

against any employee in regard to his hire, tenure of employment, or any term or condition of employment, except as authorized by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a) (3) of the Act.

WE WILL NOT threaten, warn, or otherwise inform any employee that we will discontinue any operation, go out of business, deny employment to any employee, or withhold any wage increase if employees choose or support a labor organization as their bargaining representative, or engage in any union activity.

WE WILL NOT interrogate any employee as to any employee's interest in, or activity in, with, or on behalf of, any labor organization, in a manner constituting interference, restraint, or coercion in violation of Section 8(a) (1) of the Act.

WE WILL NOT offer or promise any employee any wage increase, or any other benefit or reward, or any improvement in any term or condition of employment, in order to influence any employee in the choice or rejection of a bargaining representative.

WE WILL NOT in any other manner interfere with, restrain, or coerce employees in the exercise of their right to self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing, 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.

THE starting time of all sandwich department employees who were in our employ on March 10, 1964, is 7 p.m.

WE WILL offer Stuart Greene, Marie Vale, Janice June Smith, and Evelyn Boone immediate and full reinstatement to their respective former or substantially equivalent positions, without prejudice to their seniority and other rights and privileges, and reimburse each of them for any loss of pay such individual may have suffered by reason of the fact that we discriminated against such person.

WE WILL notify any of the above-named employees if 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.

MARBRO FOOD SERVICE, INC., d/b/a FAB'S FAMOUS FOODS COMPANY,  
Employer.

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

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

Information regarding the provisions of this notice and compliance with its provisions may be secured from the Regional Office of the National Labor Relations Board, 17th and Champa Streets, 609 Railway Exchange Building, Denver, Colorado, Telephone No. 297-3551.

**Aetna Bearing Company, a Textron Division and Local 151, United Electrical, Radio and Machine Workers of America (UE).** *Case No. 13-CA-6253. May 25, 1965*

### DECISION AND ORDER

On December 8, 1964, Trial Examiner W. Gerard Ryan issued his Decision 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 Trial Examiner's Deci-

sion. Thereafter, the Respondent filed exceptions to the Trial Examiner's Decision and a supporting brief. The General Counsel filed an answering brief in support of the Trial Examiner's Decision.

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

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 Trial Examiner's Decision, the exceptions, the briefs, and the entire record in this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.<sup>1</sup>

### ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby adopts as its Order the Order recommended by the Trial Examiner, and orders that Respondent, Aetna Bearing Company, a Textron Division, Chicago, Illinois, its officers, agents, successors, and assigns, shall take the action set forth in the Trial Examiner's Recommended Order with the following modifications.<sup>2</sup>

Substitute the following paragraph for paragraph 1(b) of the Order:

"In any other manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed to them in Section 7 of the Act, 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 amended."

<sup>1</sup> For the reasons stated by him in *The Flintkote Company*, 149 NLRB 1561, footnote 2, Member Brown would not decide this case at this time. Rather, he would withhold action pending arbitration under the operative contractual arrangement for resolving disputes.

<sup>2</sup> In his Decision the Trial Examiner stated that he would recommend a broad cease-and-desist order against further interference with the employees' Section 7 rights. However, the Trial Examiner inadvertently recommended a narrow order against further interference although he included the broad order in the notice. In view of the nature of the violation herein, we agree with the Trial Examiner that a broad order is appropriate and modify the Recommended Order accordingly.

### TRIAL EXAMINER'S DECISION

#### STATEMENT OF THE CASE

This proceeding was held before Trial Examiner W. Gerard Ryan at a hearing in Chicago, Illinois, on August 31, 1964, on the complaint of General Counsel and the answer of Aetna Bearing Company, herein called the Respondent. The issue litigated

was whether the Respondent violated Section 8(a)(1) and (3) of the National Labor Relations Act, as amended.<sup>1</sup> The parties waived oral argument. The General Counsel and the Respondent have filed briefs.

Upon the entire record<sup>2</sup> in the case, and from my observation of the witnesses, I make the following:

#### FINDINGS AND CONCLUSIONS

##### I. THE BUSINESS OF THE RESPONDENT

Respondent is, and has been at all times material herein, a Rhode Island corporation with its principal office and place of business at 4600 West Schubert Avenue, Chicago, Illinois, herein called the plant, where it is engaged in the business of manufacturing, selling, and distributing bearings and related products.

