

**Borden Inc. Foods Division, Drake Bakeries and
Paul Griffis. Case 22-CA-8562**

April 17, 1980

DECISION AND ORDER

BY CHAIRMAN FANNING AND MEMBERS
JENKINS AND PENELLO

On December 19, 1979, Administrative Law Judge Irwin Kaplan issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief.¹

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and brief and has decided to affirm the rulings, findings,² and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Borden Inc. Foods Division, Drake Bakeries, Wayne, New Jersey, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order.

¹ Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings. Respondent has also excepted to the Administrative Law Judge's failure to disqualify himself from the case. Respondent asserts that because the Administrative Law Judge previously had been employed as a National Labor Relations Board attorney in the Region where this case arose, his credibility resolutions, findings of fact, and conclusions of law are the result of bias. There is no basis for finding that bias and partiality existed merely because the Administrative Law Judge resolved factual conflicts in favor of the General Counsel's witnesses. *N.L.R.B. v. Pittsburgh Steamship Company*, 337 U.S. 656 (1949). We have further considered Respondent's contention that the Administrative Law Judge has evidenced a bias against Respondent's position. We have carefully considered the record and the attached Decision and reject these charges.

² Member Penello would not defer herein to the arbitral process because the issuance of the disciplinary warning sheet to the discriminatee at a grievance meeting involving another matter can only inhibit the future use of the grievance machinery under the collective-bargaining agreement.

DECISION

STATEMENT OF THE CASE

IRWIN KAPLAN, Administrative Law Judge: This case was heard in Newark, New Jersey, on March 8, 1978. The underlying charge was filed on June 28, 1978, by Paul Griffis, an individual, alleging that Borden Inc. Foods Division, Drakes Bakeries (herein called Respondent or the Company), engaged in certain acts and conduct violative of Section 8(a)(1), (3), and (4) of the National Labor Relations Act, as amended (herein called the Act). The aforementioned charge gave rise to a complaint and notice of hearing which issued on August 11, 1978, alleging in essence that Respondent violated Section 8(a)(1), (3), and (4) of the Act by issuing a warning notice to Paul Griffis on May 23, 1978, at a grievance meeting because Griffis, who had been the subject of a previous charge in Case 22-CA-7880, threatened to go to the National Labor Relations Board.

Respondent filed an answer conceding *inter alia*, jurisdictional facts, but denying all allegations that it committed any unfair labor practices. In particular, Respondent denied that it issued the disputed warning notice. According to Respondent, it merely recorded the events which occurred at the above-noted grievance meeting, which it contends did not constitute a warning as alleged.

Upon the entire record, including my observation of the demeanor of the witnesses, and after careful consideration of the post-trial briefs, I find as follows:

FINDINGS OF FACT

I. JURISDICTION

Respondent, Borden Inc. Foods Division, Drakes Bakeries, is a New Jersey corporation engaged in the manufacture, sale, and distribution of bakery goods and related products. In connection with the aforementioned business operations, Respondent derived revenue in excess of \$50,000 during the preceding 12 months, a representative time frame, from products sold and distributed from its Wayne, New Jersey, plant, its only facility involved herein, directly to points located outside the State of New Jersey. The Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

Respondent admits, and I find, that Local Union No. 50, Bakery & Confectionery Workers Union (herein called the Union), is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. Setting

Respondent and the Union have long been parties to a series of collective-bargaining agreements covering all the employees employed at Respondent's Wayne, New Jersey, plant, but excluding principally "executives, route foremen, supervisors, non-working foremen, office workers and specialty salesmen." Paul Griffis, the Charging Party, is, and has been at all times material herein, in-

cluded in the above-described bargaining unit as a second-class mechanic.

On April 22, 1978,¹ Respondent's maintenance supervisor, John Bieckman, issued Griffis a personnel data sheet (herein called data sheet) for allegedly poor work performance. (Jt. Exh. 1B.) Bieckman issued Griffis another data sheet on April 29, this time for allegedly failing to set up a machine in a proper manner. (G.C. Exh. 3.) The record discloses that, unless an employee who disagrees with the facts contained in a data sheet secures the Union's assistance, said data sheet as originally issued will be permanently included in the employee's personnel file. The data sheets may serve as a basis for further disciplinary action, including suspension and discharge.

