A. M. Steigerwald Co. *and* Frank E. Ritchie *and* Chicago Typographical Union No. 16, AFL–CIO

Master Printers Credit Union *and* Frank E. Ritchie *and* Chicago Typographical Union No. 16, AFL–CIO, and International Typographical Union, AFL–CIO. Cases 13–CA–16043, 13–CA–16154, 13–CA–16044, and 13–CA–16155

July 13, 1978

DECISION AND ORDER

BY CHAIRMAN FANNING AND MEMBERS JENKINS AND PENELLO

On March 29, 1978, Administrative Law Judge George Norman issued the attached Decision in this proceeding.[1] Thereafter, Respondents filed exceptions and a supporting brief, and the Charging Parties filed a reply brief to Respondents' brief.

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 briefs 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 Respondent A. M. Steigerwald Co., Chicago, Illinois, its officers, agents, successors, and assigns, and Respondent Master Printers Credit Union, Chicago, Illinois, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order.

[1] A complaint against The Master Printers Association of the Printing Industry of Illinois Association, Inc., was dismissed pursuant to a written stipulation between the parties.

[2] In the absence of exceptions, we adopt *pro forma* the Administrative Law Judge's finding that by maintaining membership in the Association, which membership makes it a participant in Respondent Credit Union, Respondent Steigerwald did not maintain a credit union which discriminates against those employees who exercise their rights under the Act to select a bargaining representative and achieve a collective-bargaining agreement through good-faith negotiations.

DECISION

STATEMENT OF THE CASE

GEORGE NORMAN, Administrative Law Judge: This case was heard before me in Chicago, Illinois, on October 26, 1977.[1] Based upon charges filed by Frank E. Ritchie, an individual, in Case 13–CA–16043 that A. M. Steigerwald Company (herein called Respondent Steigerwald), in Case 13–CA–16044 that Master Printers Credit Union (herein called Respondent Credit Union or the Credit Union), and in Case 13–CA–16045, that the Master Printers Association of the Printing Industry of Illinois Association, Inc. (herein called the Association), and further charges by Chicago Typographical Union No. 16, AFL–CIO, and International Typographical Union, AFL–CIO, in Case 13–CA–16154, that the Association, in Case 13–CA–16155 that Respondent Credit Union, and in Case 13–CA–16156 that Respondent Steigerwald, have engaged in, and are engaging in, unfair labor practices affecting commerce as defined in the National Labor Relations Act, as amended, 29 U.S.C., § 151, *et seq.* (herein called the Act), the General Counsel of the National Labor Relations Board (herein called the Board), by the Regional Director for Region 13, issued an order consolidating cases and a consolidated complaint on April 26, 1977, alleging that Respondents engaged in, and are engaging in, unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

Upon the entire record, and after due consideration of the briefs submitted by Respondents, the Charging Parties, and the General Counsel, I make the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYERS

Respondent Steigerwald is an Illinois corporation engaged in the business of manufacturing tags and labels in Chicago, Illinois. During the past year, Respondent Steigerwald purchased and received goods valued in excess of $50,000 directly from suppliers located in States other than the State of Illinois.

The Association is an association of employers in the printing industry within the State of Illinois. Said association is subdivided into two industrial relations divisions: Master Printers Association (herein called MPA) and Franklin Association or Union Employees' Association

[1] I granted the motion of the General Counsel to amend the name "the Master Printers Section of the Printing Industry of Illinois Association" wherever it appears in the complaint to read "the Master Printers Association of the Printing Industry of Illinois Association, Inc." In addition, par. 6 of the complaint was amended by deleting the references to Respondents Steigerwald and Master Printers Association leaving only Respondent Credit Union. Par. VII(a) was amended to read as follows:

> On or about October 12, 1976, Respondent Credit Union by its supervisor and agent, Valerie E. Dusing, told employees of Steigerwald that if they selected Chicago Typographical Union No. 16, AFL-CIO, as their bargaining agent and if said labor organization and Respondent Steigerwald negotiated a contract they could no longer be members of Respondent Credit Union.

