

**Wolverine World Wide, Inc. and Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO. Cases 7-CA-8544 and 7-CA-8544(2)**

May 22, 1972

**DECISION AND ORDER**

BY CHAIRMAN MILLER AND MEMBERS  
FANNING AND PENELLO

On January 25, 1972, Trial Examiner Alba B. Martin issued the attached Decision in this proceeding. Thereafter, the Respondent filed exceptions and a supporting brief.

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

The Board has considered the record and the Trial Examiner's Decision in light of the exceptions and brief and has decided to affirm the Trial Examiner's rulings, findings, and conclusions and to adopt his recommended Order.

**ORDER**

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Trial Examiner and hereby orders that Wolverine World Wide, Inc., Rockford, Michigan, its officers, agents, successors, and assigns, shall take the action set forth in the Trial Examiner's recommended Order.

**TRIAL EXAMINER'S DECISION**

**STATEMENT OF THE CASE**

ALBA B. MARTIN, Trial Examiner: This case was heard in Grand Rapids, Michigan, on August 18, 19, 20, 1971, pursuant to charges duly filed and served,<sup>1</sup> and an amended complaint issued on June 4, 1971. The issues litigated were whether Respondent has refused and now refuses to bargain with the certified Union in an appropriate unit; whether Respondent after the certification unilaterally eliminated certain checker jobs, transferred employees from the eliminated jobs to jobs as pickers, and laid off four pickers; whether after the certification Respondent unilaterally altered the hours of two hi-lo drivers; whether Respondent discriminatorily suspended and discharged Nancy Winchel and discriminatorily gave written warnings to Christine Powell and Howard Vander Mey; and whether Respondent indicated to employees that it was engaging in surveillance of its employees' union

activities. The issues involved alleged violations of Section 8(a)(5), (3), and (1) of the Act.<sup>2</sup> At the close of the hearing, the parties made short oral summations. After the hearing, Respondent filed a brief which has been duly considered.

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

**FINDINGS AND CONCLUSIONS**

**I. THE BUSINESS OF THE RESPONDENT**

Wolverine World Wide, Inc., Respondent herein, is a Michigan corporation with its principal office and place of business in Rockford, Michigan, and with plants and places of business in several other States. Respondent is engaged in the manufacture, sale, and distribution of pigskin and cowhide products, including shoes and gloves. Respondent's plants in Rockford and Big Rapids, Michigan, are the only facilities involved in this proceeding. During calendar year 1970, a representative period, Respondent purchased and caused to be transported and delivered to its Rockford and Big Rapids plants, goods and materials valued in excess of \$50,000, directly from points outside the State of Michigan. During the same period, Respondent manufactured, sold, and distributed from its Rockford and Big Rapids plants products valued in excess of \$500,000, of which products valued in excess of \$50,000 were shipped from said plants directly to points located outside the State of Michigan. Respondent admitted, and I find, that at all times material herein it has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**II. THE LABOR ORGANIZATION INVOLVED**

Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act. It is referred to herein as the Union.

**III. THE UNFAIR LABOR PRACTICES**

**A. Background**

From the Board's records I hereby take official notice that this is the third proceeding involving Respondent to come before the Board in the last several years. In March 1969, Trial Examiner Boyls issued a Decision finding that at its Ithaca, Michigan, plant Respondent had maintained an unlawful antisolicitation rule; that it had coercively interrogated its employees concerning their union activities, interests, and desires; that it had improperly prohibited its employees from wearing union buttons; that it had threatened to close the plant if the Union should become the employees' bargaining representative; and that it had made statements to employees to convey the impression that it was keeping their union activities under surveillance. Respondent complied with the Trial Examiner's Order.

