

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

Employees may communicate directly with the Board's Regional Office, 6617 Federal Office Building, 515 Rusk Avenue, Houston, Texas, Telephone No. Capitol 8-0611, Extension 296, if they have any question concerning this notice or compliance with its provisions.

San Juan Lumber Company and Andy L. Lucero. *Case No. 27-CA-1335. August 21, 1963*

DECISION AND ORDER

On June 20, 1963, Trial Examiner Wallace E. Royster issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Intermediate Report. Thereafter, the Respondent filed exceptions to the Intermediate Report and a brief in support thereof.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman McCulloch and Members Leedom and Brown].

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in this case, and hereby adopts the findings,¹ conclusions, and recommendations² of the Trial Examiner.

¹ We agree with the Trial Examiner that the Respondent violated Section 8(a)(1) of the Act by discharging employees Felipe Maez, Henry Maez, Andy L. Lucero, Joe Jaramillo, and Gilberto Martinez. As more fully set forth in the Intermediate Report, these employees failed to report to work on January 26, 1963, the day after a payday on which they had not been paid because their checks were lost. They stayed away not because of the failure to get their checks on time, but because their car would not start and they could not find another ride. Respondent's foreman, disbelieving their excuse, discharged them, asking Henry Maez, "Are you with the same gang?" informing Joe Jaramillo, "You and four more are fired," and telling the others, "No pay no work," thereby indicating his belief in the concerted nature of their absence.

The Trial Examiner found, and we agree, that the five men were discharged because the foreman believed that they had remained away from work in a concerted protest against the delay in paying them, although the employees had not in fact engaged in concerted activity. By discharging them for this reason, and communicating it to the employees, the Respondent served notice that concerted activity would not be tolerated in its plant, and thereby interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7, in violation of Section 8(a)(1) of the Act.

² Contrary to the Trial Examiner, we find that the unfair labor practices committed by the Respondent strike at the very heart of the employee rights safeguarded by the Act

ORDER

The Board adopts as its Order the Recommended Order of the Trial Examiner with the following additions and modifications:

Delete paragraph 1(b) and substitute the following:

(b) In any manner interfering with, restraining, or coercing its employees in the exercise of their right to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized by Section 8(a)(3) of the Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.³

and demonstrate the Respondent's hostility to the policies of the Act. Therefore, we shall order the Respondent to cease and desist from infringing in any manner upon the rights guaranteed by the Act.

³The notice is hereby amended as follows Delete the third indented paragraph and substitute the following:

WE WILL NOT in any manner interfere with, restrain, or coerce our employees in the exercise of their right to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

INTERMEDIATE REPORT AND RECOMMENDED ORDER

STATEMENT OF THE CASE

This matter came on to be heard before Trial Examiner Wallace E. Royster in Pagosa Springs, Colorado, on April 23, 1963. At issue is whether San Juan Lumber Company, herein called the Respondent, in violation of Section 8(a)(1) of the National Labor Relations Act, as amended, discharged Felipe Maez, Gilberto Martinez, Henry Maez, Joe Jaramillo, and Andy Lucero because of a belief that the named individuals had engaged in concerted activities finding protection in Section 7 of the Act.

Briefs from counsel for the General Counsel and counsel for the Respondent have been received and considered.

Upon the basis of the entire record in the case, and from my observation of the witnesses, I make the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The complaint alleges, Respondent's answer admits, and I find, that the Respondent is a Colorado corporation with places of business at Englewood and Pagosa Springs, Colorado. At the latter location it operates a sawmill. Annual shipments from the mill at Pagosa Springs to points outside the State of Colorado exceed \$50,000 in value. I find that the Respondent is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE UNFAIR LABOR PRACTICES

For some weeks or months prior to January 26, 1963,¹ the Respondent operated a night shift at its mill between the hours of 2 and 11 a. m. The shift was manned by the five individuals whose discharge is complained of and by one, Tony Maez.

¹ All dates mentioned are in 1963

At the end of the shift at 11 a.m. on January 25, all of those men then completing their day's work went to the mill office to pick up their paychecks which were scheduled to be delivered on that day. The checks, however, had not arrived from Respondent's main office in Englewood and the five employees who later were discharged each made two additional trips to the mill in the afternoon of January 25 in unsuccessful efforts to be paid. Tony Maez, having but a small amount coming to him, did not trouble to make more than the single inquiry about his paycheck.