(herein called UEA). MPA is made up of the employer members of Respondent Association whose employees are not represented by a labor organization. UEA consists of employer members of the Association who are parties to collective-bargaining agreements with labor organizations. Since April 1943, Respondent Steigerwald has been a member of the Association.

Respondent Credit Union is an Illinois corporation with its place of business in Chicago, Illinois, where it is engaged in the business of operating a credit union. During the course of the fiscal or calendar year 1976, Respondent Credit Union had gross income from loans, deposits, and investments in excess of $500,000; $5,000 of said income was derived from loans made in States outside the State of Illinois. Respondents Steigerwald and Credit Union are employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

The Union is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

Respondent Credit Union was incorporated in 1964 and was chartered by the State of Illinois in that year. Its membership has been limited to employees of employers who belong to the Association. At all times during its existence and continuing to the present, the standard bylaws of Respondent Credit Union, which are on file with the State of Illinois Department of Financial Institutions, Credit Union Division, limit membership in Respondent Credit Union as follows:

> Any employee of an employer associated in the printing industry which is a member of the Printing Industry of Illinois Association, Inc., whose employment is not covered by a collective-bargaining agreement.

That bylaw has been, and is currently being, enforced.

During the month of October 1976, approximately 40 or one-half of the employees of Respondent Steigerwald belonged to Respondent Credit Union.

On or about October 12, 1976, Respondent Credit Union, by its supervisor and agent, Valerie E. Dusing, sent the following letter to all of the employees of Respondent Steigerwald:

> MPCU/Master Printers Credit Union
> 200 East Ontario Street/Chicago, Illinois
> 60611/312/751-0440
>
> October 12, 1976
>
> Dear A. M. Steigerwald Employee:
>
> We at Master Printers Credit Union understand that an election will be held on October 22nd to determine whether you wish to be represented by Chicago Typographical Union #16. Your free choice of election is a right guaranteed by federal law, however, we are writing to you today to inform you of one of the possible consequences of the decision that you will make on October 22nd.
>
> If the majority of you choose the Typographical Union as your bargaining agent and if the Union and your employer negotiate a contract you will no longer be within the field of membership of Master Printers Credit Union.
>
> What does this mean to you? It means simply . . . this: To those of you who have not yet joined the Credit Union you will be ineligible to join because your employment would then be subject to a collective bargaining agreement. In addition, since it is a long standing policy of our Board of Directors to emphasize the extension of services, particularly credit granting services to those actually within the field of membership, you would not be able to obtain loans in the future.
>
> If you have any questions, please do not hesitate to call our office.
>
> Very truly yours,
> /s/ Valerie E. Dusing
> Valerie E. Dusing
> General Manager

On or about October 19, 1976, Respondent Steigerwald, by its supervisor and agent, Charles A. Slaughter, sent the following letter to all of its employees:

> A.M. STEIGERWALD CO.
> 2160 N. Ashland Avenue—Chicago, Illinois 60614-
> 312-384-750
>
> October 19, 1976
>
> Dear Fellow Employees:
>
> I understand that Master Printers Credit Union has written to all of you indicating that, in accordance with its by-laws, it would no longer be able to serve you in the same manner it has up to the present time should you choose Chicago Typographical Union No. 16 as your bargaining agent on October 22nd and a contract was signed between the Union and the Company.
>
> While there is nothing that I can do about this decision of the Credit Union, I wish to assure you that the company would, if asked by the Union, bargain in good faith in an endeavor to replace the Master Printers Credit Union. However, I am concerned about our ability to find a satisfactory replacement. It is impractical to organize a credit union for a group as small as our company. The Typographical Union does sponsor a Credit Union but it only pays 5% dividend on savings, it's savings are not federally insured, and it has a $7,500.00 limit on loans.
>
> I would hope that we would not lose the services of Master Printers here at Steigerwald but, I wish to restate to you that we will bargain, in good faith, to attempt to find a replacement.
>
> Very truly yours,
> A. M. STEIGERWALD CO.
> /s/ Chuck Slaughter
> Chuck Slaughter
> Vice-President

The parties agreed to the foregoing facts in a written stipulation which was made part of the record herein. The parties also agreed to drop the complaint against the Association. Thus, Respondents Steigerwald and Credit Union are the only Respondents in this case.

