

In the Matter of SUN TENT-LUEBBERT COMPANY; CALIFORNIA CANVAS JOBBERS CLUB; SOUTHERN CALIFORNIANS, INC.; THE NEUTRAL THOUSANDS, INC.; G. L. HUFF AND CLAY C. RITTENHOUSE, DOING BUSINESS AS EMPLOYEES ADVISORY SERVICE; AND MERCHANTS AND MANUFACTURERS ASSOCIATION OF LOS ANGELES *and* TEXTILE WORKERS UNION OF AMERICA, LOCAL No. 99, C. I. O. and INDEPENDENT CANVAS WORKERS UNION, INC., PARTY TO THE CONTRACT

In the Matter of MELLUS BROTHERS AND COMPANY, INC.; CALIFORNIA CANVAS JOBBERS CLUB; SOUTHERN CALIFORNIANS, INC.; THE NEUTRAL THOUSANDS, INC.; G. L. HUFF AND CLAY C. RITTENHOUSE, DOING BUSINESS AS EMPLOYEES ADVISORY SERVICE; AND MERCHANTS AND MANUFACTURERS ASSOCIATION OF LOS ANGELES *and* TEXTILE WORKERS UNION OF AMERICA, LOCAL No. 99, C. I. O. and INDEPENDENT CANVAS WORKERS UNION, INC., PARTY TO THE CONTRACT

In the Matter of DOWNIE BROTHERS, INC.; CALIFORNIA CANVAS JOBBERS CLUB; SOUTHERN CALIFORNIANS, INC.; THE NEUTRAL THOUSANDS, INC.; G. L. HUFF AND CLAY C. RITTENHOUSE, DOING BUSINESS AS EMPLOYEES ADVISORY SERVICE; AND MERCHANTS AND MANUFACTURERS ASSOCIATION OF LOS ANGELES *and* TEXTILE WORKERS UNION OF AMERICA, LOCAL No. 99, C. I. O. and INDEPENDENT CANVAS WORKERS UNION, INC., PARTY TO THE CONTRACT

In the Matter of UNITED TENT AND AWNING COMPANY, LTD.; CALIFORNIA CANVAS JOBBERS CLUB; SOUTHERN CALIFORNIANS, INC.; THE NEUTRAL THOUSANDS, INC.; G. L. HUFF AND CLAY C. RITTENHOUSE, DOING BUSINESS AS EMPLOYEES ADVISORY SERVICE; AND MERCHANTS AND MANUFACTURERS ASSOCIATION OF LOS ANGELES *and* UPHOLSTERERS INTERNATIONAL UNION OF NORTH AMERICA, LOCAL No. 15, A. F. L. and INDEPENDENT CANVAS WORKERS UNION, INC., PARTY TO THE CONTRACT

*Cases Nos. XXI-C-1007, XXI-C-1113, XXI-C-1114, XXI-C-1116, respectively.—Decided February 14, 1940*

*Canvas Goods Manufacturing Industry—Settlement:* agreement for settlement of 8 (3) portion of case affecting one respondent, including reinstatement of one employee with back pay, and back pay for two other employees; present hearing to continue as to this respondent on all other allegations of complaint, and to all other respondents as to all allegations of complaint—*Order:* entered on agreement for settlement.

*Mr. David Sokol and Mr. William R. Walsh, for the Board.*  
20 N. L. R. B., No. 40.

*Howlett and MacLaren*, by *Mr. Elmer H. Howlett*, of Los Angeles, Calif., and *Mr. Harry K. Wolff*, of San Francisco, Calif., for Downie Brothers, Inc., Sun Tent-Luebbert Company, United Tent and Awning Company, Ltd., and California Canvas Jobbers Club.

*Mr. Guy T. Graves*, of Los Angeles, Calif., for Mellus Brothers and Company, Inc.

*Latham and Watkins*, by *Mr. Paul R. Watkins*, of Los Angeles, Calif., for Southern Californians, Inc., The Neutral Thousands, Inc., and Employees Advisory Service.

*Elliott, Vedder, Sullivan & Dunham*, by *Mr. H. W. Elliott*, of Los Angeles, Calif., for Merchants and Manufacturers Association of Los Angeles.