On September 30, 1971, in 193 NLRB No. 54, the Board found that during the summer of 1970, at its plants in Big

<sup>1</sup> The Union filed the charge in Case 7-CA-8544 on March 8, 1971, the original charge in Case 7-CA-8544(2) on April 23, 1971, and the first amended charge in 8544(2) on May 14, 1971

<sup>2</sup> "The Act" refers to the National Labor Relations Act, as amended, 29 U S C Sec 151, *et seq*

Rapids, Michigan, Respondent engaged in widespread violations of Section 8(a)(3) and (1) of the Act. Its unlawful acts included interrogations, threats, interference with the distribution of union leaflets, surveillance of a union meeting, disparate enforcement of a nonsolicitation rule, condoning the circulation of an antiunion petition, issuance of warnings to employees to discourage support for the Union, and the discriminatory discharge of an employee. Respondent filed a petition for review of this proceeding on October 6, 1971.

All of the incidents in the case at bar, but one, involved the Rockford warehouse. A single incident occurred at a Big Rapids plant.

### B. Respondent's Refusal To Bargain

In Case 7-RC-10248, pursuant to a Board Decision and Direction of Election, on January 26, 1971, the Union won an election in an appropriate unit and was certified on February 22, 1971, as the exclusive collective-bargaining agent for the employees in the unit. The appropriate unit found by the Board consisted of all production and maintenance employees employed by Respondent at its distribution center located in Rockford, Michigan; but excluding truckdrivers, office clerical employees, guards, and supervisors as defined in the Act. The distribution center is sometimes referred to herein as the warehouse and as the plant.

#### 1. Refusal to bargain

In terms of collective bargaining there were no meaningful verbal contacts between the parties. Several times from February 23, 1971, until the hearing herein in August 1971, in writing the Union requested Respondent to meet and negotiate with it. Respondent never did so. All of the correspondence between the parties is in the record. None of Respondent's communications to the Union indicated a willingness to meet with the Union and negotiate with it with an open mind and an intent to work out with the Union in good-faith bargaining the wages, hours, and working conditions of the employees in the appropriate unit. Just the reverse is indicated by the correspondence. Thus, Respondent did not reply to the Union's initial written request to bargain dated February 23. Instead, on March 17, Respondent wrote the Union that it was announcing, effective April 1, changes in its uniform hospital-surgical insurance program that concerned all its employees. This letter said,

These changed benefits are available to employees in the Distribution Center and in accordance with our normal practice would be instituted automatically; however, prior to instituting them in that area, we are advising you, as representative of the Union, of the changes and will await word from you before instituting them for that group.

A copy of the notice is enclosed. If you wish these changes instituted for the employees involved at the Center, would you please advise us accordingly before April 1, 1971.

Of note is that this letter gave the Union the option to accept or reject changes already decided upon by Respondent. This is neither the letter nor the spirit of collective bargaining as required by the Act.

Further, on June 16, Respondent wrote the Union as follows:

As you probably know, we are planning to distribute a copy of our wage policy to all of our Scanlon Plan employees during the week of June 21.

This policy is planned to include the Distribution Center employees. However, prior to distributing it to these employees, we are advising you, as representative of the union, and will await word from you.

A copy of the hourly rate section is enclosed.

Please advise us prior to June 25 if you want the policy installed at the Distribution Center.

The attached 16 pages included a detailed description of Respondent's wage plan and how employees are measured to fit into it. Here were many items fit for collective bargaining, but Respondent presented the Union with only the option of accepting or rejecting the entire plan in 9 days. The table of contents of this plan included the words, "Effective June 21, 1971." The addendum stated that this was Respondent's "first printed policy."

The parties stipulated that on about May 20, 1971, Respondent decided it would not recognize the Union as the validly certified bargaining representative for employees at the distribution center; that this decision remained intact as of the time of the hearing; and that the Company has decided to test the validity of the Union's certification "through proper legal channels."

Based on all the above testimony, and the entire record, I conclude that Respondent has refused, and now refuses, to recognize and bargain with the certified Union of its employees in an appropriate unit and that Respondent has thereby violated and is violating Section 8(a)(5) and (1) of the Act.