None of the men scheduled to work at 2 a.m. on January 26 appeared at the mill. About 8 that morning, Jaramillo came to the mill. Mill Superintendent Harry Johnson asked Jaramillo why he had not reported for work at shift-starting time. Jaramillo answered that he had no means of transportation and that he had been unable to get a ride. Johnson answered, "You and four more guys are fired."

About 10:45 that morning, Felipe Maez, Tony Maez, and Gilberto Martinez came to the mill together. According to Martinez, Johnson asked him why he had not come to work. Martinez answered that he had no gasoline for his car and no other way to make the trip. Johnson commented, "No pay no work." Martinez said, "Yes" and Johnson fired him. According to Martinez, the same colloquy took place between Johnson and Felipe Maez ending with discharge. Felipe Maez testified that Johnson made the "No pay no work" comment to him on the occasion of his discharge. Tony Maez testified that he went to the mill with his father, Felipe, and brother-in-law, Martinez, but that he did not hear Johnson say anything about "no pay no work" to either of them. Johnson asked Tony Maez why he had not come to work. Although Tony Maez also answered that he had no means of getting to the mill, he was not discharged.

Andy Lucero testified that he came to the mill about 11 that morning; that Johnson asked him why he had not reported to work and that he answered that he had no gasoline for his car and no other way to get there. Johnson then said that Lucero was fired. Although Lucero was asked by counsel for the General Counsel in this initial examination whether Johnson made any mention of pay or work, he answered that he did not remember. After the luncheon recess, when Lucero was recalled to the stand, he testified that after Johnson told him he was fired, Johnson commented, "No pay no work." On cross-examination, Lucero explained that he had not clearly understood the question about pay or work when it was first posed to him.

Henry Maez testified that he, in company with Jaramillo and another brother, Ernest Maez, went to Johnson's house at 3 p.m. on January 26. Jaramillo spoke with Johnson concerning a claimed shortage in his paycheck and after this item was disposed of, Johnson asked Henry Maez, "Are you with the same gang?" When Maez answered, "Yes," Johnson said that he was fired.

Each of those discharged testified that he failed to come to work on the morning of January 26 because he lacked transportation. Each denied that the postponed payday had any relationship to his absence.² There is no testimonial evidence that the men affected made any sort of an agreement among themselves to withhold services on January 26 in protest against the delay in receipt of paychecks. It is the theory of the General Counsel that the Respondent, represented by its agent, Henry Johnson, reasonably believed that the employees were acting in concert to express a protest concerning the delayed checks; that Johnson manifested this belief by telling Jaramillo early Saturday morning that he and four others were discharged; and by his comments about "No pay no work" and by asking Henry Maez if he was with the "same gang." Other evidence pointing to this conclusion, the General Counsel contends, is to be found in a written report submitted by Johnson to Respondent's Englewood office concerning the discharge of Gilberto Martinez. The report reads in pertinent part, "This man told around no pay, no work. I could not start a mill shift up for this reason." Presumably, in accordance with requirements of the Colorado Department of Employment, John Breen, the Respondent's paymaster from the office in Englewood, reported to the department of employment in respect to each of those discharged as follows:

As to Felipe Maez, on February 3, "Fired. This man refused to go to work when we could not pay on our regular pay day. Air express lost our paychecks, and we were unable to pay until the next day at 8:00 a.m. This man was responsible for us not being able to run our second shift at the mill. He told his foreman 'No pay No work.'"

² Jaramillo wavered somewhat on this point but the whole of his testimony is that he had no ride to work.

On the same date in respect to Jaramillo, Breen gave precisely the same report.

Also on February 3 as to Martinez: "Fired. This man refused to go to work when we could not pay on our regular date. Air Express lost our pay checks, and we could not pay until the next day at 8:00 a.m."

On February 12, as to Lucero: "Fired. This man refused to go to work and was fired on the spot. We were to pay on the 25th, but Railway Express Agency lost our paycheck. We paid the men the following day. This man told his foreman 'No pay, no work.'"

On February 14, as to Henry Maez: "Fired. Railway Express Lost our checks, and these men couldn't be paid until the following day. . . ."

Breen testified that he had no firsthand knowledge of the reason for separation in the case of any of the five, and that the reports to the department of employment were based upon information supplied by an office employee at the Pagosa Springs mill. Breen denied that he spoke to Superintendent Johnson concerning the terminations prior to submitting the forms to the department of employment.

Although the circumstances strongly suggest that there was a concert of action among the employees, each denied in his testimony that this was so. The General Counsel does not contend that there was any concerted activity. Although I view the disclaimers with considerable skepticism, I do not find that the five discharged employees were acting in concert when they failed to appear for work on the morning of January 26. Each of the five had, however, on the previous day made several calls at the mill office in an effort to get his paycheck.