Respondent during the past year manufactured, sold, and shipped from its plant products valued in excess of \$50,000 to points outside the State of Illinois, and purchased and shipped materials valued in excess of \$50,000 to its plant directly from points outside the State of Illinois.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

The foregoing findings are admitted by the answer.

##### II. THE LABOR ORGANIZATION INVOLVED

Local 151, United Electrical, Radio and Machine Workers of America (UE), herein referred to as the Union, is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

##### III. THE UNFAIR LABOR PRACTICES

The complaint alleged and the answer denied that in violation of Section 8(a)(1) and (3) of the Act, the Respondent on or about February 14, 1964, suspended employee Richard Dolatowski for a period of 1 week because he engaged in union or concerted activities for the purpose of collective bargaining or mutual aid or protection.<sup>3</sup>

#### Background

Article IX, section 2, of the present agreement between the parties provides as follows:

Section 2. Unless permission shall be otherwise obtained from the Company there shall be no other general distribution or a posting by employees of pamphlets, advertising or political matter, notice or any kind of literature upon company property other than as herein provided.

The same language has appeared in the contract since at least 1954.

This no-distribution provision had become an issue between Respondent and the Union on two occasions previous to the instant case—once in 1954 and again in 1960. In 1954 Respondent filed a grievance against the Union concerning the distribution of "printed political matter" on Respondent's premises by union officers. The grievance was settled by the union statement that while the literature had not been intended for distribution in the shop the Union "accepts the responsibility for the error and will make an honest effort to prevent a recurrence."

<sup>1</sup> The charge was filed March 2, 1964, by the Union and served on Respondent on March 4, 1964. The complaint issued on June 4, 1964.

<sup>2</sup> The record is corrected as follows:

Page 9 lines 6-7, change "publicity and educational director" to "Publicity and Education Director" and whenever it appears thereafter.

Page 129 lines 5-6, change "General Counsel" to "Respondent" to reflect the fact that Matthew Pasternak was called as Respondent's witness and not as General Counsel's witness.

<sup>3</sup> The answer admitted that he was suspended for 1 week but denied his suspension was for the reason alleged in the complaint. At the hearing the Respondent amended its answer further to state that it suspended Richard Dolatowski because of its good-faith belief he engaged in unprotected activity in violation of the labor agreement existing at the time between the Respondent and the Charging Party and that said labor agreement was in full force at the time of his suspension and at all times material herein.

The second incident occurred some 6 years later in April 1960 involving the Union's distribution, without permission, of its literature on Respondent's property. On that occasion Union President Harry Brocksome and Chief Steward Robert Siegel were found to be distributing "political printed matter on company property without seeking prior company permission." Brocksome and Siegel were suspended by Respondent for 1 day and Respondent again filed a grievance against the Union. Respondent stated that it considered that grievance to be a "final written notification in this regard." The Union in turn filed its own grievance against Respondent concerning the suspension of Brocksome and Siegel. The two grievances were resolved by Respondent's rescission of the suspension of the two distributors of the union literature and the union statement that it would make "every effort . . . in the future to avoid a repetition of distributing union literature on company premises without permission."

In early 1962 employee Richard Dolatowski was elected to the union office of publicity and education director. Part of his duties included the making up and distribution of the union shop newspaper, the Union Bearing, which appeared about once a month. On one day each month the Union Bearing was passed out to the employees in the morning before work between 6 and 6:40 a.m. at Parker Street and Schubert Street employee entrances to the plant.

Dolatowski usually distributed the paper to the employees himself with the help on each occasion of one or two additional employees. Dolatowski was regularly assisted in the monthly distribution of the paper by employees Bruno Piekosz and Matthew Pasternak. On a less regular basis employees Ted Flisnik and Raymond Maliszewski also aided Dolatowski in the circulation of the paper.