#### 2. Unilateral changing of checkers and pickers

On May 3, 1971, without prior notice to and bargaining with the Union, Respondent unilaterally changed the conditions of work of some checkers, pickers, and packers, in the appropriate unit, and thereby further violated Section 8(a)(5) and (1) of the Act. The 10 checkers worked in the front part of the warehouse, as did the packers. Respondent moved five of the checkers to the back of the warehouse to do picking and discharged four pickers who were working there. The remaining checkers were instructed just to count the number of shoes rather than to make a "total check," as formerly, which meant checking stock numbers, sizes, and widths, as well as the numbers. Supervisor Downer, upon instructions of General Superintendent Powers, also instructed the packers on the shipping dock to count the shoes more carefully to make certain they were packing the right number. Respondent planned and expected that this would be a permanent change.<sup>3</sup> The fact that the decision was based on a business judgment

four pickers

<sup>3</sup> In fact, conditions changed and Respondent returned the five checkers to the front about the middle of June. Also, Respondent rehired two of the

did not justify the bypassing of the certified bargaining representative of the employees.

### 3. Unilateral changing of hours of hi-lo drivers

On May 13, 1971, without prior notice to and bargaining with the Union, Respondent unilaterally changed the work hours of two hi-lo operators from 7 a.m.-3:30 p.m. to 8 a.m.-4:30 p.m. The hi-lo operators were included in the appropriate unit. The hi-lo operators moved pallets of shoes with a forklift. At the suggestion of one of the operators Respondent made the change so that pallets could be moved between 3:30 and 4:30 after the regular shift finished for the day at 3:30 and when there would be less confusion on the floor. Although this was a business judgment, this fact did not supersede the Act, which required that the matter be bargained with the certified Union. The failure was a further violation of Section 8(a)(5) and (1) of the Act.

#### C. *Tightening Up after the Election*

During the period just after the election, Downer and Pratt tightened up on employees under them concerning their behavior and concerning some of the plant rules. Downer testified that Respondent was rather lenient about talking and that it had no hard and fast rule against it. Uncontradicted, credible testimony showed that right after the election Downer told a number of different employees on separate occasions to go to the back of the warehouse to work and not to talk. Right after the election, Downer accused an employee, erroneously, of soliciting a girl for the Union. There was a plant rule against smoking in the building except in the restroom and cafeterias. One employee customarily lit up a cigarette in the plant just as he was leaving it, and he once "bummed" a light from Pratt in the building. Right after the election, Downer saw the employee light up in the plant and told him that if he ever saw him do it again he would have to give him a reprimand.

#### D. *Reprimand to Howard Vander Mey*

In at least two respects, shortly after the election, certain employee conduct which was generally condoned suddenly gave rise to punitive action by Respondent. This related to the written "reprimand" given Howard Vander Mey on February 2, 1971, and the indefinite suspension given Nancy Winchel on February 8, 1971.

Just opposite the timeclock employees punched as they began and ended their duties, and about 4-6 feet from it, is a double railing about 3 feet high and 15 feet long, put there to protect people from being hit by trucks as they come down a ramp from the mezzanine floor, pulled electrically by a towline. The railing has been there since the distribution center was built in 1966. Since sometime in 1968 there have been two signs above it reading "Do not climb or sit on railing." The towline and trucks on it run only during working hours. The towline is turned off during the lunch period from noon to 12:30 p.m.

Several employees who were credible witnesses testified that despite the signs, it is customary for employees to sit on the railing for a few moments before going to work in the morning and after lunch, while the towline is off. They sit facing the timeclock with their feet on the lower rail. Arthur Wyman, who by his demeanor impressed me as a credible witness, testified that during the period the signs have been up he has sat upon the railing 100 times and that no supervisor ever said anything to him about it. He said this usually occurs for about 10 minutes before the starting bell in the morning and at noontime. Larry Peterson, a credible witness, testified that he has sat on the railing morning and noontime "just about every day . . . since they built the warehouse," and that he has never been reprimanded for doing so. James Masters, a credible witness, testified that although he himself does not sit on the rail (he was the largest of all of the witnesses), he saw others sitting on it every morning until Howard Vander Mey received the reprimand that is in issue herein; and he never heard any announcement that the Company was going to enforce the rule. Melvin Weeks, an honest and credible witness, testified that prior to the election usually the same group of three to six people, including Peterson, Vander Mey, and Wyman, gathered at the railing prior to work in the mornings. Weeks testified that the supervisors who passed between them and the timeclock could not help but see those who were sitting on the rail. Weeks testified also, without contradiction, that the morning before he testified, just before 7 a.m., Supervisor Roy Parrish was sitting on the rail and Weeks reminded him that he was not supposed to.

