

Food Employers Council, Inc., Respondent Employer and Los Angeles Joint Executive Board of Hotel and Restaurant Employees and Bartenders Unions, AFL-CIO; Hotel, Motel, Restaurant Employees and Bartenders Union, Local 694, AFL-CIO, Charging Parties and Thriftmart, Inc., Great A. & P. Tea Co., Crawford Stores, Lucky Stores, Inc., Hughes Markets, Von's Grocery Co., and Safeway Stores, Inc. Parties to the Contract

Retail Clerks Union, Local 770 (Food Employers Council, Inc.) Respondent Union and Los Angeles Joint Executive Board of Hotel and Restaurant Employees and Bartenders Unions, AFL-CIO; Hotel, Motel, Restaurant Employees and Bartenders Union, Local 694, AFL-CIO Charging Parties and Thriftmart, Inc., Great A. & P. Tea Co., Crawford Stores, Lucky Stores, Inc., Hughes Markets, Von's Grocery Co., and Safeway Stores, Inc. Parties to the Contract. Cases 31-CA-146 (Formerly 21-CA-6125) and 31-CB-35 (Formerly 21-CB-2378).

March 15, 1967

DECISION AND ORDER

BY CHAIRMAN McCULLOCH AND MEMBERS FANNING AND ZAGORIA

On July 22, 1966, Trial Examiner David Karasick issued his Decision in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the attached Trial Examiner's Decision. Thereafter, the Respondent Employer and Respondent Union filed exceptions to the Trial Examiner's Decision and Respondent Union filed a brief in support of its exceptions.

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.

The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Trial Examiner's Decision, the exceptions and brief, and the entire record in the case, and hereby adopts the findings, conclusions,

and recommendations of the Trial Examiner, as modified herein.¹

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 Trial Examiner, as modified below, and hereby orders that the Respondent, Food Employers Council, Inc., its officers, agents, successors, and assigns, and Respondent Retail Clerks Union, Local 770, its officers, agents, and representatives, shall take the action set forth in the Trial Examiner's Recommended Order, as herein modified.

1. Paragraph 1(a) of the Trial Examiner's Recommended Order directed to the Respondent Company is modified to read as follows:

"(a) Contributing support to Retail Clerks Union, Local 770, by recognizing the said labor organization as the representative of snack bar employees of employer-members of Food Employer's Council, Inc."

2. Paragraph 1(c) of the Trial Examiner's Recommended Order directed to the Respondent Company is modified to read as follows:

"(c) Giving effect to the aforementioned collective-bargaining agreement or to any extension, renewal, or modification thereof, to the extent that said agreement purports to cover snack bar employees of the employer-members of Food Employers Council, Inc., who are parties to the contract of April 1, 1964; *provided*, however, that nothing in this order shall require Food Employers Council, Inc., or its employer-members, to vary or abandon any wage, hour, seniority, or other substantive feature of said employer-members' relations with snack bar or other employees which have been established in the performance of the aforesaid collective-bargaining agreement or to prejudice the assertion by the snackbar employees of any rights they may have thereunder."

3. Paragraph 1(d) of the Trial Examiner's Recommended Order directed to the Respondent Company is modified to read as follows:

"(d) Encouraging membership in Retail Clerks Union, Local 770, or in other labor organization, by conditioning the hire or tenure of employment or any term or condition of employment of snack bar employees, upon membership in, affiliation with, or dues payments to, any such labor organization,

¹ We have modified the Trial Examiner's Recommended Order to make it clear that Respondent Council is being directed to withdraw recognition from Respondent Clerks as collective-bargaining representative pursuant to the terms of their

agreement of April 1, 1964, only to the extent that such agreement purports to cover snack bar employees of employer-members of the Council

except as authorized in Section 8(a)(3) of the National Labor Relations Act, as amended."