Griffis took issue with the allegations contained in both the April 22 and 29 data sheets, thereby giving rise to a grievance meeting which was conducted at Respondent's Wayne facility on May 23. In attendance for the Company at the aforementioned meeting were then-Production Manager Steve Webber, Shift Superintendent Carston Nickels, and Bieckman. Griffis also attended the meeting and was represented by Union Representative Tony Centi. Later at the meeting, the above-named individuals were joined by Personnel Manager Walter Frankowski.

Griffis testified that he complained to Weber at the May 23 grievance meeting that he "had been unnecessarily harassed by the supervisors, especially, Mr. Bieckman." He asked Weber to get Bieckman off his back, stating that, if he didn't, Griffis would. Weber asked Griffis if his statement was a threat, and Griffis in turn told him that it was not a threat but a promise. Griffis added that he would get Bieckman off his back if he "[has] to go all the way to Washington." According to Griffis, everyone in the room knew that he had done something like this once before.² Griffis testified that Union Representative Centi ushered him out of the meeting and urged him to further clarify his statement for Weber because Weber was not with the Company when Griffis had previously sought relief from the National Labor Relations Board. Upon returning to the meeting, Griffis assertedly explained to Weber that he "would go to the National Labor [Relations] Board if [he] had to go all the way to Washington." According to Griffis, Weber asked him and Centi to step outside where they remained for 10 or 15 minutes. However, Griffis asserted that he could observe Weber using a telephone through a glass door from an adjacent office. When Griffis and Centi were called back to the meeting, Weber (who was now joined by Personnel Manager Frankowski) asked Centi to sign a new data sheet containing *inter alia*, Griffis' alleged threat, which he refused to do. The remarks which were composed by Weber appear on the data sheet in a

section entitled "Company Rule Infraction," and in their entirety read as follows:

Made a threat—"He is on my back and I will get him off me one way or the other." I asked if that is a threat—He said that "it's not a threat, it's a promise." After being taken out of the office by Mr. Centi he returned an[d] he inferred the use of outside agencies. The individual threatened Mr. Bieckman. [Jt. Exh. 1C.]

After the new data sheet was given to Griffis, Frankowski left the session, but the others (now joined by Supervisor Bill Speed) remained to further discuss the April data sheets. With regard to the April 29 data sheet, it developed that Griffis had been given conflicting instructions by Supervisors Bieckman and Speed and that Griffis was therefore justified in being confused. Weber agreed to remove the April 29 data sheet from Griffis' file and tore it up. However the April 22 data sheet, as well as the one which had just been issued, were maintained in Griffis' file.

While a substantial portion of Griffis' testimony was corroborated by Weber, the latter described the circumstances which gave rise to the May 23 data sheet in a somewhat different fashion. According to Weber, when he asked Griffis to further explain the alleged threat, Griffis responded "no explanation was necessary." Weber then assertedly began making up a new data sheet. Weber testified it was at this point that Centi ushered Griffis out of the office to further discuss the matter with him. While they were out of the office, Weber called Frankowski and told him in effect that his presence was urgently needed at the meeting.³ Weber testified with corroboration from Frankowski that, when Centi⁴ and Griffis returned, Weber asked Griffis to repeat for the benefit of Frankowski (who had now joined them) what he had stated earlier. Griffis again stated that he was going to get Bieckman off his back, but, rather than characterize it as a threat, Griffis called it a promise. Frankowski assertedly asked Griffis to explain himself, to which the latter responded, "I will use agencies again." Weber could not recall whether any particular agency was mentioned; he assumed that "[Griffis] meant something like the Labor Board."

According to Weber, "[H]e felt strongly that the incident required further action on [the Company's] part," and asked Frankowski to step outside to further discuss the situation. Frankowski testified that Weber wanted to impose some form of "disciplinary action, a suspension." He further testified with corroboration that he called Labor Relations Manager Harvey Frem to review the matter *vis-a-vis*, Griffis. Frem told Frankowski that the Company could not discipline Griffis for making a threat because "he [Griffis] had clarified what he meant, [and] you could not discipline an employee for threatening to go to any outside agency." Weber and Frankowski returned to the meeting where Weber completed writing

¹ All dates hereinafter refer to 1978 unless otherwise indicated.

