

In the Matter of EAVENSON & LEVERING Co. and TEXTILE WORKERS'
ORGANIZING COMMITTEE, AFFILIATED WITH THE C. I. O.

Case No. C-693.—Decided July 26, 1938

Wool Scouring, Carbonizing, and Depainting Industry—Settlement: Stipulation providing for reinstatement and preferential lists of discharged employees; withdrawal of recognition and disestablishing of company-dominated unions—*Order:* entered on stipulation.

Mr. Jack Davis, for the Board.

Boyle & Archer, by *Mr. F. Morse Archer, Jr.*, of Camden, N. J., for the respondent.

Mr. Alfred Udoff, of New York City, and *Mr. Sol Stetin*, of Gloucester, N. J., for the T. W. O. C.

Miss Edna Loeb, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by Textile Workers' Organizing Committee, herein called the T. W. O. C., affiliated with the Committee for Industrial Organization, the National Labor Relations Board, herein called the Board, by John E. Johnson, Acting Regional Director for the Fourth Region (Philadelphia, Pennsylvania) issued a complaint, dated April 22, 1938, against Eavenson & Levering Co., Camden, New Jersey, 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), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, accompanied by notice of hearing, were duly served upon the respondent and the T. W. O. C.

The complaint charged, in substance, (1) that the respondent dominated and interfered with the formation and administration of a labor organization known as the Independent Wool Workers' Union and contributed support to it; (2) that the respondent discriminated

in regard to the hire and tenure of employment of certain named persons to discourage membership in the T. W. O. C.; and (3) that by these and other acts and conduct, the respondent interfered with, restrained, and coerced its employees in the exercise of their rights as guaranteed in Section 7 of the Act. An extension of time within which to answer having been granted, the respondent filed an answer, dated May 18, 1938, denying that it was engaged in interstate commerce and that it had engaged in the alleged unfair labor practices.

Pursuant to notice a hearing was held at Philadelphia, Pennsylvania, from May 23, through June 7, 1938, before Herbert A. Lien, the Trial Examiner duly designated by the Board. The Board, the respondent, and the T. W. O. C. were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the hearing the complaint was amended on motion of counsel for the Board to allege the discriminatory discharge of 60 additional employees and the formation, domination, and support by the respondent of a labor organization known as the Wool Workers' Industrial Union, Local No. 1.¹ A copy of the amended complaint, dated June 2, 1938, was duly served upon the respondent. During the hearing the respondent and counsel for the Board entered into a stipulation concerning the respondent's business. This stipulation was made part of the record without objection.

On June 7, 1938, the hearing was recessed pending the approval by the Board of a stipulation agreed upon and signed by counsel for the Board, the respondent, and the T. W. O. C. The stipulation provided for an order to be entered in the case by the Board.

On June 16, 1938, the Board issued an order approving the stipulation and making it a part of the record, and, acting pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, further ordered that the proceeding be transferred to and continued before the Board for the purpose of entry of a decision and order by the Board pursuant to the provisions of the stipulation.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent is a New Jersey corporation engaged in the scouring, carbonizing, and depainting of wools and noils. Its plant is in

¹ Amended charges were duly filed by the Union.

Camden, New Jersey, and is one of the largest of its kind in the United States. The respondent operates its business solely on a commission basis.

The respondent furnishes its services to importers, wool merchants, and wool dealers throughout the United States and in the foreign countries. During the year 1937 practically all the wools and noils processed by the respondent were shipped to it from foreign countries and States other than New Jersey. During the same period the respondent shipped practically all the wool and noils processed by it to points outside New Jersey. The respondent's commissions for its services in 1937 totaled \$896,921.19. In the same year the respondent sold waste byproducts valued at \$160,442.42, most of which were shipped to purchasers outside New Jersey.

The principal raw materials purchased by the respondent are coal, soaps, acids, and alkalis. Practically all these raw materials, as well as machine repair parts and other supplies, amounting in value to \$161,121 in the year 1937, were shipped to the respondent from points outside New Jersey.

We find that the operations of the respondent at its plant in Camden, New Jersey, constitute a continuous flow of trade, traffic, and commerce among the several States and with foreign countries.