4. Paragraph 1(a) of the Trial Examiner's Recommended Order directed to the Respondent Union is modified to read as follows:

"(a) Causing or attempting to cause Respondent Food Employers Council, Inc., or its employer-members, to discriminate against snack bar employees by giving effect to its agreement of April 1, 1964, or to any extension, renewal, or modification thereof to the extent that such agreement seeks to cover snack bar employees of employer-members of Food Employers Council, Inc., who are parties to the agreement."

5. The third indented paragraph of the notice in the Trial Examiner's Decision marked "Appendix A" is modified to read as follows:

WE WILL NOT contribute support to Local 770, by recognizing the said labor organization as the representative of our snack bar employees.

6. The fourth indented paragraph of the notice in the Trial Examiner's Decision marked "Appendix A" is modified to read as follows:

WE WILL NOT encourage membership in Local 770, or in any other labor organization, by conditioning the hire or tenure of employment or any term or condition of employment of snack bar employees, upon membership in, affiliation with, or dues payment to, any such labor organization, except as authorized by Section 8(a)(3) of the National Labor Relations Act, as amended.

7. The fifth indented paragraph of the notice in the Trial Examiner's Decision marked "Appendix A" is modified to read as follows:

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our snack bar employees in the exercise of their rights guaranteed in Section 7 of the Act.

TRIAL EXAMINER'S DECISION

STATEMENT OF THE CASE

DAVID KARASICK, Trial Examiner: This matter was heard at Los Angeles, California, on January 25 and 26, 1966. The complaint¹ alleges that Food Employers Council, Inc., herein called Respondent Council and Retail Clerks Union, Local 770, herein called Respondent Clerks, and collectively called herein the Respondents, have engaged in unfair labor practices within the meaning of Section 8(a)(1), (2), and (3) and 8(b)(1)(A) and (2) of the National Labor Relations Act, as amended.

Upon the entire record in the case,² and from my observations of the witnesses, I make the following:

¹ The complaint issued on November 16, 1965, following the filing of charges jointly by Local 694 and the Joint Board on August 20, 1964, in Cases 21-CA-6125 and 21-CB-2378 and first amended charges filed jointly by the same parties on

FINDINGS OF FACT

I. THE BUSINESS OPERATIONS OF THE EMPLOYERS

Respondent Council is a nonprofit corporation composed of employer-members, most of whom are engaged in the retail food market business in Southern California. Since about 1941, Respondent Council has bargained collectively for its members and has negotiated master collective-bargaining agreements with labor organizations, including Respondent Clerks.

The employer-members of Respondent Council during the course of their retail operations annually gross in excess of \$500,000 and annually purchase and receive directly from points and places located outside the State of California goods and products valued in excess of \$50,000.

Thriftimart, Inc., an employer-member of Respondent Council for the purposes of collective bargaining, operates retail food stores in the Southern California area. Its only stores involved in this proceeding are located at 2600 South Vermont Avenue, Los Angeles, California, and 20934 Roscoe Boulevard, Canoga Park, California.

Great A. & P. Tea Co., an employer-member of Respondent Council for the purposes of collective bargaining, operates retail food stores in the Southern California area. Its only store involved in this proceeding is located at 1835 South LaCienega Boulevard, Los Angeles, California.

Crawford Stores, an employer-member of Respondent Council for the purposes of collective bargaining, operates retail food stores in the Southern California area. Its only store involved in this proceeding is located at 1421 East Valley Boulevard, Alhambra, California.

Lucky Stores, Inc., an employer-member of Respondent Council for the purposes of collective bargaining, operates retail food stores in the Southern California area. Its only store involved in this proceeding is located at 10721 Atlantic Avenue, Lynwood, California.

Hughes Markets, an employer-member of Respondent Council for the purposes of collective bargaining, operates retail food stores in the Southern California area. Its only stores involved in this proceeding are located at 14440 Burbank Boulevard, Van Nuys, California, 16940 Devonshire, Granada Hills, California, 4520 Van Nuys Boulevard, Sherman Oaks, California, 1100 North San Fernando Road, Burbank, California, and 10400 North Sepulveda, Mission Hills, California.