*Mr. Frank S. Lopez, Jr.*, and *Mr. R. B. Gatewood*, of Los Angeles, Calif., for the Textile Union.

*Mr. Charles L. Yost*, of Los Angeles, Calif., for the Upholsterers Union.

*Mr. Stanley D. Metzger*, of counsel to the Board.

## DECISION

AND

## ORDER

### STATEMENT OF THE CASE

Upon charges and amended charges duly filed by Textile Workers Union of America, Local No. 99, C. I. O., herein called the Textile Union, and by Upholsterers International Union of North America, Local No. 15, A. F. L., herein called the Upholsterers Union, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-first Region (Los Angeles, California), issued its complaint dated September 26, 1939, against Sun Tent-Luebbert Company, Mellus Brothers and Company, Inc., Downie Brothers, Inc., United Tent and Awning Company, Ltd., California Canvas Jobbers Club, Southern Californians, Inc., The Neutral Thousands, Inc., G. L. Huff and Clay C. Rittenhouse, doing business as Employees Advisory Service, and Merchants and Manufacturers Association of Los Angeles, all of Los Angeles, California,<sup>1</sup> herein collectively called the respondents, alleging that the respondents had engaged in and were engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1), (2), and

<sup>1</sup> All were joined in the complaint as parties respondent pursuant to the Board's Order of Consolidation, dated September 25, 1939, ordering Cases Nos. XXI-C-1007, XXI-C-1113; XXI-C-1114, and XXI-C-1116 consolidated for the purpose of hearing and for all other purposes, pursuant to Article II, Section 36 (b), of National Labor Relations Board Rules and Regulations—Series 2.

(3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint were duly served upon the respondents, the Textile Union, and the Upholsterers Union.

The complaint alleged in substance (1) that the respondents on or about May 10, 1938, discharged Estelle Steinman and Lauretta Marchael, and on or about April 22, 1938, discharged Martha E. Crow, said persons having been employed by United Tent and Awning Company, Ltd., and since said dates have refused to reinstate them, because they joined and assisted the Upholsterers Union; (2) that the respondents on or about December 11, 1937, laid off Melvin Aubuchont while employed by Sun Tent-Luebbert Company, and did not reinstate him until on or about February 11, 1938, because he joined and assisted the Textile Union; (3) that the respondents on or about December 2, 1937, and thereafter, instigated and formed, and since said date continuously have dominated and interfered with the formation and administration of Independent Canvas Workers Union, Inc., herein called the Independent; (4) that the respondents entered into a closed-shop contract with the Independent on or about February 7, 1938, and forced the employees of Sun Tent-Luebbert Company, Mellus Brothers & Company, Inc., Downie Brothers, Inc., and United Tent and Awning Company, Ltd., to join the Independent; (5) that the respondents recognized the Independent as the exclusive representative of the employees of the said companies for the purposes of collective bargaining and entered into a written contract with the Independent on or about February 1, 1939, in respect to rates of pay, wages, hours of employment, and other conditions of employment, when the Independent was not the representative of said employees within the meaning of the Act; (6) that the respondents, by the foregoing acts and by many other activities set forth at great length in the complaint, interfered with, restrained, and coerced their employees in the exercise of the rights guaranteed them by the Act.

Pursuant to notice, a hearing was held beginning October 16, 1939, and at present continuing, at Los Angeles, California, before Howard Myers, the Trial Examiner duly designated by the Board. On January 8, 1940, United Tent and Awning Company, Ltd., the Upholsterers Union, and counsel for the Board entered into an agreement in settlement of certain portions of the complaint. This agreement provides as follows:

#### COMPROMISE AGREEMENT FOR SETTLEMENT

IT IS HEREBY AGREED by and between UNITED TENT AND AWNING COMPANY, LTD., hereinafter referred to as "Respondent," the

UPHOLSTERERS INTERNATIONAL UNION OF NORTH AMERICA, LOCAL No. 15, A. F. L., hereinafter referred to as the "Union," and, DAVID SOKOL, Attorney, National Labor Relations Board;