Howard Vander Mey, who by his demeanor as a witness impressed me as a very honest and credible witness, and an articulate one, credibly testified, in the light of the entire record, that every day he has worked in the warehouse (which is ever since the warehouse was built), he has sat on the railing without reprimand. He testified that those who come in early in the morning sit on the rail until the start-to-work bell rings "instead of walking around or going in the cafeteria; we just sit there and some of us get together and just talk about what we did the night before and just talk things over." He credibly testified that the supervisors walk right by them sitting there every day, including Supervisors Orle (Bing) Downer and Garry Pratt. The supervisors walked between the rail and the timeclock and they used the lockers behind the timeclock. Vander Mey credibly testified that just before the election of January 26, 1971, Downer sat on the railing during one luncheon period talking with a number of employees sitting there. They were talking about the notices for the election then on the company bulletin boards, and about fringe benefits and seniority rights in the plant.

Vander Mey received the written warning from Supervisor Downer on February 2, 1971, for sitting on the rail that day during the luncheon period. This was the only reprimand ever given, insofar as the record showed, for sitting on the railing.<sup>4</sup> Only Vander Mey received a warning, although both morning and noontime that day Arthur Wyman and Larry Peterson were sitting on the rail

<sup>4</sup> Three years before, in January 1968, Downer had given Vander Mey a written warning for *jumping over the rail*

with him. On that day, for the first time, Vander Mey was wearing two large union buttons,<sup>5</sup> 2-1/4 inches in diameter, one pinned on each side of the front of his shirt in full view of anyone who saw the front of him. One button said, "Vote Amalgamated Meat Cutters & Butcher Workmen, AFL-CIO." The other said, "I'm For the Amalgamated Meat Cutters & Butcher Workmen, AFL-CIO." Both were brightly colored in red, white and blue colors. Neither Wyman nor Peterson were wearing union buttons.

Supervisor Downer denied that he had ever sat on the railing and denied that he ever saw an employee sitting on the railing until he saw Vander Mey doing so at noontime on February 2, 1971. Supervisor Garry Pratt denied ever seeing an employee sitting on the rail prior to February 18, 1971. In the light of the overwhelming, credible testimony of much sitting upon the railing mornings and noontimes for years, I find Downer's and Pratt's denials untrue and a negative reflection upon their credibility.

As the conduct for which Vander Mey was reprimanded was, to Respondent's knowledge, generally engaged in by other employees and generally condoned, as Vander Mey was never reprimanded for sitting on the rail until he wore two large union buttons while at work although he had, to Respondent's knowledge, sat upon the rail many times before, and upon the entire record in the case considered as a whole, I believe and hold that Downer gave Vander Mey the written notice on February 2 because he was wearing the two union buttons, in order to discourage union membership and activities and expression of support by employees, and in order to limit the Union's bargaining power in the plant, Respondent thereby violating Section 8(a)(3) and (1) of the Act.

#### E. Suspension and Discharge of Nancy Winchel

Another example of condoned employee conduct which suddenly gave rise to retributive action related to leaving the back area of the warehouse a few moments early to get up front to the cafeteria at about the time the luncheon bell rang at 12 o'clock. Employees who customarily worked in the front area, under Orle (Bing) Downer, ate in the front cafeteria. When work was slack in the front, Downer would send some employees to the back, where they were given work to do by Supervisor Garry Pratt. Between front and back was a walk of about 3-4 minutes. The overwhelming, credible evidence in the record (although Pratt incredibly denied it) was that leaving the back early for lunch was fairly common for those who belonged up front, and that Pratt sees people leave early and says nothing about it. Credible witnesses Waller, Wyman, Vander Mey, Peterson, Weeks, and McLain testified to this effect. Several testified that Pratt sees employees leave early and says nothing about it. Peterson stated that once quite a while before the election and once after the election Downer cautioned him not to leave the back early for lunch, which is added proof that the practice exists. Weeks testified that in the fall of 1970 Pratt walked out of the back with him as he left early and said nothing to him about leaving early. A credible witness who works in the

back, Donna McLain, testified that the "front" employees still usually leave the back early and walk right by Pratt's desk on the way out. Several times after Winchel's suspension one Julie Christian left early, and once Pratt walked by her as she was nearing the front. She received no reprimand insofar as the record disclosed.