² The record reveals that Griffis was previously the subject of an unfair labor practice charge in Case 22-CA-7880. The matter was disposed of in an informal "Settlement Agreement" with a nonadmission provision and notice posting. The "Notice" stated, *inter alia*, "WILL NOT utilize any of the information contained in data sheets issued to Paul Griffis from June 4, 1977 to June 29, 1977 as a basis for any disciplinary action." (G.C. Exhs 2A and 2B)

³ According to Weber, it was important to have Frankowski participate because a week earlier a third-shift supervisor was threatened by another employee which resulted in that employee's suspension.

⁴ Centi did not testify, and no reason was advanced for the failure to call him as a witness.

up the data sheet and served a copy thereof on Griffis. Weber testified that he maintained the May 23 data sheet notwithstanding the fact that Griffis explained that "getting Bieckman off his back" referred to relief from an outside agency because he didn't believe him. Both Weber and Frankowski expressed the view that Griffis made reference to an outside agency only because he was encouraged to do so by Centi. In any event, they contended that the May 23 data sheet did not represent a form of discipline, and no disciplinary action was taken against Griffis resulting therefrom.

On June 21 the Company made out another data sheet concerning Griffis' behavior. This one issued because Griffis allegedly "refused to follow instructions, and abusive behavior." (Jt. Exh. 1D.) Griffis was afforded an opportunity to grieve the allegations contained in the June 21 data sheet at a meeting with union and company representatives on June 28, but did not meet with any success. Instead, he received a warning letter from Frankowski dated June 29 which noted, *inter alia*, that "[Griffis'] personnel file reveal[ed] a continuous pattern of confrontations with other management and immediate supervisory personnel." The letter referred to March 19 and June 21 as two such specific occasions. There was no specific reference therein to the disputed May 23 data sheet. The last paragraph contains a warning that, unless Griffis takes corrective action to improve his record, he "will be subject to more severe disciplinary action including suspension and/or termination of [his] employment." (Jt. Exh. 1E.)

B. Discussion and Conclusions

1. The alleged warning notice

The General Counsel contends that, on May 23, Griffis was issued a warning notice in the form of a document entitled "Personnel Data Sheet" (herein also called data sheet) because he threatened to go to the National Labor Relations Board (herein also called the Board or NLRB). Respondent, relying largely on recent Board authority, contends that the disputed document does not constitute a warning or any other form of disciplinary action but merely a document recording events.⁵ While Respondent stipulated that disciplinary action may be predicated on a data sheet, it denies that a data sheet by itself is a manifestation of disciplinary action. According to Respondent, where discipline is administered as a result of a data sheet, the personnel manager always prepares a separate letter, which was not done with regard to the disputed May 23 data sheet. Respondent contends that the General Counsel's assertion that the disputed data sheet constituted *per se* discriminatory action must fail for the additional reason that Griffis did not further protest the document under the grievance procedure.⁶

⁵ *U.S. Postal Service*, 233 NLRB 518 (1977); *The Dayton Tire & Rubber Co., a Division of the Firestone Tire & Rubber Company*, 216 NLRB 1003, 1007 (1975).

⁶ The record reveals that data sheets may give rise to more formal written grievances which are processed under the grievance machinery provided by the collective-bargaining agreement. I find contrary to Respondent that Griffis' failure to further utilize the grievance machinery *vis-a-vis*, the May 23 data sheet is not decisive.

The record discloses that, before a personnel manager issues a disciplinary letter, the employee's entire personnel file is reviewed, including all data sheets contained therein. While Personnel Manager Frankowski asserted that no discipline has or will result from the disputed May 23 data sheet, he also conceded that there is no notation thereon that would alert a successor personnel manager that he is not to rely on this data sheet as a basis for disciplinary action. Aside from Frankowski's representation, there are no concrete safeguards that the disputed data sheet will not be used by him adversely *vis-a-vis* Griffis. Thus Frankowski's warning letter to Griffis dated June 29 notes, *inter alia*, "[Y]our personnel file reveals a *continuous pattern* of confrontations with other management and immediate supervisory personnel." (Emphasis supplied.) While there is no specific reference in the aforementioned letter to the May 23 data sheet, it is impossible to determine to what extent Frankowski considered said data sheet when he wrote that Griffis was involved in a "continuous pattern of confrontations" with management.

