

In the Matter of THE GREER STEEL COMPANY and TUSCORA LODGE NO.
173, AMALGAMATED ASSOCIATION OF IRON, STEEL, AND TIN WORKERS

Cases Nos. R-387 and C-294.—Decided December 3, 1937

Iron and Steel Industry—Settlement: agreement to comply with Act—*Order:* entered on stipulation—*Investigation of Representatives:* agreement for election—*Election Ordered—Petition Dismissed:* no representative chosen by employees.

Mr. Harry L. Lodish and Mr. Peter Di Leone, for the Board. Bowers, Stafford & Bowers, by Mr. R. C. Bowers and Mr. H. I. N. Stafford, of New Philadelphia, Ohio, for the Company.

Mr. J. Mark Jacobson, of counsel to the Board.

DECISION

ORDER

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On April 26, 1937, Tuscora Lodge No. 173, Amalgamated Association of Iron, Steel, and Tin Workers, herein called the Amalgamated, filed with the Regional Director for the Eighth Region (Cleveland, Ohio) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of The Greer Steel Company, Dover, Ohio, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

On July 26, 1937, the Amalgamated filed a charge with the Regional Director for the Eighth Region against the Company, alleging violation of Section 8 (1) and (2) of the Act. On October 4, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Article III, Sections 3 and 10 (c) (2), and Article II, Section 37 (b), of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered a consolidation of these cases and ordered an investigation of representatives, authorizing the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On November 1, 1937, the Regional Director issued a complaint, copies of which were duly served upon the Company, the Amalga-

mated, and Greer Employees Association, herein called the Association, a labor organization. The complaint alleged that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (2) and Section 2 (6) and (7) of the Act. The respondent thereafter filed an answer, denying the essential allegations of the complaint.

Pursuant to notice to the Company, the Amalgamated, and the Association, which is a labor organization purporting to represent employees directly affected by the investigation based on the petition, a hearing on both the petition and complaint was held at New Philadelphia, Ohio, on November 11 and 12, 1937, before J. Raymond Walsh, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel.

During the hearing the Company stipulated and admitted the following facts concerning its business. The Company was incorporated on January 20, 1920, in West Virginia. Its principal office and place of business is located in Dover, Ohio. It has plants located at Dover, Ohio; Detroit, Michigan; Anderson, Indiana; and Greer, West Virginia. It has resident salesmen at Detroit, Michigan; Anderson, Indiana; and Chicago, Illinois. The Company is engaged in the business of producing cold rolled strip steel in Dover, Ohio. The principal raw material used by the Company, hot rolled strip steel, comes from Youngstown, Ohio; Cleveland, Ohio; Chicago, Illinois; Pittsburgh, Pennsylvania; and West Virginia. Thirty per cent of the hot rolled strip steel comes from points outside the State of Ohio. More than 60 per cent of the finished product is shipped to points outside the State of Ohio by the Pennsylvania and Baltimore & Ohio railroads. The total purchases made during the year 1936 were over \$200,000 and total sales, over \$300,000.

Also during the hearing, the Company and the Amalgamated¹ agreed to the following stipulation:

(A) The Respondent is engaged in the business of producing cold rolled strip steel in Dover, Ohio, and, by admission is engaged in inter-state commerce.

(B) At the hearing on November 11, 1937, following a complaint charging violations of paragraphs 8 (1) and (2) of the Act the following stipulations were agreed upon by the Board and Respondent: It is hereby stipulated by and between Counsel for the respective parties:

I. The National Labor Relations Board may make findings that the Respondent has engaged in some of the unfair labor

¹ Counsel for the Board participated in the conferences leading to the stipulation merely for the purpose of expediting the settlement.

practices as alleged in the Complaint issued by the Board on November 1, 1937, in the above-entitled matter.

II. It is further stipulated that the Board may enter a Cease and Desist Order in this case to the following effect:

The Respondent shall:

1. Cease and desist from in any manner interfering with, restraining or coercing its employees in the exercise of their right 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 under Section 7 of this Act.

2. Cease and desist from discouraging by any means membership in the Tuscora Lodge #173, of the Amalgamated Association of Iron, Steel & Tin Workers or any other labor organization of its employees choosing.