Dolatowski was aware of the contractual provision prohibiting the distribution of union literature on Respondent's premises without permission. He also knew about the 1960 (but not the 1954) grievance which had arisen from article IX, section 2, of the contract. Accordingly, at the time they began assisting him, Dolatowski instructed each of his distributors including Bruno Piekosz and the others that while passing out the papers they should stay outside of the buildings at all times. From time to time thereafter Dolatowski repeated to Bruno Piekosz and the others the instructions that they must not distribute the newspaper on Respondent's property. Dolatowski's instructions were followed. Previous to February 14, 1964, at no time during Dolatowski's tenure as union publicity and education director were papers passed out within the plant and there were no complaints from management concerning the distribution of the paper and no dispute of any sort between Respondent and the Union relating to the distribution of union literature since the grievances of April 1960.

#### The Events of February 14, 1964

The February 1964 issue of the Union Bearing was distributed to employees on the morning of February 14. Publicity and Education Director Dolatowski on that morning utilized the services of Bruno Piekosz and Raymond Maliszewski in assisting him in the distribution of that paper. Matthew Pasternak was scheduled to help but did not. Dolatowski stationed himself together with Maliszewski at the Parker Street entrance to the plant. Piekosz was alone at the employee entrance on Schubert Street.

Previous to the distribution on February 14, Dolatowski met Piekosz in the plant about 6 a.m. He gave Piekosz his wrapped-up bundle of newspapers, said good morning to him, and left for his own post on Parker Street. Dolatowski did not see Piekosz again until shortly before work starting time about 6:40 a.m. At that time he went back to the employee entrance on Schubert Street to pick up the undistributed papers. He found Piekosz, his job completed, in the vestibule of the plant entrance, collecting together the unused papers. Dolatowski thanked Piekosz, took the remaining papers and left. Dolatowski was at this time and in fact until about 2 p.m. that afternoon unaware that Piekosz had been distributing the papers in the vestibule of the plant on the morning of February 14.

But in the meantime before Dolatowski returned at 6:40 a.m. to pick up the left-over papers Piekosz did something that he had not before done in the approximately 2 years in which he had been assisting in the distribution of the union newspaper. He went onto the company premises. As Piekosz explained it he had forgotten to wear his jacket and on February 14 the weather was cold outdoors. About 6:30 a.m. after he had been passing out papers on the public sidewalk for about 25 minutes he decided to go inside the door of the vestibule and to complete the distribution there. He did so and for about the next 10 minutes between 6:30 and 6:40 a.m. Piekosz stood just inside the door of the vestibule of the employee entrance on Schubert Street and handed the papers to passing employees. Among those who passed through the vestibule while Piekosz was distributing papers were several supervisors who reported to management that Piekosz was distributing the Union Bearing inside the plant.

The foregoing facts are undisputed.

About 2 o'clock on the afternoon of February 14, Piekosz was called to the personnel office where he was met by Industrial Relations Manager Thadeus Malin and Superintendent Albert Alberts, both admitted supervisors within the meaning of the Act. Piekosz was asked whether he had distributed the paper on that morning, and if so whether he had passed out the paper inside the building. Piekosz admitted that he had handed out the paper and that he had done so while standing inside the building. When asked Piekosz stated that he was aware of the circumstances of the 1960 grievance, but said he had thought that it applied only to the distribution of political literature. When asked who had given him the papers to distribute on that morning, Piekosz answered that Dolatowski had given him the papers. Then, either Malin or Alberts inquired whether Piekosz had been instructed by Dolatowski as to where he should stand in relation to Respondent's property while passing out the union newspaper. Piekosz testified that he responded that Dolatowski "didn't tell him that morning but I said he told me several times not to stay in the building." According to Malin, Piekosz replied to the question of whether he had received any specific instructions as to where he should stand while distributing the paper by saying that he had not. Alberts stated that Piekosz had simply said that no one had told him that he was in violation of the contract.