Johnson testified that he discharged the men because they had caused him to lose an entire shift at the mill and because none of them provided him with a valid believable excuse for failing to report for work. As to Henry Maez, Johnson testified that he did not see him on January 26, did not discharge him, and carried Maez in his timebook as an absent employee for the remainder of the pay period ending January 31. Johnson testified that, although he spoke to Jaramillo at his home on the afternoon of January 26, he did not recall who was with Jaramillo on this occasion. He specifically denied discharging Maez on that date or making any mention to Maez about a "gang."

Johnson denied that he discharged any of the men in the belief that they were acting in concert for any reason. Yet he did not deny saying to Jaramillo on January 26, before any others were fired that Jaramillo was only one of five who were to be terminated. There is no reason to disbelieve Jaramillo in respect to this testimony and, considering Johnson's failure to deny making the remark, I credit Jaramillo. Thus it is at least probable that Johnson had determined to discharge all five before hearing the possible excuses that the remaining four may have had for their failure to work. His testimony that had any of them offered him a "good reason" for not reporting for work that one would not have been fired is thus rendered suspect.

Johnson denied that he said anything approximating "No pay, no work" to Lucero or Felipe Maez. Upon his examination by counsel for the General Counsel and testifying concerning whether he mentioned "No pay, no work" in his conversation with Martinez in the morning of January 26, Johnson said, "No, sir. Yes, sir, I did, I asked him if that was the reason why he didn't come to work." Later in the day when Johnson was called as a witness for the Respondent, he testified that he did not use that expression in speaking to Martinez and went on to say, "I don't know where that 'No pay no work' comes from. It keeps appearing." Considering this self-contradiction and considering that in reporting the discharge of Martinez to Respondent's Englewood office, Johnson asserted that Martinez "told around no pay no work," I find that in speaking to Martinez on January 26, Johnson asked him in effect if he had failed to come to work because the paychecks had not been distributed. I further find that at the time of the discharge of Martinez, Johnson believed that Martinez had "told around 'no pay no work.'"

If the discharges were unlawful, as the complaint alleges, they became so not because the affected employees were engaged in any activity within the Act's protection but because their employer believed them to have been so engaged and discharged them in retaliation. That Johnson considered Martinez responsible in large measure for the absence of the employees is evidenced by his report to the Respondent concerning the latter's discharge. "This man told around no pay, no work. I could not start a mill shift up for this reason." This report further evidences that Johnson believed that Martinez had successfully persuaded the other men on the shift to stay away from work on January 26.

Perhaps it need not be emphasized that the Respondent was free to discharge any or all of its employees for failure to work the shift. They were hired to work and if they chose not to do so the Respondent was under no compulsion to keep them on the payroll. Thus if Johnson believed the various excuses given by the discharged employees, consisting in the main, that they had no means of transport to the mill, he need not have considered them to have been exculpatory. He could well have reasoned that their obligation to work required them to walk to the place of their employment. Certainly this would have been reasonable as to Felipe Maez who lived no more than a quarter mile from the mill. But Johnson did not believe that the excuses were given in good faith. His comment "No pay no work" to Martinez indicated that he believed the passed payday was the reason. When one considers that early on the morning of January 26, Johnson told Jaramillo that five men were to be discharged, the conclusion that Johnson had already become convinced that the men had remained away from work for reasons he considered impermissible is difficult to avoid. That absence from work standing alone did not move Johnson to the action of discharge is shown by the fact that Tony Maez, whose obligation to report for work was no less than that of the others, kept his job. The excuse offered by Tony Maez was the same as that of the others—he had no transportation. But also he was the only one of the group who had not made repeated trips to the mill on the 25th in an effort to get his check. It is at least possible that Johnson thought that Tony Maez had not stayed away in protest against the delayed payday and this possibility is strengthened when it is recalled that no mention of "No pay no work" was made to him.

In reporting the discharges to the Colorado Department of Employment, Respondent's paymaster, John Breen, wrote that three of the men had remarked to Johnson "No pay no work" and indicated that all had refused to come to work because they were not paid on the scheduled day. Breen testified that he was merely relaying to that department information that had come to him from some unidentified female employee at the mill. He denied that he spoke to Johnson in the matter. Breen, of course, had no hand in the discharges and was not personally concerned in them. The information he reported was obtained by inquiry by telephone to the mill. Breen, I have no doubt, did not intentionally give an incorrect reason for the discharges to the department of employment and surely must have made some effort to assure himself that the employee to whom he spoke had such an acquaintance with the facts as would enable her to answer his inquiry. There is no reason to suppose that Breen's informant told him something that she had contrived or invented. If this were so the Respondent has not offered to explain why the employee was not called as a witness in this proceeding to concede that she had misinformed Breen. I am convinced that the reasons for discharge expressed by Breen in the reports to the department of employment were those that the management of the mill at Pagosa Springs (presumably Johnson) acted upon.

