

In the Matter of KNICKERBOCKER BROADCASTING COMPANY, INC. and
AMERICAN GUILD OF RADIO ANNOUNCERS AND PRODUCERS

Case No. C-614.—Decided August 1, 1938

Radio Broadcasting Industry—Settlement: stipulation providing for reinstatement of discharged employees with back pay—*Order:* entered on stipulation.

Mr. Mark Lauter, for the Board.

William Weisman, by *Mr. William Weisman* and *Mr. Sol A. Rosenblatt*, of New York City, for the respondent.

Mr. Gerald Dickler, of New York City, for the Guild.

Mr. Langdon West, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a charge and two amended charges duly filed by American Guild of Radio Announcers and Producers, herein called the Guild, the National Labor Relations Board, herein called the Board, by the Regional Director for the Second Region (New York City), issued its complaint, dated February 21, 1938, against Knickerbocker Broadcasting Company, Inc., 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 Section 8 (1), (3), (4), and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint and accompanying notice of hearing were duly served upon the respondent and the Guild.

Concerning the unfair labor practices the complaint alleged, in substance, that the respondent refused to bargain collectively with the Guild as the exclusive representative of its employees in respect to wages, hours of employment, and other working conditions; that the respondent terminated the employment of three named employees because they joined and assisted the Guild and engaged in other concerted activities for the purposes of collective bargaining and other mutual aid or protection, and with respect to one, also because he appeared and gave testimony in a proceeding before the Board on

a complaint based on a charge filed by the Guild against the respondent; and that the respondent by all the acts listed above, and in addition by threatening its employees with reprisals for joining or remaining members of the Guild, by spying on Guild meetings, and by other acts, interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

Thereafter, the respondent filed its answer, dated February 26, 1938, in which it admitted the allegations concerning the nature and scope of its business; that a majority of its employees had designated the Guild as their representative, and that the Guild had requested it to bargain collectively. It denied all the other allegations of the complaint.

On March 19, 1938, the Acting Regional Director for the Second Region duly notified the parties that the hearing originally scheduled to be held on March 21, 1938, had been postponed to be continued upon 2 days' notice. On April 12, 1938, the Regional Director issued and duly served upon the parties a notice that the hearing would be continued on April 20, 1938.

Pursuant to notice, a hearing was held on April 20, 21, and 27, 1938, at New York City, before Howard Myers, the Trial Examiner duly designated by the Board. All parties participated in the hearing and were represented by counsel. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties. On April 21, 1938, counsel for the Board and counsel for the respondent entered into a stipulation setting forth facts concerning the nature and scope of the respondent's business. On the same date during the hearing, the respondent, the Guild, and counsel for the Board entered into another stipulation, regarding the findings of fact and terms of an order, which the Board could make upon approval of the stipulation. Both stipulations were received in evidence without objection. The hearing was then adjourned.

On April 25, 1938, the Regional Director notified the parties that the complaint was withdrawn. On May 13, 1938, the Regional Director notified the parties that the notice, dated April 25, 1938, was incorrectly issued and that the case was closed. Thereafter, the Regional Director notified the parties that the notice, dated May 13, 1938, was withdrawn and that an order would be issued by the Board.

On May 21, 1938, pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, the case was duly transferred to the Board.

The stipulation effecting a settlement of the issues provides as follows:

The undersigned stipulate and agree as follows:

1. Respondent hereby withdraws the answer filed on February 26th, 1938, and thereby admits that each and every allegation in the complaint is accurate and true.

2. Respondent upon the pleadings and exhibits consents to the making of findings by the Board and the entry of an order by the Board upon said pleadings and exhibits.

3. Respondent consents to the entry by the proper Circuit Court of Appeals of an enforcement order embodying the terms of the order of the Board and waives further notice of the application therefor.

4. Respondent will reinstate immediately James F. Clemenger, Richard Blayne and Anton Leader and will pay to them directly the following back wages:

James F. Clemenger -----	\$216. 00
Richard Blayne-----	988. 00
Anton Leader-----	385. 00

5. Respondent will continue to bargain collectively with the American Guild of Radio Announcers and Producers on behalf of its announcers and producers.

It is stipulated and agreed by and between William Weisman, Vice-President, for Knickerbocker Broadcasting Company, Inc., and Gerald Dickler, Counsel, for American Guild of Radio Announcers and Producers, that this stipulation is made in order to avoid protracted and expensive litigation as to the facts raised by the pleadings, they being anxious to amicably adjust hereby their differences.