Von's Grocery Co., an employer-member of Respondent Council for the purposes of collective bargaining, operates retail food stores in the Southern California area. Its only store involved in this proceeding is located at 6921 La Tijera Boulevard, Los Angeles, California.

Safeway Stores, Inc., was, until January 1965, an employer-member of Respondent Council for the purposes of collective bargaining, operating retail food stores in the Southern California area. Its only store involved in this proceeding is located at 4707 Venice Boulevard, Los Angeles, California.

Respondent Council and Thriftimart, Inc., Great A. & P. Tea Co., Crawford Stores, Lucky Stores, Inc., Hughes Markets, Von's Grocery Co., and Safeway Stores, Inc., each is, and has been at all times material herein, individually and collectively, an employer engaged in

September 3, 1965, in Cases 31-CA-146 and 31-CB-35

² The unopposed posthearing motion of the General Counsel to correct errors in the transcript is hereby granted

commerce and in a business affecting commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATIONS INVOLVED

Los Angeles Joint Executive Board of Hotel and Restaurant Employees and Bartenders Unions, AFL-CIO, herein called the Joint Board; Hotel, Motel, Restaurant Employees and Bartenders Unions, Local 694, AFL-CIO, herein called Local 694; and the Respondent Clerks are labor organizations within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES ALLEGED

A. *The issue*

These proceedings arise as the result of a dispute between Respondent Clerks and Local 694 and the Joint Board over the right to represent snack bar employees of the employer-members of Respondent Council who are parties to a collective-bargaining agreement entered into on their behalf by Respondent Council with Respondent Clerks. The primary issue is whether Respondent Council and Respondent Clerks were justified in extending the terms of their contract, which covered retail clerks of food markets in a multiemployer unit, to include snack bar employees of some of the employers at a time when Respondent Clerks did not represent a majority of the snack bar employees although it did represent a majority of the overall group of employees covered by the contract.

B. *The facts*

The seven employer-members of Respondent Council involved in these proceedings operate retail food markets in Southern California and at all times material herein have been parties to a contract, entered into on their behalf by Respondent Council with Respondent Clerks, effective for a 5-year term from April 1, 1964, through March 31, 1969. This contract covers retail clerks who are engaged in food, bakery, candy, and general merchandise operations and supersedes an earlier agreement between the same parties which ran from January 1, 1959, through March 31, 1964. At the time the earlier agreement was executed, no snack bars were in existence but during its term some of the employers who were parties to the agreement established such bars.³ However, the employees of these snack bars were not represented by Respondent Clerks. The contract of April 1, 1964, for the first time included snack bar employees in the unit, together with other categories of employees.

At the time the present contract was executed, Respondent Clerks did not represent a majority of the snack bar employees, as distinguished from the overall group of employees covered. However, the Joint Board or Local 694 did then and presently does represent snack bar employees of some, but not all, of the employer-members of the Respondent Council who are parties to the April 1, 1964, contract. The existing agreement expressly excludes culinary employees who are represented by the Joint Board or Local 694.⁴ The General Counsel and the

Charging Parties contend that the snack bars constitute a distinct and separate operation and that the snack bar employees were entitled to determine for themselves in an election whether they wish to be included in the overall unit. The Respondents, on the other hand, assert that the employees of the snack bars constitute an accretion to the preexisting unit and were therefore properly covered by the terms of the April 1, 1964, agreement.

The parties stipulated that: the snack bars involved in these proceedings prepare food which in some cases is consumed at counters or tables on the premises of the retail market in which the snack bar is located and on other occasions is consumed elsewhere; the snack bars are located outside of the area of the check stands in the markets; all purchases made at the snack bars are paid for at the snack bar registers; there are no other employees in the stores or markets who perform the type of work done at the snack bars, although in emergencies, clerks, clerks' helpers, or box boys will relieve snack bar employees; there is no interchange of employees between the snack bars and other departments of the stores, although on occasion snack bar employees have moved to other jobs within the stores; and there is a department manager who has authority over the snack bars and who is responsible in turn to the store manager.