In answer to testimony by several witnesses that even Pratt himself leaves early and goes home for lunch, Pratt testified that he customarily stops off at a certain area on the way to the front, shortly before noon, and that there "I check to make sure that everything is moving smoothly through there and that everybody is working." This contradicted his other testimony that he has no set route for making his rounds and doing his patrolling. Vander Mey credibly testified in rebuttal that he has seen Pratt go up front to the lockers where supervisors keep their things, get his coat, and leave—just before the noon bell rang.

Incredibly, in the light of all the credible evidence to the contrary, Pratt testified that Winchel was the first employee he has ever seen leave the back area early at lunchtime. By his demeanor and his testimony Pratt did not seem to me to be an honest and credible witness, and I do not credit his testimony where it contravenes other credible testimony.

Mrs. Nancy Winchel, aged 19, worked for Respondent for about 4-1/2 months, mostly up front under Supervisor Downer. She had a bad record for tardiness and absenteeism until she suffered a 3-day suspension<sup>6</sup> for lateness on December 15, 1970. Thereafter, until her effective discharge on February 8, 1971, her attendance was perfect, insofar as the record showed, except for some tardiness, when others were also tardy, because of snow and ice. By her demeanor Winchel impressed me as a credible witness.

On February 8, 1971, another employee pinned one of the large union buttons on the front of Winchel's sweat shirt above the breast. Insofar as the record showed, this was the first time she had worn one of the buttons, although a few others in the front of the warehouse had worn them. Downer saw the button, as he admitted on the witness stand. About 10 minutes later, at 10:30 a.m.,<sup>7</sup> Downer sent Winchel and another girl to the back for temporary work. Winchel was wearing the union button in the back. When she was in the back, Winchel was the only one of the 25-30 employees working back there who was wearing a union button. Pratt put Winchel and the other girl to work in Zone 17 where only one other employee was working. Zone 17 is the "last zone." While Winchel was in Zone 17, a period of not over 1-1/2 hours, a larger number than usual of supervisors went to the back and to Zone 17. Winchel credibly testified that Pratt walked by her in Zone 17 at least five or six times and looked at her. Supervisor Downer went by her twice. Others who went into the area of Zone 17 while Winchel was there were Supervisor Parrish, who divided supervision in back, geographically, with Pratt, Superintendent Powers, and Robert Gulliver from the "front office" who was above Powers. A very honest and credible witness, Esther Waller, who was working in the back at the time, credibly testified that it

<sup>5</sup> Prior thereto Vander Mey had sometimes worn one union button at work

<sup>6</sup> Winchel remembered it as a week's suspension

<sup>7</sup> Winchel testified that it was about 10 30 Pratt testified that it was 10 or 10 30 Downer thought it was earlier

was very unusual for Pratt to go back to Zone 17 so much. Waller testified further that she had never before seen all these management people go into area of Zone 17 in one day [let alone a portion of one morning]; that "all the activity just seemed unusual"; that "there was a lot going back and forth that day." Joan Heethuis, another honest and credible witness who was working in the back near Pratt's desk, testified that ". . . it was really surprising to me that something like this was actually happening . . . . The deal of how Garry was acting the whole day towards Nancy, and the circumstances building around it . . . . It was the first time I had ever seen Garry run around behind racks and stuff to watch people."

At about 11:30 that morning the other girl who had gone to the back with Winchel was recalled to the front by Downer.

A few minutes before the luncheon bell would ring at 12 noon, Winchel left Zone 17 and started walking towards the front to talk to Downer<sup>8</sup> before he went to lunch at 12. Winchel, no doubt affected by the visitations, was also disturbed that she had not been called to return to the front. Downer had previously told her, as she understood it, that if there was work up front on the receiving dock Winchel didn't need to worry about going out back.