3. Cease and desist from in any manner dominating or interfering with the administration of any labor organization of its employees, from contributing financial aid to said organizations, from recognizing or dealing in any manner with the Greer Employees Association or any group or committee purporting to represent the 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.

4. Take the following affirmative action to effectuate the policies and purposes of the National Labor Relations Act:

a. That the Respondent will withdraw all recognition from the Greer Employees Association as the representatives of their 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.

b. That the Respondent will post notices in conspicuous places about their plant stating that the Greer Employees Association is disestablished as the representative of their employees or any of them for the purpose of collective bargaining and that the Respondent will not extend any recognition to such organization, the said notices to remain posted for at least thirty (30) days from the date of posting.

c. That they will personally inform, in writing, the officers of the Greer Employees Association that the National Labor Relations Board has made a finding that this organization has been formed and administered in violation of the National Labor Relations Act and that they will not, in any manner, deal with or recognize such organization.

d. That they will inform all of their 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 Amalgamated Association of Iron, Steel & Tin Workers, Tuscora Lodge #173 in particular.

III. It is further stipulated that upon compliance with the Order of the Board, as aforesaid, within thirty (30) days after the date of the posting of a notice by the company, which date of posting of such notice is to be November 17, 1937, and upon notification to the Board of compliance with the terms of the Order, the Tuscora Lodge #173 Amalgamated Association of Iron, Steel & Tin Workers, will withdraw the Charge and Amended Charge which it filed against the Respondent herein and will request the Board to dismiss the Complaint herein.

IV. It is further stipulated by agreement of parties that the Board or the Regional Office may order and conduct an election to determine whether or not the employees of the Greer Steel Company desire the Amalgamated Association of Iron, Steel & Tin Workers, Local #173, as their exclusive bargaining agency in accordance with the National Labor Relations Act. It is agreed that the election is to be held during the month of November, if possible, between the hours of 7:00 a. m. and 5:00 p. m., approximately. That the pay roll of October 31, 1937, be used and that the appropriate unit is composed of all production and maintenance employees of The Greer Steel Company excluding all supervisory help defined to include foremen and assistant foremen, excluding clerical help and watchmen. It is further agreed that Ira Walters may be included in this pay roll, if he is not there shown. It is further agreed that the following employees shall be considered disputed: two mill clerks, two sample boys, one store keeper, one paper cutter and two shipping clerks, one annealing record runner and Ira Walters. That these ten employees will be allowed to vote and their ballots segregated and kept undisclosed, to be used only if necessary to determine the result; if unnecessary, they will be destroyed, if necessary they will be the subject of a further order by the Board as to their eligibility.

V. That inasmuch as part of the garages, the use of which raised an issue in this proceeding, are located on property not belonging to the Company, the Company stipulates that it is able and will acquire control of these garages and cease and desist from

discriminating in any respect with regard to the use or rental of those garages as well as the garages now located on its premises and that the Company will build a sufficient number of additional garages to take care of the demand of its employees and will, likewise, refrain from discriminating with regard to those additional garages. That the number of garages necessary is to be determined as soon as possible and not later than December 1, 1937. That the collection of rental, if any, should be conducted in a uniform way, and that the collector shall be, preferably, Edward F. Swift, or if for some reason he is unable to do so, some other supervisor or official of the Company, particularly an employee who is not within the appropriate unit defined above.

On the basis of the above stipulation, the Board will issue an Order and a Direction of Election.

THE DETERMINATION OF REPRESENTATIVES

The election which we shall direct, pursuant to the stipulation, will be among the production and maintenance workers of the Company, excluding supervisory and clerical employees. For the purposes of this election foremen and assistant foremen are to be included in the term supervisory employees. The following employees, two mill clerks, two sample boys, one store keeper, one paper cutter, two shipping clerks, one annealing record runner, and Ira Walters, shall be permitted to vote, but their ballots shall be segregated; and their ballots shall be counted only if necessary to determine the result of the election and then only if the Board, by further decision, has determined their eligibility to vote.

ORDER

On the basis of the above stipulation, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that The Greer Steel Company, Dover, Ohio, and its officers, agents, successors, and assigns, shall:

1. Cease and desist 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 Act.

2. Cease and desist from discouraging by any means membership in the Tuscora Lodge No. 173, of the Amalgamated Association of

Iron, Steel and Tin Workers, or any other labor organization of its employees choosing.