That Respondent, United Tent and Awning Company, Ltd., is a corporation organized and existing under and by virtue of the laws of the State of California since January 5, 1931; that said Respondent is engaged in the manufacture of tents, tarpaulins, bags, canvas goods, and outdoor and garden furniture at its place at Los Angeles, California; that during the year 1938, the total sales of products by said Respondent were \$194,937.75; that of said total sales, \$3,500 were sales made outside of the State of California to other states of the United States;

That during the year 1938, said Respondent, United Tent and Awning Company, Ltd., purchased raw materials such as cotton fabrics, thread, burlap, hardware, metal frames, paints and lumber amounting to \$137,004.92, of which total \$100,913.44 by value of materials were purchased outside of the State of California from other states of the United States and brought to Respondent's plant by means of rail, truck, or boat;

That Respondent's, United Tent and Awning Company, Ltd., purchases and sales as between intra and inter-state have been in substantially the same proportions since December 31, 1938, as during the year 1938;

IT IS FURTHER STIPULATED that the Upholsterers International Union of North America, Local No. 15, affiliated with the American Federation of Labor, is a labor organization within the meaning of Section 2, subsection (5) of the National Labor Relations Act;

IT IS FURTHER STIPULATED that said Respondent, United Tent and Awning Company, Ltd., waives its right to a hearing set forth in Section 10, subsection (b) and (c) of the Act, and the taking of testimony or evidence before a Trial Examiner of the National Labor Relations Board in this matter concerning the charge and amended charges of violation of Section 8, subsection (3) of the National Labor Relations Act and the allegations set forth in paragraphs 16, 17, and 18 of the Complaint herein; and said Respondent, United Tent and Awning Company, Ltd., waives the making of Findings of Fact and Conclusions of Law by the Board with respect to the charges and amended charges of violation of Section 8, subsection (3) of the Act by said Respondent, and the allegations set forth in paragraphs 16, 17, and 18 of the Complaint herein.

The parties hereto consent that the National Labor Relations Board may, upon the issues created by the pleadings herein,

and upon this Stipulation, enter an Order to the following effect, such Order having the same force and effect as if made by the National Labor Relations Board after hearing, the taking of evidence, and the making of Findings of Fact and Conclusions of Law by the Board:

"The Respondent, United Tent and Awning Company, Ltd., its officers, agents, successors, and assigns, shall:

"1. Cease and desist:

(a) From discouraging membership in the Upholsterers International Union of North America, Local No. 15, A. F. L., or any other labor organization of its employees, by discharging, refusing to reinstate, suspending, or in any other manner discriminating against any of its employees in regard to hire or tenure of employment or any other term or condition of employment;

"2. That the Respondent, United Tent and Awning Company, Ltd., shall take the following affirmative action in order to effectuate the policies of the National Labor Relations Act:

(a) Offer to Estelle Steinman immediate and full reinstatement to her former position without prejudice to her seniority and other rights and privileges;

(b) Pay to Estelle Steinman the sum of Seventy-five Dollars (\$75.00); to Martha E. Craw, the sum of Seventy-five Dollars (\$75.00); and, to Loretta Marchael, the sum of Two Hundred Dollars (\$200.00), for loss of pay suffered by reason of Respondent's discrimination in regard to hire and tenure of employment;

(c) Post immediately in conspicuous places throughout its plant, notices to its employees stating that the Respondent, United Tent and Awning Company, Ltd., will cease and desist as provided herein, and will take the affirmative action required herein; and maintain such notices for a period of at least sixty (60) consecutive days from the date of posting.

"Respondent, United Tent and Awning Company, Ltd., agrees that thereafter it will notify the Regional Director for the Twenty-first Region of compliance with the foregoing Order within ten (10) days after the receipt of the Board's Order."

The parties hereto stipulate and consent to the entry of a decree by the United States Circuit Court of Appeals for the Ninth Circuit enforcing the above Order of the Board provided for herein, and the parties waive further notice of application therefor by the Board;

IT IS UNDERSTOOD AND AGREED that this Agreement is in full settlement of the 8 (3) matter affecting United Tent and Awning Company, Ltd., and that the hearing involving said Respondent, United Tent and Awning Company, Ltd., and other Respondents, may proceed, but that the only Order to be made by the National Labor Relations Board concerning the violation of Section 8, subsection (3) by this Respondent, United Tent and Awning Company, Ltd., is that specifically provided herein.

