

In the Matter of I. LIBOWITZ and WHOLESALE DRY GOODS  
EMPLOYEES UNION

*Case No. C-534.—Decided April 29, 1938* .

*Hosiery Industry—Settlement*: oral stipulation providing for reinstatement of employees and payment of back pay—*Order*: entered on stipulation.

*Mr. Mark Lauter*, for the Board.

*Mr. Isadore Libowitz*, of New York City, for the respondent.

*Mr. Langdon West*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On July 1, 1937, Wholesale Dry Goods Employees Union, herein called the Union, filed a charge with the Regional Director for the Second Region (New York City) against I. Libowitz, New York City, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices within the meaning of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

On December 2, 1937, the said Regional Director issued a complaint and accompanying notice of hearing, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the Act. On the same date the Regional Director issued an amended notice of hearing. Copies of the complaint, notice of hearing, and amended notice of hearing were duly served upon the respondent and the Union. The respondent did not file an answer to the complaint.

Pursuant to notice, a hearing was held at New York City on December 9, 1937, before Joseph L. Maguire, the Trial Examiner duly designated by the Board. The Board was represented by counsel. The respondent appeared in person. The Union was not represented. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

On December 9, 1937, counsel for the Board and the respondent entered into a written stipulation concerning the nature and scope of the respondent's business. This stipulation was admitted to the record at the hearing without objection.

On the same date during the hearing, counsel for the Board and the respondent entered into an oral stipulation, which became part of the record, concerning an order which the Board might enter in the case. The hearing was then adjourned.

On April 23, 1938, pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, the Board issued an order transferring the proceeding to the Board.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE RESPONDENT

I. Libowitz is an individual doing business as an independent mill agent in the hosiery industry. His place of business is located in New York City. In the course of his business the respondent obtains samples of hosiery from various mills located principally in the State of North Carolina and obtains orders for hosiery from customers located in every State. All billing for the shipments of such merchandise from the mills to customers is done directly by the respondent. Ninety per cent of the hosiery sold through the respondent is shipped by the manufacturer to customers located at points outside the particular State in which the manufacturer is located. The other ten per cent is shipped from the mills to the respondent and stocked in New York City and later is shipped by the respondent to customers located principally in the State of New York. Seventy-five per cent of the hosiery ordered by the respondent is shipped from mills located in the State of North Carolina.

We find that the respondent's operations at his New York City plant constitute a continuous flow of trade, traffic, and commerce among the several States.

#### II. THE BASIS OF THE SETTLEMENT

The stipulation as to the order the Board might enter in the case provides as follows:

It is hereby stipulated and agreed by and between Mark Lauter, Attorney for the National Labor Relations Board, and I. Libowitz, the Respondent, in the matter of I. Libowitz and Wholesale Drygoods Employees Union, that the Respondent herein agrees that he is engaged in commerce within the meaning

of Section Two of the National Labor Relations Act, and stipulates that he will not contest the jurisdiction of the Board in this proceeding, or in any court, and further stipulates that each and every allegation contained in the Complaint which is incorporated and made a part of the proceedings herein, is true and accurate. The Respondent agrees that the two employees whose names are set forth in the Complaint and who are known as Eugene Goldberg and Sol Narodowitz, who were, on or about June 30, 1937, discharged from the employ of the Respondent, shall be reinstated in the employ of the Respondent, with back wages from that date.

It is further stipulated and agreed that on or about July 22, 1937, the Wholesale Dry Goods Employees Union, which organization did file the charge in this proceeding, did change its name to the United Wholesale Employees of New York, Local No. 65, of the Textile Workers Organizing Committee, affiliated with the Committee for Industrial Organization, and that said United Wholesale Employees of New York, Local No. 65, has the same offices, the same constitution, the same contracts with employers, the same headquarters and the same personnel as the Wholesale Dry Goods Employees Union, except that said Wholesale Dry Goods Employees Union changed its name to the United Wholesale Employees of New York, Local No. 65, and is now affiliated with the Committee for Industrial Organization, and that in this proceeding an order may be entered in the name of the United Wholesale Employees of New York, Local No. 65, of the Textile Workers Organizing Committee, affiliated with the Committee for Industrial Organization, in the stead of, and in place of the Wholesale Dry Goods Employees Union; and the Complaint is hereby amended to provide a substitution of the said United Wholesale Employees of New York, Local No. 65, for the Wholesale Dry Goods Employees Union.

#### ORDER

Upon the basis of the above stipulation and upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, I. Libowitz, New York City, and his agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in United Wholesale Employees of New York, Local No. 65,<sup>1</sup> or in any other labor organization of his

<sup>1</sup> In the stipulation it was agreed that an order might be entered by the Board in the name of the United Wholesale Employees of New York, Local No. 65.

employees, by discriminating in regard to hire or tenure of employment or any term or condition of employment;

(b) In any other manner interfering with, restraining, or coercing his 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 purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

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

(a) Offer Eugene Goldberg and Sol Narodowitz immediate and full reinstatement to their former positions without prejudice to their seniority rights and other rights and privileges;

(b) Make whole Eugene Goldberg and Sol Narodowitz for any loss of pay which they may have suffered by reason of their discharge, by payment to each of them of a sum of money equal to that which he normally would have earned as wages from June 30, 1937, the date of his discharge, to the date of such offer of reinstatement, less the amount, if any, which he may have earned during said period;

(c) Immediately post notices in conspicuous places throughout its plant and maintain such notices for a period of thirty (30) consecutive days stating that the respondent will cease and desist as aforesaid;

(d) 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.