; that The Hewitt Soap Company, Inc. waives all objection to any use of the term "Hewitt Soap Company" in the complaint issued by the National Labor Relations Board, and by its signature below specifically agrees that wherever "Hewitt Soap Company" appeared in the complaint, it may be read as "The Hewitt Soap Company, Inc."

On April 2, 1938, a complaint, amended to conform with the stipulation, was issued by the Regional Director and served upon the respondent, the United, and the Independent.

On April 4, 1938, separate written instruments were executed by the respondent, the United, and the Independent whereby they acknowledged service of the amended complaint and waived the right to answer and to have a hearing.

Upon the basis of the pleadings, the facts alleged therein, the above findings, and the stipulations referred to, the Board makes the following:

#### CONCLUSION OF LAW

The operations of the respondent affect commerce within the meaning of Section 2 (6) and (7) of the Act.

#### ORDER

On the basis of the pleadings, the facts alleged therein, and admissions thereto, the above findings and conclusion of law, and the stipulations referred to,<sup>1</sup> and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, The Hewitt Soap Company, Inc., and its officers and agents shall:

1. Cease and desist from:

(a) 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, and 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;

(b) From discouraging membership in Gas, By-Product Coke & Chemical Workers Local No. 13001 of District No. 50 United Mine Workers of America, 204 Beckel Building, Dayton, Ohio, or any other labor organization of its employees, or encouraging membership in The Employees Independent Association of The Hewitt Soap Company, Inc., or any other labor organization of its employees, by discriminating against employees in regard to hire, tenure of employment, or any term or condition of employment;

(c) From dominating or interfering with the administration of The Employees Independent Association of The Hewitt Soap Company, Inc., or with the formation or administration of any other labor organization of its employees, and from contributing financial or other support to The Employees Independent Association of The Hewitt Soap Company, Inc., or any other labor organization of its employees, except that nothing in this paragraph shall prevent the respondent from permitting its employees to confer with it during working hours without loss of time or pay.

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

(a) Offer to Otis Jarnagan, immediate and full reinstatement to his former position with all the rights and privileges previously

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<sup>1</sup> The words, "the above findings and conclusion of law, and the stipulations referred to," do not appear in the stipulation for the order

enjoyed, and make whole the said employee for any losses of pay he may have suffered by reason of the failure to reinstate him, by payment to him of a sum equal to that which he would normally have earned as wages during the period from the time of his discharge to the date of the offer of reinstatement;

(b) Pay to the employees named in Appendix A herein, a sum equal to that which each would normally have earned as wages during the lay-off periods therein set forth;

(c) Give to Mrs. Jean Drake and Mrs. Ada Browne, classification as temporary employees and plant-wide seniority in such classification;

(d) Withdraw all recognition from The Employees Independent Association of The Hewitt Soap Company, Inc. as the representative of its employees for the purposes of dealing with the respondent concerning grievances, wages, rates of pay, hours of employment, or conditions of work;

(e) Post notices in conspicuous places throughout the departments of the plant, stating (1) that The Employees Independent Association of The Hewitt Soap Company, Inc. is disestablished as the representative of its employees for the purpose of collective bargaining, and that it will refrain from any recognition thereof; (2) that it will cease and desist in the manner aforesaid; (3) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting; and

(f) Notify the Regional Director of the National Labor Relations Board for the Ninth Region, within a period of fifteen (15) days after the entry of the order, what steps have been taken to comply with the said order.

#### APPENDIX A

	Laid Off (Column indicates date of lay-off)		Laid Off (Column indicates date of lay-off)
Victor Claunch-----	11/12/37	Russel Williams-----	10/5/37
	1/5/38	Wilford Swiggart----	12/31/37
	1/11/38	Mrs. Ada Browne----	10/5/37
Mrs. Jean Drake-----	10/5/37		11/12/37
	11/13/37	Amos Hill-----	10/29/37
	12/24/37	C. M. Driskill-----	12/27/37