Employee Matthew Pasternak was then called to the personnel office. According to Malin's testimony, he asked Pasternak whether he had been distributing the union newspaper on that morning before the shift started and Pasternak replied that he had done so. Malin testified that he next asked Pasternak whether his distribution of the literature on that morning had been on or off company property and that Pasternak answered that he had been doing it off company property. Malin further testified that he then asked Pasternak the question of whether he had been instructed by Dolatowski as to where he should or should not distribute the union literature, and according to Malin, Pasternak replied that he had not been so instructed. Pasternak, however, contradicts Malin's and Alberts' version of their conversation by testifying that in fact he had not distributed the newspaper on that morning, and that in response to Malin's question as to whether he had distributed newspapers Pasternak answered in the negative. Pasternak further testified that this was the only question that was asked of him while he was in the personnel office. Richard Dolatowski was then called to the personnel office. The record is in dispute as to what was said in the conversation between Dolatowski, Malin, and Alberts. It was first established that Dolatowski had been unaware that Piekosz had come inside the plant to pass out papers on that morning. Dolatowski was then asked whether he had instructed Piekosz to stay off the company premises while distributing the paper. Dolatowski and Piekosz both testified that Dolatowski answered that he had not so instructed Piekosz *on that morning*, but that he had done so on several occasions in the past. According to Malin and Alberts, Dolatowski told them that he had not given Piekosz any instructions as to where to stand while distributing the paper. Malin then handed Dolatowski copies of the 1954 and 1960 grievances and asked him if he knew about them. Dolatowski answered he was aware of the 1960 grievance but not of the 1954 grievance. The interview was then terminated and Piekosz and Dolatowski were told they would be informed of the disposition of the matter. Later in the afternoon Dolatowski was recalled to the personnel office where Malin told him that he was being suspended for 1 week because he was the officer in charge of the distribution of the newspaper and that it was his responsibility. Malin gave Dolatowski his disciplinary notice which stated that Dolatowski was receiving a 1-week suspension and noted as the cause for discipline:

As union official, was responsible for union literature being distributed on company property without permission.

Piekosz received no discipline as a result of his distribution of the union newspaper on Respondent's premises.

On February 18, 1964, the Union filed a grievance protesting Dolatowski's suspension. This grievance proceeded through the third step of the grievance procedure, at which step Respondent denied the grievance and the Union withdrew it. The matter has not been taken by either party to arbitration. Subsequent thereto the charge of unfair labor practices was filed.

I credit the testimony of Dolatowski and Piekosz that Dolatowski stated to Malin and Alberts that he had not instructed Piekosz to stay off the company premises while distributing the newspaper *on that morning*, but that he had so instructed him on several occasions in the past. I also credit Pasternak's testimony that he did not distribute the newspaper at all on February 14, and that he had told Malin when asked that he had not.

## The Respondent's Defense

It is the Respondent's position with respect to the merits of this case that Dolatowski was disciplined because in good faith it believed that he failed entirely to instruct Piekosz that he was not to distribute the paper on company premises; that Piekosz was Dolatowski's agent for whose acts Dolatowski was responsible; and that when the newspapers were distributed by Piekosz on company premises, Dolatowski breached the collective-bargaining agreement and in breaching the agreement Dolatowski engaged in unprotected activity. The Respondent further stated through its counsel at the hearing that its first and foremost position is that this matter involves a matter of contract interpretation and should not in fact be before the National Labor Relations Board as a matter of policy.

## CONCLUSIONS

It is clear from the record that Richard Dolatowski was suspended for 1 week for the reason stated by the Respondent in its disciplinary notice "As union official, was responsible for union literature being distributed on company property without permission."

The Respondent's defense is that it acted in a good-faith belief that Dolatowski had engaged in unprotected activity in that he was responsible for the distribution of the newspaper by Piekosz on company property without permission in violation of the collective-bargaining agreement even though Dolatowski was completely unaware that Piekosz was distributing the paper on company premises. It is clear that were not Dolatowski a union official he would not have been disciplined because Piekosz, who actually made the distribution on company property, was not disciplined.<sup>4</sup>

Here, as in the *Pontiac* case,<sup>5</sup> the issue is whether Respondent could lawfully discipline Dolatowski for failure to fulfill what Respondent considered his obligation to be as a union official. In the *Pontiac* case, the Board held:

It is conceded that O'Neil [a union committeeman] neither caused nor took part in the work stoppage of the machine repairmen. Accordingly, we are unable to conclude that this provision of the contract, interpreted reasonably and in good faith, provided a lawful basis for the discipline of O'Neil.

Accordingly I find and conclude that Respondent's defense that it suspended Dolatowski because of a good-faith belief that he engaged in unprotected activity in violation of the labor agreement is without merit.