An examination of the provisions of the existing contract shows that the hours, wages, and working conditions of snack bar employees are different from those of the other employees. Thus, split shifts are permitted for snack bar employees but prohibited for all other employees. A guarantee of 8 hours work at a Sunday premium rate of pay which is applicable to all retail clerks, except part-time clerks' helpers, is not applicable to snack bar employees. Employees of snack bars which operate as such, exclusively receive the same wages as those accorded clerks' helpers but the present agreement provides that future wage increases shall either be the same as those negotiated for clerks' helpers "or those negotiated by the hotel and restaurant industry, whichever are greater." Snack bar employees are entitled to meals while other employees are not.

C. *Concluding findings*

The evidence thus shows that: snack bar employees are engaged in a different type of work than that performed by the retail clerks in the food markets; there is no interchange between such employees; the snack bars are located outside the check stands of the markets and thus are physically separated from the areas where the other retail clerks work; the snack bar employees are under separate supervision; they may work split shifts; and that premium rates of pay for Sunday work are not applicable to them. Thus it is clear that the terms and conditions of employment of snack bar employees are different from those of the retail clerks and that they have a community of interest apart from them.⁵

Upon the foregoing facts and upon the record as a whole, I find that the snack bars were not an accretion to the existing unit but instead constituted a separate and distinct operation. By extending the contract of April 1, 1964, which includes a union-security provision, to cover

³ See *The Boy's Markets, Inc., et al.*, 156 NLRB 105

⁴ The contract also expressly excludes from its coverage meat department employees and janitorial and maintenance personnel, both of which groups are represented by other unions

⁵ See *Piggly Wiggly California Company*, 144 NLRB 708, 711

That case and *The Boy's Markets, Inc., et al.*, 156 NLRB 105, both concern themselves with other questions arising as a result of the dispute between the Respondents and the Charging Parties in these proceedings in regard to the representation of snack bar employees

snack bar employees, at a time when Respondent Clerks did not represent a majority of such employees, Respondent Council and Respondent Clerks unlawfully infringed upon the right of the snack bar employees to express a free choice of their bargaining representative. In so doing Respondent Council violated Section 8(a)(1), (2), and (3) and Respondent Clerks violated Section 8(b)(1)(A) and (2) of the Act.⁶

IV. CONCLUSIONS OF LAW

1. Respondent Council and its employer-members named herein are, individually and collectively, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. Respondent Clerks is a labor organization within the meaning of Section 2(5) of the Act.

3. By applying the terms of the union-security contract of April 1, 1964, to the snack bar employees of the employer-members of Respondent Council, not otherwise covered by a collective-bargaining agreement with another union, as mentioned above in section III, Respondent Council has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1), (2), and (3) of the Act and Respondent Clerks has engaged in unfair labor practices within the meaning of Section 8(b)(1)(A) and (2) of the Act.

4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

V. THE REMEDY

Having found that the Respondents have engaged in unfair labor practices, I shall recommend that they cease and desist therefrom and that they take certain affirmative action designed to effectuate the policies of the Act.

It shall be recommended that Respondent Council withdraw all recognition from Respondent Clerks as collective-bargaining representative pursuant to the terms of the collective-bargaining agreement of April 1, 1964, unless and until Respondent Clerks shall have been duly certified by the Board as such representative. It further shall be recommended that Respondent Council cease and desist from giving any force or effect to the said collective-bargaining agreement executed and maintained by the Respondents, insofar as said agreement has been extended to cover snack bar employees, or to any modification, extension, supplement, or renewal thereof. However, nothing herein shall be construed as requiring Respondent Council or its employer-members to vary or abandon any wage, hour, seniority, or other substantive feature of their relations with their employees which have been established in the performance of said contract.