Although Respondent's answer admits the discharge of Henry Maez on January 26 and the report to the department of employment characterizes his termination as a discharge, Johnson denied that he had taken such action in respect to Henry Maez. According to Johnson, he did not see Maez on January 26 or thereafter and dropped him from the payroll at the end of January because he did not report to work. Johnson's timebook recording the days worked by mill employees does not show a termination for Maez on January 26 but carries him as an employee absent from work through January 31. Considering the fact that the discharge of Henry Maez was admitted in the answer and that Henry Maez, Ernest Maez, and Jaramillo testified that he was discharged on the afternoon of January 26, I do not credit the testimony of Johnson in the matter and find that Henry Maez was discharged at the time and in the circumstances set forth in his testimony.

Although Felipe Maez has no easy familiarity with the English language, I am convinced from my observation of him that he was capable of understanding the words used by Johnson at the time of the discharge and I credit his testimony that Johnson used the expression "No pay no work." His testimony on this point is supported by Respondent's report concerning him to the department of employment.

Lucero's understanding of English is good and it is not easy to understand why he failed to attribute the remark about "No pay no work" to Johnson when he was first questioned about it. Respondent's counsel suggests in effect that no such words were used by Johnson and that Lucero's testimony, after an interval off the stand, that they were spoken resulted from an improper suggestion from someone. I thought that Lucero withstood cross-examination on this point well; however, and again considering that his testimony is consistent with the report sent by the

Respondent to the department of employment, I am convinced and find that Johnson used the expression as Lucero testified.³

I think that the conclusion is inescapable that on the morning of January 26 Johnson felt that he was faced with a rebellion on the part of the employees scheduled to work the early shift and that it was in protest against the delay in arrival of the paychecks. His announcement to Jaramillo that five men were to be fired, his report on his discharge of Martinez, and his inquiry of Henry Maez if the latter were one of the "gang" lends support to the theory of the complaint that he believed that he was faced with a concerted action. Certainly it was a belief reasonably induced by the objective circumstances. It is highly unlikely that in considering the fact that none of the employees appeared for work it seemed to Johnson that this development was explainable upon the basis of individual decisions separately reached.

I find that Johnson discharged the five men named in the complaint on January 26 because he believed that they had remained away from work in a concerted protest against the delay in paying them. By the discharges the Respondent interfered with, restrained, and coerced employees in the exercise of rights guaranteed in Section 7 of the Act and thereby violated Section 8(a)(1) of the Act.⁴

III. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent set forth in section II, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relation 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.

IV. THE REMEDY

Having found that the Respondent has engaged in unfair labor practices, it will be recommended that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Having found that the Respondent has unlawfully discharged Felipe Maez, Henry Maez, Andy L. Lucero, Joe Jaramillo, and Gilberto Martinez, it will be recommended that all but Felipe Maez⁵ be offered immediate and full reinstatement each to his former or substantially equivalent position, without prejudice to seniority or other rights and privileges. It will also be recommended that the Respondent make each of the above-named whole for any loss of pay suffered by reason of the discharges, based upon amounts each normally would have earned as wages from January 26,⁶ to the date of reinstatement or offer of reinstatement less actual earnings in those periods. These amounts shall be computed on a quarterly basis in the manner established by the Board in *F. W. Woolworth Company*, 90 NLRB 289, and shall bear interest at the rate of 6 percent per annum.

The discharge of an employee because of his union affiliations has long been viewed as an unfair labor practice going "to the very heart of the Act."⁷ and thus one justifying an order of wide scope to meet the threat of subsequent further violations. Here no union was involved and although I do not believe that such a circumstance standing alone is sufficient significantly to distinguish between discharges for union activity in comparison with discharges for concerted activity, the entire record in this case does not indicate in my opinion that the Respondent is likely at any time in the future to engage in a variety of unfair labor practices. In consequence a broad cease-and-desist order will not be recommended.⁸

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, I make the following:

³ Although I have in general credited the testimony of the discharged employees, I am not unaware that the reason each gave for not reporting for work is tenuous. I have weighed this circumstance in reaching my conclusions.

