

In the Matter of ALASKA GLACIER SEA FOOD COMPANY, A CORPORATION
and CANNERY WORKERS AND FARM LABORERS UNION LOCAL NO. 222

Case No. C-496.—Decided June 9, 1938

Shrimp and Crab Canning Industry—Settlement: agreement to comply with Act—*Order:* entered on stipulation.

Mr. G. L. Patterson, for the Board.

Mr. N. C. Banfield, of Juneau, Alaska, for the respondent.

Mr. Harry E. Selekman, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by Cannery Workers and Farm Laborers Union, Local No. 222,¹ herein called Local No. 222, the National Labor Relations Board, herein called the Board, by Charles H. Hope, the Regional Director for the Nineteenth Region (Seattle, Washington) issued a complaint, dated February 19, 1938, against Alaskan Glacier Sea Food Company, Inc.,² Petersburg, Alaska, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1), (3), and (5), and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. The complaint alleged in substance that the respondent had sponsored, dominated, and interfered with a labor organization known as Federal Labor Union, Local No. 21109, with which it signed a closed-shop contract on September 23, 1937; that on November 22, 1937, the respondent discharged 23 employees because of their activities in Local No. 222 and has since that time refused to reinstate them; and that the respondent has at all times

¹ On November 30, 1937, Cannery Workers and Farm Laborers Union, Local 7-4, filed charges herein. On February 2, 1938, Cannery Workers and Farm Laborers Union, Local No. 222, successor to Local 7-4, filed amended charges herein.

² Incorrectly designated as Alaska Glacier Sea Food Company, a corporation, in the complaint.

refused to bargain collectively with Local No. 222, although it has been designated by a majority of the employees as their bargaining representative. A copy of the complaint, accompanied by notice of hearing thereon, was duly served upon the respondent and upon Local No. 222. On March 9, 1938, the respondent filed an answer to the complaint denying that it had engaged in or was engaging in the alleged unfair labor practices.

Pursuant to the notice, a hearing was held in Petersburg, Alaska, on March 16, 17, and 18, 1938, before A. J. Rockwell, the Trial Examiner duly designated by the Board. The Board and the respondent were represented by counsel. On March 18, 1938, the Board and the respondent entered into a stipulation effecting a settlement of the case. The stipulation was introduced as an exhibit and made a part of the record without objection from any party.

On March 31, 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 proceedings to the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Alaskan Glacier Sea Food Company, Inc., a Washington corporation having its principal place of business in Petersburg, Alaska, operates shrimp and crab canneries in Cordova, Wrangell, Hoonah, and Petersburg, Alaska. It purchases and receives by common-carrier vessels about \$29,000 worth of salt, acids, tin packing cans, cartons, and paper from the United States. Approximately 98 per cent of the finished products are shipped by vessels from the canneries to Seattle, Washington, and to San Francisco, California. The total average annual sales are \$243,000.

The Petersburg plant ships about 98 per cent of its product to points outside Alaska. It uses approximately \$21,000 worth of the total raw materials purchased by the respondent. The average yearly sales at the plant are about \$190,000.

The aforesaid operations of the respondent constitute trade, traffic, and commerce within the Territory of Alaska and between it and the several States of the United States.

II. THE BASIS OF THE SETTLEMENT

The above-mentioned stipulation provides as follows:

WHEREAS, the operation of the Petersburg plant of the Alaskan Glacier Sea Food Company, Inc., (respondent herein) was

suspended on March, 15, 1938, and will not be in operation until on or about May 1, 1938, pursuant to its regular and customary practice and by reason of the regulations of the United States Bureau of Fisheries prohibiting the fishing of shrimp during this period, and,

WHEREAS, it appears that on March 15, 1938, the respondent and Federal Labor Union, Local 21109, entered into an agreement wherein and whereby the contract of September 23, 1937, mentioned in Paragraph X of the complaint herein between the respondent and Federal Labor Union, Local 21109, was terminated and canceled.