It also shall be recommended that Respondent Clerks cease and desist from acting as the collective-bargaining representative of the snack bar employees of the employer-members of Respondent Council, unless and until Respondent Clerks shall have been duly certified by the Board as such representative, and that it shall refrain

from seeking to enforce the collective-bargaining agreement executed and maintained by the Respondents insofar as snack bar employees are concerned.⁷

The General Counsel urges, in addition, that the Respondents be required, jointly and severally, to reimburse the snack bar employees for all initiation fees, dues, or other obligations paid by them pursuant to the provisions of the collective-bargaining agreement in question. There is no evidence that the snack bar employees were coerced into joining or into signing checkoff authorizations running to Respondent Clerks. In the absence of such evidence, the order sought by the General Counsel is unwarranted.⁸

RECOMMENDED ORDER

Upon the entire record in these proceedings, and the foregoing findings of fact and conclusions of law, it is recommended that Respondent Food Employers Council, Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Contributing support to Retail Clerks Union, Local 770, or to any other labor organization of its employees.

(b) Recognizing Retail Clerks Union, Local 770, as the representative of the snack bar employees of its employer-members who are parties to the collective-bargaining agreement of April 1, 1964, covering retail food, bakery, candy, and general merchandise clerks, for the purpose of dealing with Food Employers Council, Inc., on behalf of its employer-members, concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, unless and until said labor organization shall have demonstrated its exclusive majority representative status pursuant to a Board-conducted election among said snack bar employees.

(c) Giving effect to the aforementioned collective-bargaining agreement or to any extension, renewal, or modification thereof; *provided*, however, that nothing in the order here recommended shall require Food Employers Council, Inc., or its employer-members, to vary or abandon any wage, hour, seniority, or other substantive feature of said employer-members' relations with snack bar or other employees which have been established in the performance of the aforesaid collective-bargaining agreement or to prejudice the assertion by the snack bar employees of any rights they may have thereunder.

(d) Encouraging membership in Retail Clerks Union, Local 770, or in any other labor organization, by conditioning the hire or tenure of employment or any term or condition of employment upon membership in, affiliation with, or dues payments to any such labor organization, except as authorized in Section 8(a)(3) of the National Labor Relations Act, as amended.

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

⁶ See *Dura Corporation*, 153 NLRB 592; *Dancker & Sellew, Inc.*, 140 NLRB 824, enfd 330 F.2d 46 (C.A. 2); *Wolfer Printing Co., Inc.*, 145 NLRB 695. In view of the conclusions reached herein, I do not regard it as necessary to determine whether the overall unit of retail clerks which includes all snack bar employees except those already represented by another union is appropriate, as the Joint Council contends in its brief. The basic issue in these proceedings is whether the extension of recognition with respect

to a specific group of employees was lawful, irrespective of the appropriateness of the unit set forth in the contract. See *Bernhard-Altmann Texas Corporation*, 122 NLRB 1289, 1291.

⁷ *Ellery Products Manufacturing Co., Inc.*, 149 NLRB 1388, *Dura Corporation*, 153 NLRB 592.

⁸ *Duralite Co., Inc.*, 132 NLRB 425, 429; *Couch Electric Company*, 143 NLRB 662. Cf. *Gladys A. Juett, etc.*, 137 NLRB 395, *Wolfer Printing Co., Inc.*, 145 NLRB 695, 702.

2. Take the following affirmative action designed to effectuate the policies of the Act:

(a) Withdraw and withhold all recognition from Retail Clerks Union, Local 770, as the exclusive representative of the snack bar employees of its employer-members who are parties to the aforesaid collective-bargaining agreement for the purposes of collective bargaining unless and until said labor organization has been duly certified by the National Labor Relations Board as the exclusive representative of such employees.

(b) Notify all snack bar employees of its employer-members that they need not join or maintain membership in Retail Clerks Union, Local 770, pursuant to the aforesaid agreement, as a condition of employment.