In its brief the Respondent states that the primary question is whether a consideration of the merits of the allegation that Dolatowski was discriminatorily suspended will effectuate the national labor policy favoring arbitration. The Respondent contends that a consideration of the discrimination issue by the Trial Examiner or by the Board will not effectuate the policies of the Act, and on the contrary would frustrate congressional intent in Section 203(d) of the Act that the private resolution of labor disputes under collective-bargaining agreements be encouraged by courts and the Board. Both briefs, by the General Counsel and by the Respondent, ably present and discuss the leading cases on whether the Board should or should not assert jurisdiction where arbitration is possible. It will serve no purpose to discuss such authorities pro and con and thereby prolong unduly this Trial Examiner's Decision in view of the fact that all parties are fully aware of such authorities. The latest decision of which I am aware is *Aerodex, Inc.*, 149 NLRB 192 (October 28, 1964), where the Board held without merit the employer's affirmative defense that the

<sup>4</sup> At the hearing on August 31 it developed through Dolatowski's testimony that on February 14 he had met Piekosz at the company plant and had given a bundle of papers to Piekosz. The Company now contends that the suspension should stand because Dolatowski also had thereby distributed the newspaper bundle on company premises. Such a contention is without merit. Piekosz was not disciplined for distributing the newspaper on company premises and the whole point of this case is that on February 14 Dolatowski was disciplined because and for no other reason than that he was a union official who had failed in the opinion of the Respondent in his responsibility to instruct Piekosz not to distribute on company property. In other words, the Respondent seeks to hold Dolatowski responsible as a union official for the acts of Piekosz, although Dolatowski was wholly unaware that Piekosz was distributing the paper on company premises.

<sup>5</sup> *Pontiac Motors Division, General Motors Corporation*, 132 NLRB 413

employee filed the unfair labor practice charge before exhausting the grievance and arbitration procedures under the contract between the union and the employer. There, the Board stated [as interpreted and reported at 57 LRRM 1261, 1263]:

Under Section 10(a) of the Act, the power of the Board to remedy and prevent unfair labor practices is not affected by any other means of adjustment established by agreement, law, or otherwise. Although the Board, under certain conditions, has respected and given effect to arbitration awards, *Spielberg Mfg. Co.*, 112 NLRB 1080, 36 LRRM 1152, the Board has never shunned jurisdiction merely because a party had the contractual right to go to arbitration but has never exercised the option. *Newspaper Guild of Buffalo*, 118 NLRB 1471, 40 LRRM 1405; *Milk Drivers & Dairy Employees, Local 546, etc.*, 133 NLRB 1314, 49 LRRM 1001; *International Union, United Automobile, etc.*, 130 NLRB 1035, 47 LRRM 1449

Here the Charging Party had the contractual right to go to arbitration but has not exercised the option. Accordingly, I deny Respondent's motions (1) to dismiss the complaint in its entirety, and (2) to recommend that this matter be deferred to arbitration—"until and unless the Charging Party exhausts the contractual remedies which are available to it." On the contrary, I recommend that the Board assert its jurisdiction.

Finally on the basis of the entire record I find that the Respondent violated Section 8(a)(1) and (3) of the Act on February 14, 1964, by discriminatorily suspending Richard Dolatowski for a period of 1 week thereby interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act and discouraging membership in the Union.

#### IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent set forth in section III, above, occurring in connection with the operations of the Respondent 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.

#### V. THE REMEDY

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

I shall recommend that the Respondent make Richard Dolatowski whole for any loss of pay he may have suffered as a result of the discrimination against him, by payment to him of a sum of money equal to that which he normally would have earned from the date of the discrimination against him to the date of the offer of reinstatement, less his net earnings (*Crossett Lumber Company*, 8 NLRB 440, 497-498) during said period. The payment to be computed on a quarterly basis in the manner established in *N.L.R.B. v. Seven-Up Bottling Co. of Miami, Inc.*, 344 U.S. 344, with interest thereon computed at the rate of 6 percent per annum. I shall recommend also that the Respondent preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amounts of backpay and the right to reinstatement under the terms of these recommendations.

In order to make effective the interdependent guarantees of Section 7 of the Act, I shall recommend further that the Respondent cease and desist from infringing in any manner upon the rights guaranteed in said section. *N.L.R.B. v. Express Publishing Company*, 312 U.S. 426; *N.L.R.B. v. Entwistle Mfg. Co.*, 120 F. 2d 532 (C.A. 4).