Now, THEREFORE, it is stipulated, admitted and agreed as follows:

I

That the respondent is a corporation organized under and existing by virtue of the laws of the State of Washington, having its principal production plant and office at Petersburg, in the Territory of Alaska; that respondent operates shrimp and crab canneries at Cordova, Wrangell, Petersburg, and Hoonah, all of said places being located in the Territory of Alaska.

II

That the average yearly sales of the respondent aggregate approximately \$243,000; that approximately 98 per cent of the products of the respondent, including 98 per cent of the products of the Petersburg plant, are sold by the respondent outside the Territory of Alaska and are shipped by common carrier vessels by it from its respective canneries to the United States; that approximately 98 per cent of the shrimp packed and sold by the respondent are sold, transported, and delivered by it to customers in the City of Seattle, Washington, and that the crab meat packed, shipped, and sold by the respondent is sold, transported, and delivered by it to Seattle, Washington, and San Francisco, California.

III

That respondent purchases in the United States and causes to be shipped by common carrier vessels approximately \$29,000 worth of salt, acids, tin packing cans, cartons, and paper which the respondent uses in the packing and canning of its products.

IV

That the average gross sales of the respondent's Petersburg plant are \$190,000 annually, and that the respondent uses approx-

imately \$21,000 worth of the said salt, acids, tin packing cans, and paper annually at its Petersburg plant.

V

That the employees of the respondent engaged in the processing, packing, and canning of shrimp and crab meat at respondent's Petersburg plant, with the exception of the supervisory personnel, office help, and firemen constitute a unit appropriate for collective bargaining purposes in order to insure the respondent's employees the full benefit of their right to self-organization and to bargain collectively and otherwise to effectuate the policies of the National Labor Relations Act within the meaning of Section 9 (b) of said Act.

VI

That the unfair labor practices alleged in the complaint occurred only at the Petersburg plant of the respondent.

VII

That between September 10 and September 30, 1937, certain employees of the respondent were members of Cannery Workers and Farm Laborers Union, Local No. 18257, (now known as Cannery Workers and Farm Laborers Union, Local No. 222), and during said period certain employees of the respondent were members of Federal Labor Union, Local No. 21109; that between September 10 and September 23, 1937, representatives of said Local No. 18257 submitted a proposed working agreement to the respondent and were in the process of negotiating concerning said proposed agreement with the respondent; that on September 23, the respondent entered into a working agreement with Federal Labor Union, Local No. 21109, wherein and whereby said Local Union No. 21109 was recognized by the respondent as the sole bargaining agent for the employees in the bargaining unit hereinbefore described as the appropriate bargaining unit in the respondent's Petersburg plant; that while the negotiations were in progress between September 10 and September 23, 1937, there was a question existing between Local No. 18257 and Local No. 21109, as to which of said labor organizations represented a majority of the employees in the bargaining unit above described.

VIII

That the officers of Local No. 21109 were elected on or about September 22, 1937, which was subsequent to the commencement of negotiations between the representatives of Local No.

18257, and the respondent; that on or about September 22, 1937, the respondent suffered and permitted its Petersburg plant to be used by the members of Federal Labor Union, Local No. 21109, for the purpose of holding a union meeting, and suffered and permitted said Federal Labor Union No. 21109 on two or three subsequent occasions to use its premises for the purpose of holding union meetings; that respondent suffered and permitted the foreman in its Petersburg plant to become a member of and president of Federal Labor Union, Local No. 21109, and suffered and permitted its foreman to engage in union activity and in soliciting members for Local No. 21109 among employees of respondent in the respondent's Petersburg plant while president of said Federal Labor Union, Local No. 21109.

IX

That on or about September 27, 1937, the respondent advised the representatives of Cannery Workers and Farm Laborers Union, Local 18257, that the respondent was repudiating any connections which it may have had with Local No. 18257, and that the respondent would have no further negotiations with Local No. 18257; that thereafter, on or about September 30, 1937, certain employees of the respondent who were members of Local No. 18257, went on strike and caused the plant of the respondent to be picketed; that said strike was called by certain employees of the respondent who were members of Local No. 18257 by reason of the aid and assistance given Federal Labor Union, Local No. 21109, by the respondent and by reason of the recognition of Local No. 21109 by the respondent as the sole bargaining agent for its employees in its Petersburg plant; that certain of said employees who went on strike on September 30, 1937, have since returned to work at the respondent's Petersburg plant, and that the persons named in the complaint herein, with the exception of Marie Reyes and Placido Manuel, have not been reinstated by the respondent and are desirous of being reinstated.