As Winchel passed near Pratt's desk, he asked her where she was going.<sup>9</sup> She replied that she was going to talk to Bing Downer. Pratt said that she had not been paged. Winchel replied that she knew that, but she wanted to talk with Downer before he went to lunch. Winchel testified that at this point Pratt said, "O.K." and she walked away. Joan Heethuis, who was very close to them, credibly testified that Pratt nodded affirmatively and said "O.K." Pratt testified that he did not grant permission. I hold on the entire record that Winchel and Heethuis honestly believed that he did grant permission. Pratt testified that she seemed upset, but he made no effort to find out why.

As Winchel reached Downer in the front, Downer was paged by Pratt, who told him over the phone that Winchel had walked off the job and was coming down to see him. Pratt did not say she was upset. Downer noticed that Winchel was crying, but he made no effort to discover what was troubling her. Instead, he told her that Pratt said she walked off the job. She replied that she didn't walk off the job, that Downer knew she wouldn't do that, that Pratt had given her permission. Downer did not deny to her that he knew that.

Winchel then returned the union pin to the person who had pinned it on her, stating that it had gotten her into too much trouble so he could have it.

Shortly after 12:30 that noon Winchel was sent to the conference room, where she found Pratt. The latter accused her of walking off the job and she denied it. She told him he had given her permission to leave and he denied it. He had a written warning notice for her which he asked her to sign and which she refused to sign. At about

<sup>8</sup> Employees who worked primarily in front considered Downer their supervisor, although they took orders from Pratt when they worked in the back. The company rules invited employees to speak up to their supervisor if they had any "questions or problems." Superintendent Powers testified that he showed Downer a copy of Winchel's discharge letter "because she was Bing's employee and he was directly responsible for her."

<sup>9</sup> Pratt testified he stopped her because as she passed she threw a paper

this time Downer arrived. Winchel asked "if it was because of the union pin that this was happening . . . because their attitudes weren't very good towards me . . . they were usually pretty nice to me." Pratt and Downer both denied seeing the union button, although as a witness before me Downer admitted seeing the union button on Winchel that morning. Pratt suspended Winchel indefinitely.

Shortly after Winchel left the back to go to the front just before lunch, Pratt called Superintendent Powers and told him Winchel had left her duty station without permission. Powers testified that he instructed Pratt to "find out what the problem is and take the corrective action." Pratt never found out what Winchel's problem was before suspending her. Nor did Powers nor Pratt nor Downer ever ask Winchel what her problem was before Powers sent her a letter discharging her, effective February 9. Before discharging her Powers talked to both Pratt and Downer, but it did not occur to any of them to inquire into why Winchel wanted to see Downer before lunch. Nor did it occur to Powers to ask her this when, with his permission, Winchel talked with him shortly after her suspension by Pratt on February 8 and before her "discharge." Respondent had caught Winchel in a technical violation of its rule against leaving a work station before the bell rings, and it was not interested in going behind this and finding out what motivated the employee to do this.

Pratt testified he decided to give Winchel a written warning notice before checking her file, and that after checking her file that noontime and finding the earlier warnings he decided to suspend her. The notice he gave her, however, referred only to the current incident and did not refer to her earlier history.<sup>10</sup> Incredibly, Pratt testified that he did not consider that her earlier 3-day suspension was insufficient punishment.

Pratt testified that he went to Zone 17 so often when Winchel was there because she stopped for a conversation with another employee on her way to Zone 17, which he broke up by telling her to get to work; so he went to Zone 17 to see if she was working. There was no evidence that Winchel was doing any talking in Zone 17 or doing anything to attract so many visitations by Pratt and other supervisors, except that she was wearing the only union button in the back of the warehouse.

Incredibly, Pratt testified he didn't notice whether Winchel was wearing a union button. The large button was in plain sight, was seen by numerous witnesses, and Pratt couldn't possibly have failed to see it.

#### Further Facts and Conclusions

The Union won the election of January 26, 1971, by three votes.<sup>11</sup> During the preelection period of January and the postelection month of February none of the 25-30 employees who regularly worked in the back of the warehouse wore a union button, although quite a few in

on his desk. When confronted with his pretrial affidavit which said she "placed" the paper on his desk, Pratt replied that "she placed it by throwing it on my desk."