Discussions and Conclusions

The General Counsel contends that Respondent Credit Union is in violation of Section 8(a)(1) of the Act by maintaining in effect the above-quoted bylaw because on its face it interferes with and coerces employees. The General Counsel also contends that the October 12 letter sent by Respondent Credit Union to the employees of Respondent Steigerwald, quoted above, in which it told them of the consequences of their choosing the Union as their collective-bargaining representative is a threat, also in violation of Section 8(a)(1) of the Act. Finally, the General Counsel contends that the October 19 letter sent by Respondent Steigerwald to its own employees, quoted above, iterated the threat and therefore Respondent Steigerwald, while not alleged as responsible for the bylaw, by adopting the threat and publishing it as its own, has also violated Section 8(a)(1) of the Act.

The General Counsel seeks as a remedy that Respondent Credit Union be ordered to eliminate the discriminatory bylaw and that an appropriate order issue against the alleged threats of October 12 and 19.

The Charging Parties' Contentions

In addition to joining in with the General Counsel in the above-stated contentions, the Charging Parties contend further that, inasmuch as during the critical month of October 1976 approximately one-half of the employees of Respondent Steigerwald covered by the Board-directed election were members of Respondent Credit Union, and that as long as Respondent Steigerwald remains a member of the Association and a participant in its Credit Union, Respondent Steigerwald is actively maintaining a credit union which discriminates against those employees who exercise their rights under the Act to select a bargaining representative and achieve a collective-bargaining agreement through good-faith negotiations. Charging Parties point out that there are two qualifications for participation in the Credit Union: (1) The employee must not only refrain from coverage under a collective-bargaining agreement, but also (2) a member of the Credit Union must be an employee of an employer member of the Association. Respondent Credit Union exists not only for employees in general in the printing industry of Illinois, but also for employers of a multiemployer association who remain nonunion; and, as long as Respondent Steigerwald remains a member of the Association, Respondent Steigerwald's employees will be subject to a discriminatory credit union plan. In sum, the Union's contention is that said employer also violated the Act by maintaining a benefit for its employees which discriminates against union membership or the exercise of rights guaranteed by the Act. Thus, the Union recommends a finding that both Respondent Steigerwald and Respondent Credit Union are in violation of the Act by (1) maintaining a discriminatory and exclusionary credit union and (2) threatening employees with loss of credit union benefits should they select a labor organization as their bargaining representative and be covered by a collective-bargaining agreement.

Respondents' Contentions

Respondents contend that neither has violated the Act either by maintaining in effect the bylaw in question or in sending the October 12 and 19 letters. Respondents contend that the Credit Union may with apparent impunity restrict its own membership not simply to its own members, but only to those of its members who are in good standing; and, inasmuch as this "evident encouragement of tractable union membership is permitted to exist without censure by the General Counsel, it follows that the MPCU should be permitted to accept as members only employees whose employment is not covered by a bargaining agreement." Respondents also contend that Respondent Credit Union's limitation does not foreclose "unionized employees" from belonging to a credit union in that, if Respondent Steigerwald's employees had chosen union representation, they could have joined either the Typographical Union's credit union or negotiated for another credit union with their employer "who undisputably stood ready to bargain in good faith." Respondents further contend that, while the employees may wish to be represented by a union and still retain Respondent Credit Union membership, the Act recognizes that unionization may be lawfully attended by manifold disadvantages, and that it is permissible to inform employees of these disadvantages during election campaigns.