X

That Federal Labor Union, Local 21109, is a labor organization within the meaning of Section 2 (5) of the National Labor Relations Act.

XI

That Cannery Workers and Farm Laborers Union, Local No. 222, is a labor organization within the meaning of Section 2 (5) of the National Labor Relations Act.

XII

That the persons named in paragraph XIII of this stipulation are employees of respondent within the meaning of Section 2 (3) of the National Labor Relations Act.

XIII

Upon the basis of the record and this stipulation, an order may be entered by the Board and, upon application by the Board, without notice to respondent of the filing of a petition by the Board, which notice the respondent hereby expressly waives, the Circuit Court of Appeals for the appropriate circuit may enter a decree ordering that:

(1) Respondent will cease and desist as follows:

(a) 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, 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 National Labor Relations Act.

(b) From permitting the use of its premises for meeting of labor organizations or union activity subject to the proviso contained in Section 8 (2) of the Act.

(c) From permitting its foremen and overseers and other supervisory officials to remain or become officers or members of any labor organization of which employees of respondent in the bargaining unit described in the complaint are members, and from permitting its foremen, overseers, and supervisory officials to participate in the activities of any labor organization of which employees of the respondent are members, and from permitting foremen, overseers, and supervisory officials to solicit membership among the employees of the respondent for any labor organization.

(2) That respondent shall take the following affirmative action to effectuate the policies of the National Labor Relations Act:

(a) Offer to Eugene Pasion,³ Quivius Quindiagan,⁴ Mariano Ventura, Alfred Romero, Mrs. Dan Hocson, Sam Coronell, Mrs. Rose Cornell, J. Romero,⁵ Frank M. Compo, Lily Compo, William L. King,⁶ Elizabeth James, Dan Hocson,⁷ E. Julian,⁸ Mrs.

³ Referred to as Eugene Pasion in the complaint.

⁴ Referred to as Quivius Quivit in the complaint.

⁵ Referred to as Felix Romero in the complaint.

⁶ Referred to as Wm L King in the complaint.

⁷ Referred to as Dan Hanson in the complaint.

⁸ Referred to as Arcadio Toyeban in the complaint.

Mary Reyes, J. Orea,⁹ Sophie Romero, Melchor Gloria,¹⁰ Marion B. Damasco, Winifred Vassar, Mrs. Lucy Gloria, full and complete reinstatement to their former positions held on September 29, 1937, without prejudice to any rights and privileges previously enjoyed or accruing to them, such reinstatement to be upon the resumption of operations by the respondent on or about May 1, 1938; provided, however, that if operations are resumed on or about May 1, 1938, at less than full capacity, all of respondent's employees, including the 21 employees named above, shall be reinstated in accordance with their length of service or seniority with the respondent, which shall be determined on the basis of service accruing before September 29, 1937, and that respondent shall place on a preferred list the names of any employees for whom employment is not immediately available, such employees to be offered employment in the order of seniority from said list before any other persons are hired; and, provided further, that respondent shall be under no obligation to reinstate any of the above-named employees who have not made application for employment prior to May 1, 1938.

(b) Bargain collectively, on request, with the labor organization, if any, representing a majority of the employees of respondent in the bargaining unit alleged in the complaint and admitted by the answer, after the resumption of operations by the respondent company.

(c) Immediately post and keep visible in a conspicuous and prominent place in the Petersburg plant for a period of thirty (30) days after resumption of operations by the respondent a notice stating that the respondent will cease and desist from restraining, coercing, or interfering with its employees in the exercise of the rights guaranteed to employees by Section 7 of the National Labor Relations Act, and stating that the respondent shall refrain from the violation of Section 8 of the National Labor Relations Act, which notice shall contain a copy of Section 8 (1) to (5), inclusive, and Section 9 (a) of the National Labor Relations Act.