As data sheets may serve as a basis for disciplinary action, and given the subjective nature of evaluating the contents in a personnel file, I am unpersuaded that the disputed data sheet merely represents a memorialization of certain events on May 23. I therefore find that the cases relied on by Respondent (previously cited) are distinguishable from the case at bar on their facts.

On the other hand, there are a number of significant factors which tend to support the General Counsel's contention that the disputed data sheet itself is tantamount to a warning or a form of adverse action. Thus, as noted by the General Counsel, the fact that data sheets may be deleted from an employee's personnel file (as was the case with Griffis' April 29 data sheet) should the Company later determine that the employee's position was "justified" tends to suggest that the Company, by maintaining the documents, may wish to use the contents therein in some negative manner. This may result, *inter alia*, in a subjective evaluation of the employee's overall work record or in the issuance of a more formal warning letter. In further construing the disputed data sheet as a form of adverse action, it is significant to note that the company's negative comments about Griffis appear on the face of the document in a section entitled "Company Rule Infraction." The company immediately served a copy of the disputed data sheet containing the alleged company rule infraction on Griffis. In these circumstances, I am persuaded, and I find, that the disputed data sheet represented a reprimand or warning rather than "merely a documentation of what occurred [at the May 23] meeting" as contended by Respondent.

2. Alleged unlawful motivation

Having previously found that the disputed data sheet constituted a warning notice, the case now turns on the reasons for its issuance. Respondent contends that Weber's motivation in issuing the data sheet was to doc-

As an 8(a)(4) allegation is in issue, there is an overriding policy to protect the Board's processes. See *McKinley Transport Limited*, 219 NLRB 1148, 1151 (1975).

ument Griffis' threat to Supervisor Bieckman. The General Counsel, on the other hand, contends that Weber issued Griffis the disputed data sheet or warning because he threatened to go to the National Labor Relations Board.

The record discloses that Griffis was the subject of a previous unfair labor practice charge in Case 22-CA-7880 which was resolved by the Company's compliance with an informal settlement agreement and the posting of a notice. The "Notice" stated, in pertinent part:

WE WILL NOT utilize any of the information contained in the data sheets issued to Paul Griffis from June 4, 1977, to June 29, 1977, as a basis for any disciplinary action.

WE WILL NOT threaten, interfere with, restrain, coerce any of our employees because they file grievances or exercise any of the rights guaranteed by Section 7 of the National Labor Relations Act, as amended.

In April 1978 and soon after compliance with the above-noted settlement agreement had been achieved, Respondent issued Griffis two more data sheets, one for allegedly poor work performance and the other for allegedly failing to set up a machine in a proper manner. It is not contended that the aforementioned April data sheets were predicated on unlawful considerations. In any event, Griffis elected to challenge the propriety of these data sheets and, as previously noted, these matters were further aired at a company-union meeting on May 23. It is undisputed that during the course of this meeting Griffis asked Weber to get Supervisor Bieckman off his back, stating that, if not he, Griffis, would do it. It is also undisputed that Weber asked Griffis whether he was threatening Bieckman. Griffis denied that he made a threat, but promised to get Bieckman off his back even if he had to go all the way to Washington. From this point in the meeting until Griffis was served with a new data sheet, there is some dispute as to what Griffis stated and the precise timing of his remarks. For example, the testimony is in conflict as to whether Griffis made reference to other agencies and the National Labor Relations Board in particular before Frankowski was summoned by Weber to appear on the scene.