3. Cease and desist from in any manner dominating or interfering with the administration of any labor organization of its employees, from contributing financial aid to said organizations, from recognizing or dealing in any manner with the Greer Employees Association or any group or committee purporting to represent the 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.

4. Take the following affirmative action which the Board finds will effectuate the policies and purposes of the Act:

a. Withdraw all recognition from the Greer Employees Association as the representative of its employees, or any of them, for the purpose of dealing with the Company concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment;

b. Post notices in conspicuous places about their plant stating that the Greer Employees Association is disestablished as the representative of its employees or any of them for the purpose of collective bargaining and that the Company will not extend any recognition to such organization, the said notices to remain posted for at least thirty (30) days from the date of posting;

c. Personally inform, in writing, the officers of the Greer Employees Association that it will not, in any manner, deal with or recognize such organization;

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 Amalgamated Association of Iron, Steel and Tin Workers, Tuscora Lodge No. 173, in particular.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, and pursuant to Article III, Section 8, of the National Labor Relations Board Rules and Regulations—Series 1, as amended, it is

DIRECTED that, as part of the investigation directed by the Board to ascertain representatives for the purposes of collective bargaining with The Greer Steel Company, Dover, Ohio, an election by secret ballot shall be conducted within ten (10) days from the date of this

Direction, under the direction and supervision of the Regional Director for the Eighth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, and in accordance with the instructions laid down in the above Decision and with the stipulation entered into in this case, among the production and maintenance employees of The Greer Steel Company, Dover, Ohio, as of October 31, 1937, excluding supervisory and clerical employees and watchmen, to determine whether or not they desire to be represented by Tuscora Lodge No. 173, Amalgamated Association of Iron, Steel, and Tin Workers for the purposes of collective bargaining.

[SAME TITLE]

SUPPLEMENTAL DECISION

AND

ORDER

January 10, 1938

On April 26, 1937, Tuscora Lodge No. 173, Amalgamated Association of Iron, Steel, and Tin Workers, herein called the Amalgamated, filed with the Regional Director for the Eighth Region (Cleveland, Ohio) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of The Greer Steel Company, Dover, Ohio, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On October 4, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation of representatives, authorizing the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

Pursuant to notice to the Company, the Amalgamated, and Greer Employees Association, a labor organization purporting to represent employees directly affected by the investigation based on the petition, a hearing was held at New Philadelphia, Ohio, on November 11 and 12, 1937, before J. Raymond Walsh, the Trial Examiner duly designated by the Board. On December 3, 1937, the Board issued a Decision, Order, and Direction of Election based upon stipulations entered into at the hearing by the Company and the Amalgamated. The Direction of Election provided that an election by secret ballot should be held among the production and

maintenance employees of the Company, as of October 31, 1937, excluding supervisory and clerical employees and watchmen, in accordance with the said stipulation, to determine whether or not they desired to be represented by Tuscora Lodge No. 173, Amalgamated Association of Iron, Steel, and Tin Workers for the purposes of collective bargaining.

Pursuant to the Direction, balloting was conducted on December 13, 1937. Full opportunity was accorded to all the parties to this investigation to participate in the conduct of the secret ballot and to make challenges. Thereafter, the Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties to the proceeding his Intermediate Report on the ballot. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the balloting and its results, the Regional Director reported as follows:

Total number of employees eligible.....	263
Total number of ballots counted.....	248
Total number of votes for Tuscora Lodge No. 173, Amalgamated Association of Iron, Steel, and Tin Workers.....	112
Total number of votes against Tuscora Lodge No. 173, Amalgamated Association of Iron, Steel, and Tin Workers.....	136
Total number of blank ballots.....	0
Total number of void ballots.....	0
Total number of challenged votes.....	11

The results of the secret ballot show that no collective bargaining representatives have been selected by a majority of the employees of the Company in the appropriate unit. We will accordingly dismiss the petition for investigation and certification filed by the Amalgamated.

ORDER

Pursuant to Article III, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is ordered that the petition filed by Tuscora Lodge No. 173, Amalgamated Association of Iron, Steel, and Tin Workers for investigation and certification of representatives of employees of The Greer Steel Company, Dover, Ohio, be, and it hereby is, dismissed.