(c) Post at the food markets of each of the employer-members who are parties to these proceedings⁹ copies of the attached notice marked "Appendix A."¹⁰ Copies of said notice, to be furnished by the Regional Director for Region 31, after being duly signed by an authorized representative of Respondent Food Employers Council, Inc., shall be posted by said Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including places where notices to employees are customarily posted. Reasonable steps shall be taken to insure that said notices are not altered, defaced, or covered by any other material.

(d) Notify the aforesaid Regional Director, in writing, within 20 days from the date of service of this Trial Examiner's Decision, what steps said Respondent has taken to comply herewith.¹¹

Respondent, Retail Clerks Union, Local 770, its officers, agents, and representatives, shall:

1. Cease and desist from:

(a) Causing or attempting to cause Respondent Food Employers Council, Inc., or its employer-members, to discriminate against snack bar employees by giving effect to its agreement of April 1, 1964, or to any extension, renewal, or modification thereof.

(b) Causing or attempting to cause Respondent Food Employers Council, Inc., or its employer-members who are parties to the collective-bargaining agreement of April 1, 1964, to discriminate against snack bar employees by conditioning their hire or tenure of employment or any term or condition of employment upon membership in, affiliation with, or dues payment to Respondent Retail Clerks Union, Local 770, except as authorized in Section 8(a)(3) of the National Labor Relations Act, as amended.

(c) In any like or related manner restraining or coercing snack bar employees of Respondent Food Employers Council, Inc., or its employer-members who are parties to the aforesaid collective-bargaining agreement of April 1, 1964, in the exercise of the rights guaranteed them in Section 7 of the Act, except to the extent that such rights 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 National Labor Relations Act, as amended.

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

(a) Post at its offices and meeting halls copies of the attached notice marked "Appendix B."¹² Copies of said notice, to be furnished by the Regional Director for Region 31, after being duly signed by an authorized representative of Respondent Retail Clerks Union, Local 770, shall be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in

conspicuous places, including places where notices to employees are customarily posted. Reasonable steps shall be taken to insure that said notices are not altered, defaced, or covered by any other material.

(b) Mail to the Regional Director for Region 31, signed copies of the attached notice marked "Appendix B" for posting by Respondent Food Employers Council, Inc., at the food markets of each of the employer-members who have been made parties to these proceedings, as provided herein. Copies of said notice, to be furnished by the Regional Director, shall, after being duly signed by an authorized representative of Respondent Retail Clerks Union, Local 770, be forthwith returned for such posting.

(c) Post at the same places, and under the same conditions as set forth in (b) immediately above, copies of Respondent's Food Employers Council, Inc., attached notice marked "Appendix A" as soon as they are forwarded by the Regional Director.

(d) Notify said Regional Director, in writing, within 20 days from the date of the service of this Trial Examiner's Decision, what steps said Respondent has taken to comply herewith.¹³

IT IS FURTHER RECOMMENDED that unless, within said 20 day period, the Respondents shall have notified said Regional Director, in writing, that they will comply with the foregoing Recommended Order, the National Labor Relations Board issue an order requiring the Respondents to take the action aforesaid.

⁹ *NLRB v E F Shuck Construction Co, Inc, et al*, 243 F 2d 519 (C A 9)

¹⁰ In the event that this Recommended Order is 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 is 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."

¹¹ In the event that this Recommended Order is 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 Respondent has taken to comply herewith."

¹² See footnote 10, *supra*

¹³ See footnote 11, *supra*

APPENDIX A

NOTICE TO ALL SNACK BAR EMPLOYEES OF THRIFTMART, INC.; GREAT A.&P. TEA CO.; CRAWFORD STORES; LUCKY STORES, INC.; HUGHES MARKETS; VON'S GROCERY CO.; AND SAFEWAY STORES, INC.

Pursuant to a 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 NOT recognize Retail Clerks Union, Local 770, as the exclusive bargaining representative of snack bar employees of the employer-members of Food Employers Council, Inc., who are parties to the contract of April 1, 1964, unless and until that Union has been certified by the National Labor Relations Board.

