

In the case of the Southern Pacific Railroad the record is unclear as to the reason for the cessation of direct sales to Bethlehem Pacific, except that around the time of the Korean conflict the railroad decided to sell scrap to Luria for shipment to Bethlehem Pacific because the latter was buying "through their brokers" (R. 11,566).

Despite the apparent reluctance of some of the suppliers to ascribe their cessation of direct sales to any advice from Bethlehem Pacific, several of the suppliers were quite specific in assigning this as the reason. Among these was The Learner Company, a substantial dealer and broker with yards in Oakland, Stockton, San Francisco, Sacramento and Honolulu. From 1947 to 1950 Learner was either the largest or second largest supplier to the San Francisco plant of Bethlehem Pacific. In 1949 and 1950 Learner sold between 75% and 81% of its scrap to Bethlehem Pacific. Thereafter its sales to Bethlehem Pacific began to decline sharply, until 1954 when it made no sales, although it did sell small amounts of scrap in 1955 and 1956, amounting to less than 5% of its total sales. Most of the scrap sold to Bethlehem Pacific after 1950 consisted of cast iron and other special grades. When Learner sought to sell the regular grades of scrap which it had formerly sold in large quantities to Bethlehem Pacific it was advised by the latter that it "was being serviced by Luria Brothers and that they [Bethlehem Pacific] were happy with the service and did not need our scrap" (R. 11,172). It was suggested to Learner that it offer its scrap to Luria. This Learner declined to do, except for certain minor quantities. Another dealer-broker from which Bethlehem Pacific declined to buy directly was Associated Metals. Associated, which had been a direct supplier to the San Francisco plant, began selling through Luria in 1953, except for certain special grades, because Bethlehem Pacific would no longer give it orders for the regular grades which it had formerly sold.

Bethlehem Pacific has continued to deal directly with certain other dealers or broker-dealers in the San Francisco area. The most important of these are California Metals Co., The Purdy Company and Markovitz & Fox. However, while purchases from Luria soared during the period after 1950, those from these other suppliers have remained fairly constant or declined. Thus purchases from California Metals, which were 24,000 tons in 1950, as compared to approximately 10,000 tons from Luria, continued to range between 18,000 and 26,000 tons in the succeeding years, and declined to 11,000 tons in 1954, during which year purchases from Luria amounted to 60,000 tons. Purchases from Purdy have ranged between 7,000 and 18,000 tons, and those from Markovitz & Fox between 5,000 and 13,000 tons. The brokers and dealers other than Luria have not shared in the significant

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increase in scrap purchases by Bethlehem Pacific's San Francisco plant during 1951, 1952 and 1953.

Furthermore, there is evidence of a deliberate down-grading in the role of such other suppliers or of limiting them largely to a dealer function. In the case of California Metals, the entry of Luria upon the scene resulted in its loss of the scrap which it had been obtaining from Rheem Manufacturing Company's Richmond and San Pablo, California plants, and supplying to Bethlehem Pacific. While Purdy is a broker as well as a dealer, approximately 90% of the scrap sold to Bethlehem Pacific is railroad scrap which is sold largely on a dealer basis. Purdy has been unable to broker scrap for more than a few dealers because of its inability to engage in the extensive financial assistance of dealers which has come to be required in the area. Another dealer which still continues to sell directly to Bethlehem Pacific is J. Levin, which also operates a yard in Los Angeles. Levin's sales to Bethlehem Pacific declined from 11,000 tons in 1947 to 2,500 in 1953 and 3,500 in 1954. While it makes some brokerage sales to other consumers, its sales to Bethlehem Pacific are limited to scrap from its own yard. Although undoubtedly there is a somewhat larger proportion of brokerage scrap sold to Bethlehem Pacific for its San Francisco plant by other dealers than is the case in Los Angeles, the examiner is satisfied that all but a minor fraction of the brokerage scrap is purchased from Luria.

#### *The Seattle Plant*

53. Luria first began selling substantial quantities of scrap to Bethlehem Pacific's Seattle plant in 1949. In that year it sold approximately 13,500 tons of scrap, which represented 11.9% of the scrap purchased by the plant from broker-dealer sources and 9.0% of the plant's total scrap purchases. In 1950 there was a modest increase in Luria's sales to the Seattle plant, to 16,766 tons, which constituted 16.8% of the scrap purchased from brokers and dealers. In 1951 Luria was requested to open an office in Seattle by Bethlehem Pacific, and thereafter the increase in its sales to the Seattle plant began to gain momentum. In 1952, the first full year following the opening of its Seattle office, Luria sold 72,500 tons of scrap to the Seattle plant of Bethlehem Pacific, constituting 46.4% of the scrap purchased from brokers and dealers. By 1954 Luria was selling 83.1% of the scrap purchased by the Seattle plant from broker-dealer sources, and 65.7% of the scrap purchased from all sources.

#### *Elimination of Other Suppliers*

54. The improvement in Luria's position as a supplier to the Seattle plant was accompanied by the elimination of a number of other bro-

kers and dealers as direct suppliers to the plant. A number of these dealers and brokers were requested by Bethlehem Pacific to ship their scrap to it through Luria. Those who refused were unable to sell their scrap to Bethlehem Pacific.