<sup>10</sup> This was the only written warning Pratt has given an employee for leaving early.

<sup>11</sup> The tally of ballots showed that of 75 ballots cast, 38 were cast for the Union, 2 were cast for another union, and 35 were cast against any union.

the front wore them. Winchel's intrusion of the union button into the back area, which in Respondent's mind reasonably was free of the taint of unionism, caused her to be treated severely by Pratt when he caught her, as he thought, in the technical violation of a rule, which rule had been honored by "front" people in the "back" more in its breach than in its enforcement. Thereupon he treated her severely and Downer did not help her, although both had theretofore been "pretty nice" to her. Pratt in effect discharged her although he called it an indefinite suspension. The record contains no evidence that any of the three supervisors directly involved, Pratt, Downer, and Powers, had any thought of ever recalling her. Pratt's written reason for the suspension related only to the incident of that day. The following day Superintendent Powers discharged her, citing as the reasons "excessive absenteeism and tardiness, and leaving your work area before the bell rings." Superintendent Powers' inclusion of her earlier record, which had been penalized and corrected by her 3-day suspension some 7-1/2 weeks before, showed that Powers realized the weakness of Pratt's asserted reason for the suspension and was reaching for more reasons to make her termination final. The only credible reason revealed by the record as to why Powers did this was to make an example of her and to keep the Union from intruding into the back area of the warehouse. Thus I conclude that the real reason for the actions by both Pratt and Powers was to chill unionism in the "back," to prevent the Union from growing in strength in the warehouse, and to keep the Union as weak as possible in the event Respondent decided to negotiate with it. Thus, upon all the credible evidence considered as a whole, I conclude and hold that by the suspension and discharge of Winchel Respondent discriminated against her because of her union activities and in order to discourage membership and activity in the Union, thereby violating Section 8(a)(3) and (1) of the Act.

#### F. *Reprimand to Christine Powell*

On February 18, 1971, an employee, Christine Powell, crawled through the rails near the timeclock during working hours. Downer saw her do it and told Pratt, her supervisor, about it. Pratt gave her a written warning for climbing "over" the rail. The rule of the sign was "Do not climb or sit on railing." Incredibly, Pratt testified that never before this had he seen anybody sitting on the rail or climbing "over" the rail although he had seen people leaning against it.

Powell testified without contradiction that both before and after her reprimand she saw Downer jump over the rail; and that at least 20 times in the 2 years she has worked in the plant she has seen people climbing through the rails. Insofar as the record showed no previous warnings had been issued for this offense. In the light of the antiunion motivation disclosed in the Vander Mey and Winchel reprimands, as concluded above, I conclude on the entire record that the tightening up on employee behavior and some rules, shown in section C above, and the Powell reprimand, also had an antiunion motivation. I conclude that Pratt gave Powell the reprimand, although Powell was not shown to have been a supporter of the Union, as a part of an effort to chill unionism and limit the Union's

bargaining power in the plant after the election by clamping down on employee behavior and by enforcing rules which had theretofore not been customarily enforced. By reprimanding Powell under these circumstances and for these reasons Respondent further violated Section 8(a)(3) and (1) of the Act.

#### G. *Giving Impression of Surveillance*

At one of its Big Rapids plants in about mid-January 1971 Respondent's supervisor, Dale L. Durfee, told an employee that Respondent's employment manager, Charles Robinson, was asking Respondent's foremen to indicate to him the feelings of the company employees under their supervision with regard to unionization. The General Counsel alleged that this statement from a supervisor to the employee indicated to employees that Respondent was engaging in surveillance of the employees' union activities. The foremen were being asked by Robinson for information they could have obtained from volunteered statements from employees, from rumors and gossip in the plant, and from statements overheard without design. Therefore I conclude that the statement did not unequivocally give the impression that Respondent was engaging in surveillance, and I conclude that Respondent did not, by the statement, violate Section 8(a)(1) of the Act.