⁴ *Fredrica Clausen, doing business as Luzerne Hide and Tallow Company*, 89 NLRB 989, enfd 188 F. 2d 439 (C.A. 3).

⁵ Felipe Maez returned to Respondent's employment about February 20. His reinstatement is not sought. Lucero and Jaramillo were reemployed April 1, but may not have been reinstated to all rights and privileges.

⁶ The significance of the suspension of the early morning shift on January 26 in this connection can be explored at the compliance stage. It is noted that the hours of work on the day shift were lengthened on January 28.

⁷ *NLRB v. Entwistle Mfg. Co.*, 120 F. 2d 532, 536 (C.A. 4).

⁸ See *Washington Aluminum Company, Inc.*, 126 NLRB 1410, 1412

CONCLUSIONS OF LAW

1. San Juan Lumber Company is an employer within the meaning of Section 2(2) of the Act.

2. By discharging five employees in the belief that they had acted in concert for their mutual aid or protection, the Respondent has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act and has thereby engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

3. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

RECOMMENDED ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, it is recommended that the Respondent, San Juan Lumber Company, Pagosa Springs, Colorado, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging concerted activities of its employees by discriminatorily discharging any of them, or by discriminating in any other manner in regard to their hire or tenure of employment or any term or condition of employment.

(b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of their right to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized by Section 8(a)(3) of the Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

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

(a) Offer to Henry Maez, Andy L. Lucero, Joe Jaramillo, and Gilberto Martinez immediate and full reinstatement each to his former or substantially equivalent position, without prejudice to seniority or other rights and privileges, and make each of them, as well as Felipe Maez, whole for any loss of pay suffered by reason of their discharge in the manner provided in the section entitled "The Remedy."

(b) Preserve and, upon request, make available to the Board and its agents, for examination and copying, all payroll records, social security payment reports, time-cards, personnel records and reports, and all other records necessary to determine the amount of backpay due under the terms of this Recommended Order.

(c) Post at its mill in Pagosa Springs, Colorado, copies of the attached notice marked "Appendix."⁹ Copies of said notice, to be furnished by the Regional Director for the Twenty-seventh Region, shall, after being duly signed by the Respondent, be posted by it immediately upon receipt thereof, and be maintained by it for a period of 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 ensure that said notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director for the Twenty-seventh Region, in writing, within 20 days from the date of receipt of this Intermediate Report and Recommended Order, what steps it has taken in compliance.¹⁰

⁹ In the event that this Recommended Order be adopted by the Board, the words "A Decision and Order" shall be substituted for the words "The Recommended Order of a Trial Examiner" in the notice. In the further event that the Board's Order be enforced by a decree of a United States Court of Appeals, the words "A Decree of the United States Court of Appeals, Enforcing an Order" shall be substituted for the words "A Decision and Order."

¹⁰ In the event that this Recommended Order be adopted by the Board, this provision shall be modified to read: "Notify said Regional Director, in writing, within 10 days from the date of this Order, what steps the Respondent has taken to comply herewith."

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to the Recommended Order of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify you that:

WE WILL offer Henry Maez, Andy L. Lucero, Joe Jaramillo, and Gilberto Martinez immediate and full reinstatement each to his former or substantially equivalent position, without prejudice to seniority or other rights and privileges, and we will make each of them as well as Felipe Maez whole for any loss of pay suffered by reason of their discharge on January 26.

WE WILL NOT discourage concerted activity among our employees by discriminatorily discharging any of them or in any other manner discriminating against them in regard to their hire or tenure of employment or any other term or condition of employment.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their right to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

SAN JUAN LUMBER COMPANY,
Employer.

Dated _____ By _____
(Representative) (Title)

NOTE.—We will notify any of the above-named employees presently serving in the Armed Forces of the United States of their right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act of 1948, as amended, after discharge from the Armed Forces.

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

Employees may communicate directly with the Board's Regional Office, 609 Railway Exchange Building, Denver, Colorado, Telephone No. Keystone 4-4151, Extension 513, if they have any question concerning this notice or compliance with its provisions.

Venus Pen and Pencil Corporation and Stove, Furnace and Allied Appliance Workers International Union of North America, AFL-CIO. *Case No. 26-CA-1436. August 21, 1963*

DECISION AND ORDER

On May 27, 1963, Trial Examiner Thomas S. Wilson issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Intermediate Report. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Leedom, Fanning, and Brown].

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the Respondent's exceptions and brief, and the