Respondents cite the *Curley Printing Company* cases *(Curley Printing Company, Inc.,* 159 NLRB 1489 (1966); *Curley Printing Company, Printing Industry of Nashville, Inc., and Printing Industries of America, Inc.,* 169 NLRB 251 (1968)) to support their contentions. In the *Curley Printing Company* cases, the employer, Curley, the Printing Industries of America (PIA), and the Printing Industry of Nashville (PIN) were the parties charged with unfair labor practices. Similar to the circumstances of the instant case, in *Curley* the nonunion "section" of PIA offered a group health insurance program to its members, nonunion employers, including Curley. The insurance program excluded employees covered by a collective-bargaining agreement. However, as pointed out by the General Counsel, the Board never reached the issue of the legality of that provision. Curley Printing Company was the named Respondent over whom jurisdiction was asserted based upon its commerce facts. PIA and its nonunion subdivision, PIN, were brought into the case on the theory that they were acting as agents of Curley. The Board found that no such agency relationship as alleged existed, and that PIA and PIN were separate, incorporated trade associations that offered its members, including Curley, a group health insurance program which Curley could accept or reject as it chose. When Curley accepted the insurance program, its relationship with PIA was that of a customer, or the relationship of principal with principal rather than as principal

and agent. The Board went on to state (169 NLRB at 251) that:

> Inasmuch as they were not agents of Curley in the matter of insurance coverage, and as no other basis for so holding appears, PIA and PIN cannot be held to have discriminated against Curley's employees in violation of Section 8(a)(3) of the Act, as alleged in the complaint.[2]

The General Counsel's theory in the instant case is not that Respondent Credit Union is an agent of Respondent Steigerwald, but rather, each is a respondent engaged in commerce based on its own business operations. With respect to Respondent Credit Union, the theory of the General Counsel's case is that it is a separate respondent who has committed *per se* 8(a)(1) violations by virtue of bylaws that on their face discriminate against employees who select a union to represent them for collective-bargaining purposes. Moreover, it does not matter that the employees affected herein are not employees of Respondent Credit Union but employees of another employer; namely, Respondent Steigerwald. In *Fabric Services, Inc.*, 190 NLRB 540 (1971), the Board adopted Administrative Law Judge Arthur Leff's findings, conclusions, and recommendations in a case in which an employer defended the complaint's unfair labor practice allegations against it solely on the ground that it was not the affected employees' employer and, therefore, as a matter of law could not be found to have violated Section 8(a)(1) of the Act by its action toward them. Administrative Law Judge Leff, in his Decision, stated (190 NLRB at 541–542):

> I reject that defense as without merit. I find no basis, either in the declared policy of the Act or in any delineating provision of it for construing Section 8(a)(1) as safeguarding employees in the exercise of the Section 7 right only from infringements at the hands of their own employer. To the contrary, the specific language of the Act clearly manifests a legislative purpose to extend the statutory protection of Section 8(a)(1) beyond the immediate employer-employee relationship. Thus, Section 8(a)(1) makes it "an unfair labor practice for *an* employer—to interfere with, restrain, or coerce employees in the exercise of rights guaranteed in Section 7." And Section 2(3) declares, "The term employee shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise."

Accordingly, I find that Respondent Credit Union is in violation of Section 8(a)(1) of the Act by maintaining in effect the discriminatory bylaw quoted above, and by threatening employees in its October 12 letter with denial of credit union participation if they exercise their right to choose a union as their collective-bargaining representative.

With respect to Respondent Steigerwald, I do not find, as urged by the Charging Parties, that by maintaining membership in the Association, which membership makes it a participant in its Credit Union, Respondent Steigerwald is actively maintaining a credit union which discriminates against those employees who exercise their rights under the Act to select a bargaining representative and achieve a collective-bargaining agreement through good-faith negotiations. As in *Curley, supra*, there is no evidence of an agency relationship here. Respondent Steigerwald has no control over Respondent Credit Union or its bylaws.