II. THE BASIS OF THE SETTLEMENT

The stipulation between counsel for the Board, the respondent, and T. W. O. C. provides:

It is hereby stipulated by and between Eavenson & Levering Co., respondent herein; Textile Workers' Organizing Committee, affiliated with the C. I. O., a party herein; and the National Labor Relations Board, that upon the record herein and upon this stipulation, if approved by the National Labor Relations Board, an order may forthwith be entered by said Board and by the United States Circuit Court of Appeals for the Third Circuit, providing as follows:

1. Respondent, Eavenson & Levering Co., a corporation, its officers, agents, successors and assigns shall 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 purpose of collective bargaining or other mutual aid or protection, as guaranteed in section 7 of the Act;

(b) from discouraging membership in the Textile Workers'

Organizing Committee, affiliated with the C. I. O., or any other labor organization of its employees, or encouraging membership in the Independent Wool Workers' Union and the Wool Workers' Industrial Union, Local No. 1, or any other labor organization of its employees, by discriminating against employees in regard to hire or tenure of employment or any condition of employment;

(c) from in any manner dominating or interfering with the administration of the Independent Wool Workers' Union and the Wool Workers' Industrial Union, Local No. 1, or with the formation or administration of any other labor organization of its employees, and from contributing aid or support to said organization; from recognizing or dealing in any manner with the Independent Wool Workers' Union or the Wool Workers' Industrial Union, Local No. 1, or any group purporting to represent said organization; or from forming or maintaining any groups or designating any individuals to act as the representatives of the employees for the purposes of collective bargaining respecting any of the terms or conditions of employment;

2. It is further stipulated that the Board may order the respondent to take the following affirmative action to effectuate the purposes of the National Labor Relations Act:

That the respondent shall,

(a) offer to each of the employees named in Exhibit "A"² annexed hereto and made a part hereof, on or before June 13th, 1938, or upon notification of approval of this stipulation by the National Labor Relations Board, immediate and full reinstatement to their former positions without loss of seniority to such extent as previously enjoyed, and without prejudice to any rights and privileges previously enjoyed by them and which are now enjoyed by those presently employed in like positions, and shall, upon their application in the customary manner for employment with respondent, so reinstate them;

(1) and place each of the employees named in Exhibit "B"³ annexed hereto and made a part hereof, for whom employment is not now available, on a preferred list to be offered employment as it arises in their former positions.

(2) and place each of the employees named in Exhibit "C"⁴ annexed hereto and made a part hereof, for whom employment is not now available, on a preferred list to be offered employ-

² Exhibit "A" appears as appendix A, annexed hereto

³ Exhibit "B" appears as appendix B, annexed hereto.

⁴ Exhibit "C" appears as appendix C, annexed hereto

ment as it arises in their former positions, after the preferred list referred to above as Exhibit "B" is exhausted.

(b) withdraw all recognition from the Independent Wool Workers' Union as the representatives of its employees or any of them for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment; and disestablish said Independent Wool Workers' Union and Wool Workers' Industrial Union, Local No. 1;

(c) inform in writing the officers of the Independent Wool Workers' Union and of the Wool Workers' Industrial Union, Local No. 1, that the respondent will not in any manner deal with or recognize the associations;

(d) inform all of its officials and agents, including superintendents, foremen and other supervisory employees that they shall not in any manner approach employees concerning, or discuss with the employees, the question of their labor affiliation, or threaten employees in any manner because of their membership in any labor organization in general, or the Textile Workers' Organizing Committee, affiliated with the C. I. O., in particular;

(e) post and keep visible in a prominent place in each department of respondent's plant for a period of thirty (30) days after receipt, copies of the order to be entered by the National Labor Relations Board;

(f) Respondent shall notify the Regional Director for the Fourth Region, of compliance with the foregoing order within thirty (30) days from the date of its entry by the Board.

ORDER

Upon the basis of the above findings of fact and stipulation and upon the entire record in the proceeding, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that Eavenson & Levering Co., Camden, New Jersey, and its officers, agents, successors, and assigns, 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) Discouraging membership in Textile Workers' Organizing Committee, affiliated with the Committee for Industrial Organization, or any other labor organization of its employees, or encourag-

ing membership in the Independent Wool Workers' Union and the Wool Workers' Industrial Union, Local No. 1, or any other labor organization of its employees, by discriminating against employees in regard to hire or tenure of employment or any condition of employment;

(c) In any manner dominating or interfering with the administration of the Independent Wool Workers' Union and the Wool Workers' Industrial Union, Local No. 1, or with the formation or administration of any other labor organization of its employees, and from contributing aid or support to said organization; from recognizing or dealing in any manner with the Independent Wool Workers' Union or the Wool Workers' Industrial Union, Local No. 1, or any group purporting to represent said organizations; or from forming or maintaining any groups or designating any individuals to act as the representatives of the employees for the purposes of collective bargaining respecting any of the terms or conditions of employment.