WE WILL NOT give effect to our agreement of April 1, 1964, with Local 770, or to any extension, renewal, or modification thereof, to the extent that said agreement purports to cover snack bar employees, and WE WILL NOT require that said snack

bar employees be or become members of Local 770, as a condition of employment pursuant to the provisions of the foresaid agreement with that Union. The law does not require us, however, to give up or to vary the wages, hours, seniority, or other working conditions now in effect by reason of said contract.

WE WILL NOT contribute support to Local 770, or to any other labor organization of our employees.

WE WILL NOT encourage membership in Local 770, or in any other labor organization, by conditioning the hire or tenure of employment or any term or condition of employment upon membership in, affiliation with, or dues payments to any such labor organization, except as authorized by Section 8(a)(3) of the National Labor Relations Act, as amended.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of their rights guaranteed in Section 7 of the Act.

All employees are free to become or to remain, or to refrain from becoming or remaining, members of the above-named labor organization or any other labor organization.

FOOD EMPLOYERS COUNCIL, INC. BY AND ON BEHALF OF THRIFTMART, INC.; GREAT A. & P. TEA CO.; CRAWFORD STORES; LUCKY STORES, INC.; HUGHES MARKETS; VON'S GROCERY CO.; AND SAFEWAY STORES, INC. (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.

If employees have any question concerning this notice or compliance with its provisions, they may communicate directly with the Board's Regional Office, 10th Floor, Bartlett Building, 215 West Seventh Street, Los Angeles, California 90014, Telephone 688-5840.

APPENDIX B

NOTICE TO ALL SNACK BAR EMPLOYEES OF THRIFTMART, INC.; GREAT A. & P. TEA CO.; CRAWFORD STORES; LUCKY STORES, INC.; HUGHES MARKETS; VON'S GROCERY CO.; AND SAFEWAY STORES, INC.

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 NOT give effect to the collective-bargaining agreement of April 1, 1964, between Food Employers Council, Inc., on behalf of the above-named employers, and ourselves to the extent that such agreement seeks to cover snack bar employees of employer-members of Food Employers Council, Inc., who are parties to the agreement.

WE WILL NOT act as the exclusive bargaining representative of snack bar employees of the employer-members of Food Employers Council, Inc., who are parties to the collective-bargaining agree-

ment of April 1, 1964, or any extension, renewal, or modification thereof, unless and until we have been duly certified by the National Labor Relations Board as the exclusive representative of said snack bar employees. The law does not require, however, that any change be made in the wages, hours, seniority, or other working conditions now in effect by reason of that contract.

WE WILL NOT cause or attempt to cause Food Employers Council, Inc., or its employer-members who are parties to the collective-bargaining agreement of April 1, 1964, to discriminate against snack bar employees by conditioning their hire or tenure of employment or any term or condition of employment upon membership in, affiliation with, or dues payments to Local 770, except as authorized in Section 8(a)(3) of the National Labor Relations Act, as amended.

WE WILL NOT in any like or related manner restrain or coerce the snack bar employees of the employer-members of Food Employers Council, Inc., who are parties to the collective-bargaining agreement of April 1, 1964, in the exercise of the rights guaranteed them in Section 7 of the Act.

RETAIL CLERKS UNION, LOCAL 770 (Labor Organization)

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.

In the event of any question concerning this notice or compliance with its provisions, employees may communicate directly with the Board's Regional Office, 10th Floor, Bartlett Building, 215 West Seventh Street, Los Angeles, California 90014, Telephone 688-5840.

Retail Store Employees Union, Local 428, AFL-CIO and Rose C. Wong. Case 20-CA-3248.

March 16, 1967

DECISION AND ORDER

On August 26, 1965, Trial Examiner James T. Barker 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 Decision. Thereafter, the Charging Party and the Respondent filed exceptions to the Trial Examiner's Decision. The Respondent also filed a brief in support of its exceptions. The General Counsel filed an answering brief to the Respondent's exceptions and brief. The California State Council of Retail