

In the Matter of THE ASSOCIATED PRESS and COMMERCIAL
TELEGRAPHERS' UNION

Case No. C-249.—Decided January 28, 1938

News Collecting and Distributing Agency—Settlement: agreement to entry of order requiring compliance with Act, reinstatement, back pay and disestablishment of company-dominated union.

Mr. Paul Nachtman, for the Board.

Mr. Lloyd Stratton and *Mr. W. J. McCambridge*, of New York City, for the Associated Press.

Mr. Maurice Friedman, of Washington, D. C., for the C. T. U.

Mr. Joseph A. Nicolini, of New York City, for the Independent Employees Guild, Inc.

Mr. Morris Watson, of New York City, for the Guild.

Mr. Martin Kurasch, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On October 4, 1937, Maurice Friedman, counsel for Commercial Telegraphers' Union and Roland C. Kennedy, filed with the National Labor Relations Board, herein called the Board, a motion to permit charges to be filed with the Board in Washington, D. C. On October 8, 1937, the Board, acting pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued an order permitting the filing of a charge with the Board, and on November 26, 1937, the Board issued an order permitting the filing of an amended charge with the Board.

Upon charges and amended charges duly filed by Harry S. Leimbach, general chairman of Commercial Telegraphers' Union, Associated Press Division No. 14, herein called the C. T. U., the Board issued its complaint dated November 27, 1937, against the Associated Press, New York City, herein called the respondent. On October 27, 1937, the American Newspaper Guild, herein called the Guild, by Morris Watson, its vice-president, filed a motion to permit intervention by the American Newspaper Guild. On November 6, 1937, the Board issued an order permitting the intervention. On November 29, 1937, the Board issued an order consolidating these proceedings with the matter of investigation and certification of representatives

that had been initiated by a petition filed by Arthur Markel, deputy president of the Commercial Telegraphers' Union, requesting such investigation and a certification of representatives, pursuant to Section 9 (c) of the National Labor Relations Act. The complaint and notice of hearing thereon were duly served upon the respondent and upon the Independent Employees Guild, Inc.

The complaint alleged that the respondent had dominated and interfered with the formation and administration of the Independent Employees Guild, Inc., a labor organization, and had contributed financial and other support thereto. The complaint alleged also 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.

On December 4, 1937, the Independent Employees Guild, Inc., filed its answer to the complaint, denying that it was caused to be formed and incorporated by the respondent and that the Independent Employees Guild, Inc. had been dominated and administered by the respondent. On December 6, 1937, the respondent filed its answer to the complaint, admitting that its operations occurred in the course and current of commerce among the several States and with foreign nations and are an integral part of operations of instrumentalities of such commerce and constitute commerce among the several States and with foreign nations, but denying that it had engaged in or was engaging in the unfair labor practices.

Pursuant to the notice, a hearing was held in New York City from December 6 to December 31, 1937, inclusive, and on January 3, 4 and 8, 1938, before Madison Hill, the Trial Examiner duly designated by the Board. The Board, the respondent, the Independent Employees Guild, Inc. and the Guild were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded to all parties.

On January 5, 1938, a stipulation was agreed upon by all parties to the proceeding and was offered in evidence and made a part of the record in this matter, without objection. This stipulation effected a settlement of the case.

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 membership corporation organized under the laws of New York and having its principal office in New York City. It has many other offices and places of business at points within and without the United States. The respondent has a mem-

bership of over 1,300 morning, evening, Sunday and weekly newspapers, and has for its purpose the collection and distribution of news of the world and intelligence to its members.

The respondent is engaged at its offices throughout the United States in the collection, compilation and formulation of news and intelligence, substantially all of which it receives in interstate and foreign commerce from points within and without the boundaries of the United States, and in the sale, distribution, and transmission of such news and intelligence to its members and others in the United States and in foreign countries.

We find that the operations of the respondent, occurring in the course and current of commerce among the several States and with foreign nations, are an integral part of the operations of instrumentalities of such commerce and constitute commerce among the several States and with foreign nations.