55. Foremost among those eliminated as suppliers to Bethlehem Pacific at Seattle was Dulien Steel Products, Inc. Dulien operated several yards in Seattle, and also operated yards or had an interest in yards in Portland, Los Angeles and Honolulu. It had been a substantial shipper to the Seattle plant of Bethlehem Pacific for a number of years. In 1948 it was the largest shipper of scrap to the Seattle plant, and in 1951 and 1952 it was the third and fourth largest shipper, respectively. Most of the scrap which it sold to Bethlehem Pacific was shipped from the yards of other dealers, with Dulien acting as broker and receiving \$1.00 a ton commission during the period of OPS. In 1951, for example, it shipped \$53,614 worth of scrap from its own yards, compared to \$217,242 from the yards of other dealers. During 1951 and 1952 Dulien was shipping from the yards of 35 other dealers in Washington, Oregon and Montana, and from four railroads.

Beginning sometime in 1952, Bethlehem Pacific began to advise Dulien that it could no longer ship scrap from the yards of certain of the latter's dealer sources because they were "somebody else's" accounts or because "somebody else" had an "outstanding order" (R. 10,600). The "somebody else" referred to was Luria. After it had lost a number of dealer accounts Dulien, by letter dated August 28, 1952, protested to Bethlehem Pacific that it did not wish to be an "information bureau as to available scrap which is not of interest to you" and asked to be advised as to what "portion of the territory in which we operate that you consider to be the exclusive territory of Luria Brothers & Company, Inc." (CX 988). It does not appear from the record what response was made to this letter, but by November 1952 Dulien was restricted to shipping from the yard of one other dealer and from one railroad, in addition to its own two yards in Seattle.

In February 1953, Bethlehem Pacific requested Dulien to cease all direct shipments of scrap to Bethlehem Pacific, including shipments from Dulien's own yards, and requested that it ship its scrap through Luria as broker. The Bethlehem Pacific scrap buyer advised Dulien that this change had come about as a result of a decision by the company's headquarters in San Francisco, and asked Dulien to endeavor to accommodate itself to the new arrangement on a trial basis. After endeavoring to ship to Bethlehem Pacific through Luria for a period of about a month Dulien, on April 7, 1953, wrote to Bethlehem Pacific

and advised it that the new arrangement was "unsatisfactory and unfair" because, among other things, it prevented Dulien from brokering scrap from other dealers and also deprived Dulien of direct contact with Bethlehem Pacific which it had enjoyed for thirty years. The letter advised Bethlehem Pacific that Dulien did not wish to do business with it, except on a direct basis, and urged Bethlehem Pacific to resume business dealings on such a basis (CX 983). The reply from Bethlehem Pacific was to the effect that Dulien was not a consistent shipper to Bethlehem Pacific and that in view of the mill's large requirements for scrap it had "no intention at this time of changing our present scrap buying policy, and unless we hear from you to the contrary we will proceed on the assumption that you do not desire to ship scrap to us when arranging for our requirements in the future" (CX 984). Following this exchange of correspondence, business relations between Bethlehem Pacific and Dulien came to an end.

Bethlehem Pacific contends that Dulien's handling of brokerage scrap for it was limited to the period of the Korean conflict, and that it had nothing to do with Dulien's loss of various dealer accounts for which it had formerly acted as broker. Neither of these contentions has any merit. While it is true that Bethlehem Pacific formally recognized Dulien's brokerage status in 1951 by paying it an additional \$1.00 commission on scrap originating outside its own yards, as was authorized by OPS regulations which went into effect in 1951, Dulien had been selling scrap from the yards of other dealers long before that time. There was nothing about the dropping of price controls in early 1953 to prevent Bethlehem Pacific from purchasing scrap from Dulien originating in the yards of other dealers. In fact, the curtailment of purchases from such yards occurred even prior to the expiration of controls. Contrary to the contention of Bethlehem Pacific, the record establishes that in a number of instances it did request dealers to ship their scrap through Luria, rather than through Dulien or other brokers. From the evidence as a whole, including the eventual dropping of Dulien as a direct supplier, it seems evident that the restrictions placed on Dulien were part of the development of the Bethlehem Pacific policy whereby Luria became the substantially exclusive broker for its Seattle plant.

The ostensible reason for dropping Dulien as a direct shipper was that it had not been a substantial and consistent shipper to Bethlehem Pacific. The fact of the matter is that Dulien was dropped at the very time it had become a substantial and consistent shipper. It is true that Dulien had shipped no scrap to Bethlehem Pacific in 1950, after having made substantial shipments amounting to \$585,000 in 1948 and \$248,000 in 1949. However, this was largely due to an over-all

decline in its scrap sales in 1950, which were only about 12% of those in the preceding year. In 1951 and 1952 it again returned to the ranks of the five largest shippers to Bethlehem Pacific, its sales to the latter constituting over 35% of its total scrap sales. Despite the gradual imposition of restrictions by Bethlehem Pacific on points of shipment of scrap by Dulien during 1952, Dulien's sales to Bethlehem Pacific in that year were \$100,000 in excess of its sales in 1951. To the extent Dulien's sales may have begun to decline in 1953, the examiner is satisfied that this was the result of Bethlehem Pacific's own action in limiting Dulien in the shipment of brokerage scrap.