However, I do find that Respondent Steigerwald violated Section 8(a)(1) of the Act by threatening its employees with loss of Respondent Credit Union privileges through its letter dated October 19, 1976.

IV. THE REMEDY

Having found that Respondent Credit Union is in violation of Section 8(a)(1) of the Act by maintaining the discriminatory bylaw, I recommend that Respondent Credit Union be ordered by the Board to delete said discriminatory bylaw from its bylaws. *C. G. Conn, Ltd., a wholly owned subsidiary of Crowell Collier and MacMillan, Inc.*, 197 NLRB 442 (1972), enfd. 474 F.2d 1344 (C.A. 5, 1973).

Having found that Respondents Credit Union and Steigerwald have violated Section 8(a)(1) of the Act by the threats contained in their letters of October 12 and October 19, respectively, I shall also recommend that they cease and desist from threatening employees with loss of credit union benefits should they select a labor organization as their bargaining representative and be covered by a collective-bargaining agreement.

CONCLUSIONS OF LAW

1. Respondents Credit Union and Steigerwald are employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. By maintaining a discriminatory and exclusionary credit union, Respondent Credit Union has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act.
4. By threatening employees with loss of credit union benefits should they select a labor organization as their collective-bargaining representative and be covered by a collective-bargaining agreement, Respondents Credit Union and Steigerwald have engaged in, and are engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act.
5. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

Upon the foregoing 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:

[2] In that case there was an actual cancellation of the insurance coverage of Curley's employees upon conclusion of the contract between Curley and the union as mandated by the terms of the trust indenture and the bylaws of the Master Printers Section of PIA.

ORDER [3]

1. Respondent Master Printers Credit Union, Chicago, Illinois, its officers, agents, successors, and assigns, shall cease and desist from maintaining a discriminatory and exclusionary credit union.

2. Respondents Master Printers Credit Union and A. M. Steigerwald Co., Chicago, Illinois, their officers, agents, successors, and assigns, shall cease and desist from:

(a) Threatening employees with loss of credit union benefits should they select a labor organization as their bargaining representative and be covered by a collective-bargaining agreement.

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

3. Respondents shall take the following action which is necessary to effectuate the policies of the Act:

(a) Respondent Master Printers Credit Union shall amend its bylaws by deleting the requirement which limits the membership in the credit union to any employee of an employer associated in the printing industry which is a member of the Printing Industry of Illinois Association, Inc., whose employment is not covered by a collective-bargaining agreement.

(b) Respondents Master Printers Credit Union and A. M. Steigerwald Co. shall post at their respective places of business in Chicago, Illinois, copies of the attached notices marked "Appendix A" and "Appendix B" respectively.[4] Copies of said notices, on forms provided by the Regional Director for Region 13, after being duly signed by each Respondent's authorized representative, shall be posted by said Respondents immediately upon receipt thereof, and be maintained by them for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondents to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 13, in writing, within 20 days from the date of this Decision, what steps Respondents have taken to comply herewith.

[3] 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.

[4] In the event that this Order is enforced by a Judgment of the 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 A

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

The National Labor Relations Board's having found, after a hearing, that we violated Federal law by maintaining in effect a bylaw which limits membership in the Master Printers Credit Union to any employee of an employer associated in the printing industry which is a member of the Printing Industry of Illinois Association, Inc., whose employment is not covered by a collective-bargaining agreement, we shall delete such provision from our bylaws, and we will not threaten any employees with loss or denial of membership because they choose a union as their bargaining agent and the union and the employer negotiate a contract for their benefit.

MASTER PRINTERS CREDIT UNION

APPENDIX B

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

The National Labor Relations Board's having found, after a hearing, that we violated Federal law by threatening you with loss of Master Printers Credit Union privileges if the majority of you choose the Typographical Union, or any other union, as your bargaining agent, we will cease and desist from threatening you with loss of credit union benefits should you select a labor organization as your bargaining representative and be covered by a collective-bargaining agreement.

A. M. STEIGERWALD CO.