The above stipulation is hereby approved by 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 is a New York corporation engaged in the business of radio broadcasting, with its office and broadcasting station, WMCA, in New York City. Station WMCA is under a license from the Federal Communications Commission and operates with 1000 watts power on a frequency of 570 kilocycles. Station WMCA is heard principally in the metropolitan area of New York City, but it is heard also in other States. For the period from April 1, 1937, to April 1, 1938, the respondent's total sales of time for broadcasting amounted to about \$500,000. The respondent is a member of the In-tercity Broadcasting System and the respondent's customers may

have their programs, originating in Station WMCA, broadcast over two or more member stations of the Intercity Broadcasting System.

II. THE UNION

American Guild of Radio Announcers and Producers is a labor organization, admitting to membership employees of the respondent.

III. THE UNFAIR LABOR PRACTICES

A. *The refusal to bargain collectively*

1. The appropriate unit

We find that all announcers, production employees, and assistant directors¹ of the respondent at its New York City Station constitute a unit appropriate for the purpose of collective bargaining, and that such unit insures to the employees the full benefit of their rights to self-organization and collective bargaining and otherwise effectuates the policies of the Act.

2. Representation of a majority within the unit

We find that about May 14, 1937, and at all times thereafter, a majority of the employees in the appropriate unit, by having joined the Guild, designated it as their representative for the purpose of collective bargaining; and that at all times thereafter, the Guild was the representative for the purpose of collective bargaining of a majority of the respondent's employees in the appropriate unit. By virtue of Section 9 (a) of the Act, therefore, it was the exclusive representative of all the respondent's employees in the said unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

3. The refusal to bargain

We find that about May 15, 1937, the Guild requested the respondent to bargain collectively in respect to rates of pay, hours of employment, and other conditions of employment with the Guild as the exclusive representative of all the respondent's employees in the said unit; and that about May 15, 1937, and at all times thereafter, the respondent refused to bargain collectively with the Guild as the ex-

¹ Apparently through oversight, the assistant directors were not listed in the stipulation as being included in the appropriate unit. The allegations of the complaint pertaining to the appropriate unit included them. The respondent stipulated that all the allegations of the complaint were to be considered admitted. Accordingly the Board has included the assistant directors in the appropriate unit.

clusive representative of all the employees in the said unit and thereby interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

B. *The discharges*

We find that the respondent terminated the employment of and refused to reinstate Richard Blayne, Anton Leader, and James F. Clemenger, on or about May 14, 1937, June 7, 1937, and October 4, 1937, respectively, because they joined and assisted the Guild and engaged in other concerted activities, for the purposes of collective bargaining and other mutual aid or protection, and concerning James F. Clemenger, also because he appeared and gave testimony in a proceeding before the Board in connection with a charge filed by the Guild against the respondent; and that the respondent, by the discharges described above, discriminated against these employees in regard to their hire and tenure of employment and thereby interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

C. *Interference, restraint, and coercion*

We find that, during April 1937 and at all times thereafter, the respondent urged, persuaded, and warned its employees to refrain from becoming or remaining members of the Guild; that the respondent threatened its employees with reprisals if they became or remained members of the Guild; and that the respondent kept under surveillance the meetings of the Guild members employed at the respondent's New York City station; and that by the aforesaid acts the respondent interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

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

ORDER

Upon the basis of the above findings of fact and stipulations and 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 Knickerbocker Broadcasting Company, Inc., New York, New York, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in the Guild or in any other labor organization of its employees by discriminating in regard to hire or tenure of employment or any term or condition of employment;

(b) Refusing to bargain collectively with American Guild of Radio Announcers and Producers as the exclusive representative of all the respondent's announcers, production employees, and assistant directors in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act.

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

(a) Offer James F. Clemenger, Richard Blayne, and Anton Leader immediate and full reinstatement to their former positions without prejudice to any rights or privileges they may have had prior to their discharges;

(b) Pay immediately to the following employees as back pay the amounts listed opposite their respective names:

James F. Clemenger.....	\$216
Richard Blayne.....	\$988
Anton Leader.....	\$385

(c) Upon request bargain collectively with American Guild of Radio Announcers and Producers as the exclusive representative of all the respondent's announcers, production employees, and assistant directors in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(d) Immediately post notices in conspicuous places throughout its plant and maintain such notices for a period of thirty (30) consecutive days, stating (1) that the respondent will cease and desist as aforesaid, and (2) that the respondent will bargain collectively with the Guild as aforesaid;

(e) 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.