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

(a) Offer to the employees listed in appendix A, annexed hereto, immediate and full reinstatement to their former positions without loss of seniority to such extent as previously enjoyed, and without prejudice to any rights or privileges enjoyed by them and which are now enjoyed by those presently employed in like positions, and upon their application in the customary manner for employment so reinstate them;

(b) Place each of the employees listed in appendix B, annexed hereto, for whom employment is not now available, on a preferred list to be offered employment as it arises in their former positions;

(c) Place each of the employees listed in appendix C, annexed hereto, for whom employment is not now available, on a preferred list to be offered employment as it arises in their former positions, after the preferred list of employees named in appendix B has been exhausted;

(d) Withdraw all recognition from the Independent Wool Workers' Union as the representatives of its employees or any of them for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment; and disestablish said Independent Wool Workers' Union and Wool Workers' Industrial Union, Local No. 1;

(e) Inform in writing the officers of the Independent Wool Workers' Union and of the Wool Workers' Industrial Union, Local No. 1, that the respondent will not in any manner deal with or recognize the associations;

(f) Inform all of its officials and agents, including superintendents, foremen, and other supervisory employees that they shall not in any manner approach employees concerning, or discuss with employees, the question of their labor affiliation, or threaten employees in any manner because of their membership in any labor organization in general, or in Textile Workers' Organizing Committee, affiliated with the Committee for Industrial Organization, in particular;

(g) Post and keep visible in a prominent place in each department of respondent's plant, copies of this order for a period of thirty (30) days after service thereof;

(h) Notify the Regional Director for the Fourth Region, within thirty (30) days from the date of this order, what steps the respondent has taken to comply herewith.

APPENDIX A

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|----------------------|------------------------|
| 1. Albert Russell | 15. James Miller, Jr. |
| 2. Tony Sochanchak | 16. James Miller, Sr. |
| 3. Donald Decker | 17. Frank Sapp |
| 4. Lester Harris | 18. Joseph Almieda |
| 5. Helen Schaffer | 19. Winstina De Vietro |
| 6. Mildred Chain | 20. Ivan West |
| 7. Minnie Sheldon | 21. Howard Jenkins |
| 8. Nelson LaMar | 22. Albert Baj |
| 9. John Dobleson | 23. William Nunda |
| 10. Joe Novella | 24. William Klaus |
| 11. Edward De Lue | 25. Marion Kasporowicz |
| 12. Joseph Sweeney | 26. Mike Doraski |
| 13. Nicholas Koss | 27. John Wrobel |
| 14. Stanley Debalski | 28. Willard Flanagan |

APPENDIX B

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|----------------------|------------------------|
| 1. Thomas Reed | 13. John Melfi |
| 2. Stanley Lezowski | 14. Edward Bekowsk |
| 3. John Balcerowski | 15. Dale Adams |
| 4. Mike Sochanchak | 16. Walter Lehman |
| 5. David Dillon | 17. George Hummel, Sr. |
| 6. Joseph Steinski | 18. Michael Iannetta |
| 7. David Trimmer | 19. George Johnson |
| 8. Walter Taylor | 20. William McKeone |
| 9. Roland Steward | 21. Benjamin Tymczuk |
| 10. Arron Winefsky | 22. William Filer |
| 11. Tony Korok | 23. Frank Van Horn |
| 12. James Patrignone | 24. George Hummel, Jr. |

APPENDIX C

1. H. A. Robinson
2. Bob Patterson
3. Donald Call
4. Frank Kelly
5. Albert Catell
6. Charles Tambo
7. Jess Williamson
8. Stanley Dare
9. Wm. Prader
10. George Butterworth
11. R. Brade
12. A. Cochran
13. C. Brunk
14. C. Feldmayer
15. G. Dawson
16. Robert Fritz
17. F. Hojnowski
18. T. Hastie
19. W. Hastie
20. R. Hasson
21. George Hess
22. J. Kenney
23. G. Knecht
24. Wm. Large
25. Ed Mutzer
26. Al Laurie
27. R. Odorisi
28. W. Oldham
29. Joe Roseberry
30. Frank Sendek
31. F. Siritovich
32. C. Schmidt
33. Frank Trimmer
34. S. Unook
35. W. Vanderstraeten
36. J. Varley
37. L. Williams
38. C. Watson
39. W. Brennan
40. J. Kander
41. D. Flynn
42. W. Nelson
43. A. Lorenz
44. J. McClay
45. A. Murphy
46. H. Kirkpatrick
47. A. Mortimer
48. F. Rescigno
49. J. Baker
50. S. Beebe
51. M. Bender
52. Sam Bradford
53. P. Brown
54. Don Harris