XIV

That in the event there is a dispute existing after the resumption of operations by the respondent at its Petersburg plant as to whether any labor organization represents a majority of the respondent's employees in the bargaining unit described in the complaint, the respondent hereby waives the necessity of a hearing

⁹ Referred to as Euelico Orea in the complaint.

¹⁰ Referred to as Meecher Gloria in the complaint.

and consents that the Board, upon the request of any labor organization of which employees of the respondent are members, may conduct an election by secret ballot under the provisions of the National Labor Relations Act and make certification to the respondent of the labor organization, if any, which represents a majority of respondent's employees; that such election may be conducted by the National Labor Relations Board through its Regional Director for the Nineteenth Region; that employees of the respondent eligible to participate in such election shall be those employees on the last pay roll prior to the request for such election.

XV

That the complaint, only in so far as it relates to an alleged violation of Section 8 (5) of the Act, shall be dismissed.

XVI

This stipulation is subject to the approval of the National Labor Relations Board after its submission to the Board in Washington, D. C.

The Board hereby approves the above stipulation.

ORDER

On the basis of the above findings of fact and the above stipulation, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that Alaskan Glacier Sea Food Company, Inc., Petersburg, Alaska, and its officers, agents, successors, and assigns, shall:

1. Cease and desist:

(a) 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, 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;

(b) From permitting the use of its premises for meetings of labor organizations or union activity subject to the proviso contained in Section 8 (2) of the Act;

(c) From permitting its foremen and overseers and other supervisory officials to remain or become officers or members of any labor organization of which employees of the respondent in the bargaining unit described in the complaint are members, and from permitting its

foremen, overseers, and supervisory officials to participate in the activities of any labor organization of which employees of the respondent are members, and from permitting foremen, overseers, and supervisory officials to solicit membership among the employees of the respondent for any labor organization.

2. Take the following affirmative action to effectuate the policies of the National Labor Relations Act:

(a) Offer to Eugene Pasion, Quivius Quindiagan, Mariano Ventura, Alfred Romero, Mrs. Dan Hocson, Sam Coronell, Mrs. Rose Coronell, J. Romero, Frank M. Compo, Lily Compo, William L. King, Elizabeth James, Dan Hocson, E. Julian, Mrs. Mary Reyes, J. Orea, Sophie Romero, Melchor Gloria, Marion B. Damasco, Winifred Vassar, Mrs. Lucy Gloria, full and complete reinstatement to their former positions held on September 29, 1937, without prejudice to any rights and privileges previously enjoyed or accruing to them, such reinstatement to be upon the resumption of operations by the respondent on or about May 1, 1938; provided, however, that if operations are resumed on or about May 1, 1938, at less than full capacity, all of respondent's employees, including the twenty-one employees named above, shall be reinstated in accordance with their length of service or seniority with the respondent, which shall be determined on the basis of service accruing before September 29, 1937, and that respondent shall place on a preferred list the names of any employees for whom employment is not immediately available, such employees to be offered employment in the order of seniority from said list before any other persons are hired; and, provided further, that respondent shall be under no obligation to reinstate any of the above-named employees who have not made application for employment prior to May 1, 1938;

(b) Immediately post and keep visible in a conspicuous and prominent place in the Petersburg plant for a period of thirty (30) days after resumption of operations by the respondent a notice stating that the respondent will cease and desist from restraining, coercing, or interfering with its employees in the exercise of the rights guaranteed to employees by Section 7 of the National Labor Relations Act, and stating that the respondent shall refrain from the violation of Section 8 of the National Labor Relations Act, which notice shall contain a copy of Section 8 (1) to (5) inclusive, and Section 9 (a) of the National Labor Relations Act.

And it is further ordered that the allegations in the complaint that the respondent has engaged in unfair labor practices, within the meaning of Section 8 (5) of the Act, be, and they hereby are, dismissed.