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

#### CONCLUSIONS OF LAW

1. The Respondent is an employer within the meaning of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. By suspending Richard Dolatowski on February 14, 1964, for a period of 1 week, the Respondent discriminated in regard to hire and tenure of employment of employees, thereby discouraging membership in labor organizations, and engaged in unfair labor practices within the meaning of Section 8(a)(3) and (1) of the Act.

4. By the foregoing conduct, the Respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

5. The aforesaid unfair labor practices are unfair labor practices 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, and upon the entire record in the case, and pursuant to Section 10(c) of the National Labor Relations Act, as amended, I recommend that Respondent, Aetna Bearing Company, a Textron Division, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in a labor organization of its employees, by discriminating in regard to their hire or tenure of employment or terms or conditions of employment.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights under the Act.

2. Take the following affirmative action which is found to be necessary and appropriate to effectuate the policies of the Act.

(a) Make Richard Dolatowski whole for any loss of pay he may have suffered as a result of the discrimination against him, by payment, to him of a sum of money equal to that which he normally would have earned from the date of the discrimination against him, to the date of the offer of reinstatement, less his net earnings (*Crossett Lumber Co.*, 8 NLRB 440, 497-498) during said period, the payment to be computed on a quarterly basis in the manner established in *N.L.R.B. v. Seven-Up Bottling Company of Miami, Inc.*, 344 U.S. 344, with interest at the rate of 6 percent per annum.

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

(c) Post at its plant in Chicago, Illinois, copies of the attached notice marked "Appendix."<sup>6</sup> Copies of such notice, to be furnished by the Regional Director for Region 13, shall, after being signed by an authorized representative of Respondent, be posted immediately upon receipt thereof, and be maintained 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 the Respondent to insure that such notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director, in writing, within 20 days from the date of receipt of this Decision and Recommended Order, what steps Respondent has taken to comply herewith.<sup>7</sup>

<sup>6</sup>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. If the Board's Order is enforced by a decree of a United States Court of Appeals, the notice will be further amended by the substitution of the words "a Decree of the United States Court of Appeals, Enforcing an Order" for the words "a Decision and Order."

<sup>7</sup>In the event this Recommended Order is adopted by the Board, this provision shall be modified to read: "Notify the Regional Director for Region 13, 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, we hereby notify you that:

WE WILL NOT discourage membership in or activity on behalf of Local 151, United Electrical, Radio and Machine Workers of America (UE), or any other labor organization of our employees, by discriminating in regard to hire or tenure of employment or any term or condition thereof except to the extent permitted under Section 8(a)(3) of the Act.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in any concerted activities, for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities.

WE WILL make Richard Dolatowski whole for any loss of earnings he may have suffered as a result of discrimination against him.

All our employees are free to become or remain or refrain from becoming or remaining members of any labor organization 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.

AETNA BEARING COMPANY, A TEXTRON DIVISION,  
Employer.

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

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, 881 U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Illinois, Telephone No. 828-7572, if they have any question concerning this notice or compliance with its provisions.

**Local No. 222, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America [W. S. Hatch Co., Inc.] and American Oil Company. Case No. 27-CC-149. May 25, 1965**

**DECISION AND ORDER**

Upon charges filed by American Oil Company, herein called American, the General Counsel for the National Labor Relations Board, by the Regional Director for Region 27, issued a complaint against Local No. 222, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called the Respondent, alleging that the Respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8(b)(4)(i) and (ii)(B) of the National Labor Relations Act, as amended. The Respondent filed an answer to the complaint denying the commission of the alleged unfair labor practices.

On January 25, 1965, the parties filed a joint motion to transfer this proceeding to the Board, agreeing that the entire record in this case shall consist of the formal papers and the transcript of testimony and exhibits in Civil No. C-241-64, United States District Court for the District of Utah. The parties waived a hearing before a Trial Examiner and the issuance of a Trial Examiner's Decision. They agreed that findings of fact, conclusions of law, and a decision and order be issued directly by the Board. Thereafter, the case was transferred to the Board. Briefs were filed by the General Counsel and the Respondent.