IT IS FURTHER UNDERSTOOD AND AGREED that the hearing now in progress may continue on other issues raised by the pleadings, and nothing in this Stipulation shall preclude the Board from adducing further testimony and evidence in making further findings herein other than as to the charges of violation by United Tent and Awning Company, Ltd., of Section 8 subsection (3) of the Act.

IT IS FURTHER UNDERSTOOD AND AGREED that the entire agreement between the parties hereto is contained within the terms of the Stipulation herein, and that there is no verbal agreement of any kind which varies, alters or adds to this Stipulation.

IT IS FURTHER UNDERSTOOD that this Agreement is subject to the approval of the National Labor Relations Board.

On January 31, 1940, the Board issued an order approving the above "Compromise Agreement For Settlement" and making it a part of the record in the consolidated cases.<sup>2</sup>

Upon the basis of the "Compromise Agreement For Settlement" and the record in the case, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE BUSINESS OF UNITED TENT AND AWNING COMPANY, LTD.

United Tent and Awning Company, Ltd., is a California corporation having its place of business at Los Angeles, California, where it manufactures tents, tarpaulins, bags, canvas goods, and outdoor and garden furniture. During 1938, it purchased raw materials such as cotton fabrics, thread, burlap, hardware, metal frames, paints, and lumber valued at \$137,004.92, of which amount \$100,913.44 worth of raw materials were purchased outside the State of California and brought to the plant at Los Angeles. During 1938, it sold products

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<sup>2</sup> It should be emphasized, as stated in the Agreement, that the Board is in no way precluded by the Agreement from continuing the hearing and from making Findings of Fact, Conclusions of Law, and Order respecting all allegations of the complaint involving all other respondents; with regard to United Tent and Awning Company, Ltd., the Agreement and our Order herein purport to settle, and settle, only that portion of the complaint which alleges that it has committed unfair labor practices within the meaning of Section 8 (3) of the Act.

valued at \$194,937.75, of which amount \$3,500 worth were shipped to destinations outside the State of California. The purchases and sales during 1939 were in the same proportions as in 1938.

We find that the above-described operations constitute a continuous flow of trade, traffic, and commerce among the several States.

### ORDER

Upon the basis of the above findings of fact, the agreement for settlement of part of the case, and the record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that United Tent and Awning Company, Ltd., Los Angeles, California, its officers, agents, successors, and assigns, shall:

1. Cease and desist from discouraging membership in Upholsterers International Union of North America, Local No. 15, A. F. L., or any other labor organization of its employees, by discharging, refusing to reinstate, suspending, or in any other manner discriminating against any of its employees in regard to hire or tenure of employment or any other term or condition of employment.

2. Take the following affirmative action in order to effectuate the policies of the Act:

(a) Offer to Estelle Steinman immediate and full reinstatement to her former position without prejudice to her seniority and other rights and privileges;

(b) Pay to Estelle Steinman the sum of Seventy-five Dollars (\$75.00); to Martha E. Craw the sum of Seventy-five Dollars (\$75.00); and to Loretta Marchael<sup>3</sup> the sum of Two Hundred Dollars (\$200.00), for loss of pay suffered by reason of United Tent and Awning Company, Ltd.'s discrimination in regard to their hire and tenure of employment;

(c) Immediately post notices in conspicuous places throughout its plant, and maintain such notices for a period of at least sixty (60) consecutive days from the date of posting, stating (1) that United Tent and Awning Company, Ltd., will cease and desist as provided in paragraph 1 of this Order; and (2) that it will take the affirmative action set forth in paragraph 2 (a) and (b) of this Order;

(d) Notify the Regional Director for the Twenty-first Region in writing, within ten (10) days from the date of this Order what steps it has taken to comply herewith.

<sup>3</sup> Referred to in the complaint as "Lauretta" Marchael.