Notwithstanding some conflicting testimony, it is noted that there is substantial agreement on certain critical facts. Thus, it is undisputed that during the course of this meeting Griffis explained away his threat to get Bieckman off his back to mean that he would again go to an outside agency. According to Griffis, everyone at the meeting knew that he was referring to the National Labor Relations Board. This was largely confirmed by Weber who conceded that Griffis meant "something like the Labor Board." In any event, I credit Griffis' testimony that he explained his remarks further to Weber and specifically mentioned the Board as the agency he would go to for relief.⁷

⁷ While at times Griffis was not fully responsive to questions put to him, I believe that overall he testified truthfully, and I credit his testimony in all critical areas. Respondent, in urging that Griffis' testimony not be credited, argues that an adverse inference be drawn by the failure of

I reject Weber's assertion that he issued the May 23 data sheet because Griffis threatened Supervisor Bieckman as implausible and not supported by the credible evidence.⁸ According to Weber, he viewed Griffis' threat as a serious matter, particularly because approximately 1 week earlier another employee threatened a supervisor and was suspended for it. (Resp. Exh. 5.) However, the record discloses that the incident relied on by Weber was markedly different from the Griffis incident. The suspended employee, *inter alia*, used offensive language "F— you" and threatened to "fix" the supervisor "real good." Weber testified that the suspended employee not only verbally abused the supervisor, but impliedly threatened him with bodily harm. In the case at bar, there is no evidence tending to show that Griffis made an aggressive gesture or that he otherwise threatened to physically abuse Bieckman.⁹ Apparently, the discussion of Bieckman's harassment of Griffis caused both Bieckman and Griffis to become somewhat spirited, and Weber had to calm both of them down.¹⁰ Weber conceded, however, that Griffis was no more aggressive than Bieckman. I do not credit Weber's assertion that he did not believe Griffis' explanation that he would get Bieckman off his back by going to an outside agency. It is noted that Weber elected to make reference to Griffis' threat to go to an outside agency on the data sheet even though Personnel Manager Frankowski and Labor Relations Manager Frem told him not to discipline Griffis for threatening to go to an outside agency because it was unlawful. In these circumstances I fail to discern any legitimate purpose for recording such information on the data sheet. It is significant to note that Weber did not communicate to Griffis that the new data sheet would not serve as a basis for further disciplinary action. Given the addi-

the General Counsel to call Union Representative Centi as a corroborative witness. While no reason was advanced for the failure to call Centi, it is noted, as testified by Weber, that Griffis was not satisfied with Centi's representation at the meeting and in this context Griffis alluded to an outside agency in seeking help. It is also noted, as averred in Respondent's brief, that Centi was present at the hearing under "subpoena by the company," so that it would appear that Respondent could have availed itself of the same opportunity as the General Counsel. Moreover, it is noted that Griffis, and not the Union, is the Charging Party. In these circumstances I draw no adverse inference against either party for the failure to call Centi.

⁸ In rejecting Weber's testimony for its lack of candor, I noted particularly his shifting responses as to when he first learned that Griffis had utilized the services of the NLRB. Initially, he testified that he learned about it after May 23. Later, he admitted that he knew about it prior to May 23. Still later, he variously testified that he remembered seeing the Board notice involving Griffis in his file and also on the bulletin board. When pressed further on this subject, he finally responded, "To tell you the truth, I don't remember—it was either in the file or on the wall or something, but I recall seeing a notice of some sort." I also reject Frankowski's denial that he did not know that Griffis was referring to the NLRB. As Frankowski knew that Griffis had recently secured relief from the NLRB, I find it highly unlikely that he never discussed this matter with Weber as he testified. Further reflecting adversely on the testimony of both Weber and Frankowski is their respective accounts of what Weber told Frankowski to get him to come to the May 23 meeting. Weber testified that he did not have time to give Frankowski a reason. This is disputed by Frankowski, who asserted that Weber told him about the threat.

⁹ Cf. *Wonder Markets, Inc.*, 246 NLRB No. 56 (1979).

¹⁰ See, e.g., *M Restaurants, Incorporated, d/b/a The Mandarin Corporation*, 221 NLRB 264, 270 (1975); *Will & Baumer Candle Co., Inc., a Wholly Owned Subsidiary of Syracuse China Corporation*, 206 NLRB 772 (1973).

tional fact that a copy was served on Griffis, I conclude that Weber's comments on the document were intended to represent adverse action.