II. THE BASIS OF THE SETTLEMENT

The above-mentioned stipulation provides as follows:

It is hereby stipulated by and between The Associated Press, respondent herein, the Commercial Telegraphers' Union, a party herein, the Independent Employees Guild, Inc., 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 providing as follows:

1. Respondent, The Associated Press, will 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 National Labor Relations Act;

(b) Dominating or interfering with the formation or administration of the Independent Employees Guild, Inc., or any other labor organization and shall cease and desist contributing financial or other support to said Independent Employees Guild, Inc., or any other labor organization, except that respondent may permit employees to confer with it during working hours without loss of time or pay;

(c) From discouraging membership in the Commercial Telegraphers' Union or in any other labor organization of its employees: by discharging, threatening, or refusing to reinstate any of its employees for joining Commercial Telegraphers' Union, or any other labor organization of its employees;

(d) From in any other manner discriminating against any of its employees in regard to hire and tenure of employment or any term or conditions of employment for joining Commercial Telegraphers' Union or any other labor organization of its employees.

2. Independent Employees Guild, Inc., will forthwith disestablish itself as a collective bargaining agency and shall forthwith wholly terminate its existing collective bargaining relations with respondent, The Associated Press.

3. Independent Employees Guild, Inc., will notify each of its members of said disestablishment within ten (10) days from the making of an order herein by the National Labor Relations Board.

4. Respondent, The Associated Press, will take the following affirmative action to effectuate the policies of the National Labor Relations Act:

(a) Offer to Frank Troise, Louis Maguire, Melvin A. Ashley, J. A. Macaskill, Samuel B. Patroff and Woodrow Daving, immediate and full reinstatement, to their former positions, without prejudice to any rights and privileges previously enjoyed by them;

(b) Make whole to said Frank Troise, Louis Maguire, Melvin A. Ashley, J. A. Macaskill, Samuel B. Patroff and Woodrow Daving for any loss of pay they suffered by reason of the discharge, by payment to them of a sum of money equal to that which they would normally have earned from the date of their discharge to the date of the offer of reinstatement, computed at their regular rate of pay per month, less the amount earned by them since their discharge;

(c) Withdraw recognition from and disestablish as an agency of collective bargaining the Independent Employees Guild, Inc.;

(d) Post and keep visible in each office of the respondent in a prominent place for a period of thirty (30) days after receipt of a copy of the order to be entered by the National Labor Relations Board to be made herein.

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 orders that the Associated Press, 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 pro-

tection, as guaranteed in Section 7 of the National Labor Relations Act;

(b) Dominating or interfering with the formation or administration of the Independent Employees Guild, Inc., or any other labor organization and shall cease and desist contributing financial or other support to said Independent Employees Guild, Inc., or any other labor organization, except that respondent may permit employees to confer with it during working hours without loss of time or pay;

(c) Discouraging membership in the Commercial Telegraphers' Union or in any other labor organization of its employees: by discharging, threatening, or refusing to reinstate any of its employees for joining Commercial Telegraphers' Union, or any other labor organization of its employees;

(d) In any other manner discriminating against any of its employees in regard to hire and tenure of employment or any term or conditions of employment for joining Commercial Telegraphers' Union or any other labor organization of its employees.

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

(a) Offer to Frank Troise, Louis Maguire, Melvin A. Ashley, J. A. Macaskill, Samuel B. Patroff and Woodrow Daving, immediate and full reinstatement, to their former positions, without prejudice to any rights and privileges previously enjoyed by them;

(b) Make whole said Frank Troise, Louis Maguire, Melvin A. Ashley, J. A. Macaskill, Samuel B. Patroff and Woodrow Daving for any loss of pay they suffered by reason of the discharge, by payment to them of a sum of money equal to that which they would normally have earned from the date of their discharge to the date of the offer of reinstatement, computed at their regular rate of pay per month, less the amount earned by them since their discharge;

(c) Withdraw recognition from and disestablish as an agency of collective bargaining the Independent Employees Guild, Inc.;

(d) Post and keep visible in each office of the respondent in a prominent place for a period of thirty (30) days after receipt, a copy of this Order.

It is further ordered that Independent Employees Guild, Inc., its officers, agents, successors and assigns, shall:

(a) Forthwith disestablish itself as a collective bargaining agency and shall forthwith wholly terminate its existing collective bargaining relations with the respondent, the Associated Press;

(b) Notify each of its members of said disestablishment within ten (10) days from the date of issuance of this Order.

And it is further ordered that the allegations of the complaint are hereby dismissed without prejudice with respect to the discharge of John Lakin Brucher, James Darr, and Roland C. Kennedy.