It may be noted, in this connection, that Bethlehem Pacific declined an offer of scrap from Dulien's Hawaiian affiliate because it was not satisfied the scrap was of a nonbrokerage character. In replying to an offer of scrap by the Hawaiian affiliate in April 1953, Bethlehem Pacific stated that while it was "interested in off-shore scrap offerings" it was not clear from the offer "whether the scrap is actually owned by you or whether you are merely requesting a price in order that you may bid on this particular lot." It was suggested that the Dulien affiliate "contact Luria Brothers & Co., Inc., our brokers \* \* \* as they are currently handling our off-shore scrap purchases for West Coast delivery" (CX 990).

Another substantial supplier of Bethlehem Pacific which was affected by Luria's advent into the Seattle market was Sternoff Metals Corporation of Seattle. Sternoff had sold scrap directly to Bethlehem Pacific for its Seattle plant for about 12 years. In 1950 and 1951 it was second only to Luria as a supplier to the plant, and in 1952 it was the third largest supplier. Sometime during 1952 a scrap buyer for Bethlehem Pacific advised Sternoff that thereafter Bethlehem Pacific's "purchases of heavy melting scrap and bundles would all be made through the Luria organization" (R. 10,813), and Sternoff was requested to ship its scrap to Bethlehem Pacific through Luria as broker. Sternoff indicated that it would prefer to continue direct shipments to Bethlehem Pacific since it did not wish to lose its "identity with the mill, our long-time relationship as a direct shipper" (R. 10,814). The Bethlehem Pacific official expressed regret with regard to the change, but stated that "he did not set the company policy, that it was beyond his control" (R. 10,817). Sternoff reluctantly agreed to ship its scrap through Luria, and between 1953 and 1956 sold the bulk of its scrap to Luria for shipment to Bethlehem Pacific's Seattle plant.

In addition to Dulien and Sternoff, Bethlehem Pacific ceased the direct purchase of scrap from a number of other dealers and brokers in the States of Washington and Oregon during the period from 1951 to 1953. While most of these did not sell as much scrap as Dulien or

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Sternoff, a number had been substantial shippers to Bethlehem Pacific over a number of years. Many of the dealers and brokers were specifically requested to ship their scrap through Luria by a Bethlehem Pacific representative, and in some instances the request came from a Luria representative.<sup>30</sup> Two of the dealers who made written offers of scrap in 1953, were advised in writing by Bethlehem Pacific that "Luria Brothers & Co., Inc. \* \* \* have orders for our immediate requirements for this grade of scrap", and were requested to "contact them regarding the tonnage you have available" (CX 1005B and 1008). Several dealers who had been shipping scrap to Bethlehem Pacific through other brokers, including Dulien and Eastwood & Co. (the latter being operated by a former Bethlehem Pacific employee), were instructed by Bethlehem Pacific to ship their scrap through Luria.<sup>31</sup>

56. By 1953 and 1954 Bethlehem Pacific's direct purchases of scrap from other dealers, in any significant quantities, for delivery to the Seattle plant were limited to two other dealers, viz, M. Bloch & Co. and Seattle Iron & Metal Co. Its only other suppliers of any consequence were Kaiser Steel Corp. and Northern Pacific Railroad. These four suppliers, together with Luria, accounted for 146,586 tons out of 172,741 tons purchased for the plant in 1953, and 114,043 tons out of 121,161 tons purchased in 1954.

As previously noted, in 1954 Luria supplied 83.1% of the scrap purchased by the Seattle plant from broker-dealer sources. Substantially all of the balance was accounted for by the purchases from Bloch and Seattle Iron, and from a few other dealers, on a dealer basis. Why Bethlehem continued to purchase from Bloch and Seattle Iron, but eliminated suppliers such as Dulien and Sternoff is not clear from the record. It may be noted, in this connection, that whereas Dulien was eliminated ostensibly because it was not a substantial and consistent supplier, Bethlehem Pacific purchased scrap from Bloch despite the fact that Bloch had dropped from the ranks of the Seattle plant's five largest suppliers in 1948 and did not appear again until 1953. It seems probable that Dulien was eliminated because once its dealer sources (accounting for two-thirds or more of the scrap shipped by it) had been taken over by Luria, it no longer served any useful purpose as a direct supplier. However, whatever may have been Bethlehem Pacific's precise reason for retaining two of its dealers as direct

<sup>30</sup> Among those requested to ship their scrap to Bethlehem Pacific through Luria were: Simon Junk (Tacoma), Tacoma Junk, Alaska Junk (Seattle), Inland Hide & Metals (Spokane), Spokane Metals, Alaska Junk (Spokane), Schnitzer Steel Products (Portland), Zidell Machinery (Portland) and California Bag & Metal (Portland).

<sup>31</sup> Among those who had shipped through other brokers and were requested to ship through Luria were: Schuman Steel Products (Bellingham), Riverside Junk (Everett), and Alaska Junk (Portland).