In short, I find that Weber, who was aware that Griffis had obtained relief from the NLRB previously, issued the disputed data sheet as a warning calculated to inhibit Griffis from further carrying out his threat to once again seek relief from the NLRB.¹¹ Accordingly, I find that Respondent thereby violated Section 8(a)(4) and (1) of the Act.

In addition, I find that Respondent, by issuing the disciplinary data sheet to Griffis in the presence of his union representative at a grievance meeting, tended to discourage union activity and the use of the grievance machinery under the collective-bargaining agreement, thereby violating Section 8(a)(3) and (1) of the Act.¹²

III. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent set forth in section II, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Local Union No. 50, Bakery & Confectionery Workers Union, is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent has violated Section 8(a)(4) and (1) of the Act by issuing a disciplinary warning to Paul Griffis because he had previously used the services of the National Labor Relations Board, and because he again threatened to resort to the Board's services.

4. Respondent has violated Section 8(a)(3) and (1) of the Act by issuing a disciplinary warning to Paul Griffis in the presence of a union representative at a grievance meeting, thereby discouraging union activity and the use of the grievance machinery under the collective-bargaining agreement.

THE REMEDY

Having found that Respondent has engaged in certain unfair labor practices, I shall recommend that Respondent cease and desist therefrom and that it take certain affirmative action to effectuate the policies of the Act.

Thus, it having been found that Respondent issued a disciplinary warning in the form of a personnel data sheet to Paul Griffis on May 23 to inhibit him from further using the assistance of the National Labor Relations

Board, in violation of Section 8(a)(4) and (1) of the Act, I shall recommend that said data sheet be rescinded and expunged from Griffis' personnel file and other records.

Further, it having been found that Respondent, by issuing the May 23 data sheet at a grievance meeting, tended to discourage union activity and the use of the grievance machinery under the collective-bargaining agreement, thereby additionally violating Section 8(a)(3) and (1) of the Act, I shall therefore recommend that it cease and desist therefrom. However, as the record does not reflect any previous history of unfair labor practice findings engaged in by Respondent, I shall recommend the narrow "in any like or related manner" injunctive language. See *Hickmott Foods, Inc.*, 242 NLRB No. 177 (1979).

On the basis of the above findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER¹³

The Respondent, Borden Inc. Foods Division, Drakes Bakeries, Wayne, New Jersey, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Issuing warnings, reprimands, or other reprisals against employees for using or threatening to use the assistance of the National Labor Relations Board.

(b) Issuing warnings or reprimands to employees during grievance meetings.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

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

(a) Rescind and expunge the May 23 personnel data sheet from Paul Griffis' personnel file and other records.

(b) Post at its Wayne, New Jersey, facility copies of the attached notice marked "Appendix."¹⁴ "Copies of said notice, on forms provided by the Regional Director for Region 22, after being duly signed by Respondent's authorized representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 22, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith.

¹¹ See, e.g., *Hoover Design Corporation*, 167 NLRB 461, 462 (1967), enforcement denied in relevant part 402 F.2d 987 (6th Cir. 1968); but see also *General Nutrition Center, Inc.*, 221 NLRB 850, 855, fn. 24 (1975), citing *N.L.R.B. v. Robert Scrivener d/b/a AA Electric Company*, 405 U.S. 117 (1972); *Mitsubishi Aircraft International, Inc.*, 212 NLRB 856, 865-866 (1974).

¹² See, e.g., *G & M Underground Contracting Co.*, 239 NLRB No. 17 (1978); *Walker Electric Co., Inc.*, 219 NLRB 481, 485 (1975).

¹³ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

¹⁴ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

WE WILL NOT issue warnings, reprimands, or other reprisals against employees for using or

threatening to use the assistance of the National Labor Relations Board.

WE WILL NOT issue warnings or reprimands to employees during grievance meetings.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them in Section 7 of the National Labor Relations Act, as amended.

WE WILL rescind and expunge the May 23 personnel data sheet from Paul Griffis' personnel file and other records.

BORDEN INC. FOODS DIVISION, DRAKES
BAKERIES