#### CONCLUSIONS OF LAW

1. Wolverine World Wide, Inc. is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.
3. By refusing to recognize and bargain with, and by unilaterally changing hours and conditions of work of employees within the appropriate unit, Respondent has violated and is violating Section 8(a)(5) and (1) of the Act.
4. By reprimanding Howard Vander Mey and by suspending and discharging Nancy Winchel, because of their union activity, thereby discouraging membership and activity in the Union, Respondent has violated and is violating Section 8(a)(3) and (1) of the Act.
5. By reprimanding Christine Powell as a part of enforcing, to chill unionism and limit the bargaining power of the certified Union, a rule customarily not enforced, Respondent discouraged membership and activity in the Union and violated Section 8(a)(3) and (1) of the Act.
6. The aforesaid labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

#### REMEDY

In order to effectuate the policies of the Act, I recommend the customary broad cease-and-desist order and the affirmative relief conventionally ordered in cases of this nature, where Respondent's unfair labor practices were of a character which struck at the roots of employee rights safeguarded by the Act.

To remedy the suspension and discharge of Nancy Winchel Respondent will be required to offer Winchel immediate and full reinstatement to her former job, or if

that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or other rights and privileges, and to pay her backpay (less net interim earnings) computed on a quarterly basis, plus interest at 6 percent per annum, as prescribed in *F. W. Woolworth Company*, 90 NLRB 289 (1950), and *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962), from the date of the suspension, February 8, 1971, to the date when Respondent offers her reinstatement.

To remedy the unlawful reprimands to Howard Vander Mey and Christine Powell Respondent will be required to remove the reprimands from their respective files and all company records, and to write Vander Mey and Powell, individually, that their reprimands have been removed from their files and all company records.

Upon the foregoing findings of fact and conclusions of law, upon the entire record considered as a whole, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:<sup>12</sup>

### ORDER

Respondent, Wolverine World Wide, Inc., of Rockford, Michigan, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to recognize and bargain with the Union as the exclusive representative of the employees in the appropriate unit.

(b) Unilaterally changing employees' wages, hours, or working conditions, without negotiating the proposed changes in good faith with the Union.

(c) Discriminatorily reprimanding, suspending, and discharging employees because of their union activity in order to discourage membership in the Union.

(d) Reprimanding employees as a part of enforcing, to chill unionism and limit the Union's bargaining power, a rule customarily not enforced.

(e) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights under Section 7 of the Act.

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

(a) Offer to Nancy Winchel immediate and full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to her seniority or other rights and privileges, and pay her backpay in the manner prescribed in the portion of the Trial Examiner's Decision entitled "Remedy" for any loss of earnings suffered by reason of the discrimination against her.

(b) Notify Nancy Winchel if presently serving in the Armed Forces of the United States of her right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act, as amended, after discharge from the Armed Forces.

(c) 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 amount of backpay due under the terms of this recommended Order.

(d) Remove from the files of Howard Vander Mey and Christine Powell and all company records the reprimands at issue herein, and advise these two employees in writing, individually, that their reprimands have been removed from their files and all company records.

(e) Upon request, recognize and bargain collectively in good faith with Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, as the exclusive representative of all its employees in the following appropriate unit, and embody in a signed agreement any understanding reached:

All production and maintenance employees employed by the Company at its Distribution Center in Rockford, Michigan, but excluding truckdrivers, office clerical employees, guards and supervisors as defined in the Act.

(f) Post at its distribution center in Rockford, Michigan, copies of the attached notice marked "Appendix."<sup>13</sup> Copies of said notice, on forms provided by the Regional Director for Region 7 after being duly signed by Respondent's authorized representative, shall be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(g) Notify said Regional Director, in writing, within 20 days from the receipt of this Decision, what steps have been taken to comply herewith.<sup>14</sup>

<sup>12</sup> In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

<sup>13</sup> In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted pursuant to a Judgment of the United States Court of Appeals enforcing an Order of the National Labor Relations Board."

<sup>14</sup> In the event that this recommended Order is adopted by the Board after exceptions have been filed, this provision shall be modified to read: "Notify the Regional Director for Region 7, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith."

### APPENDIX

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

The National Labor Relations Act gives all employees these rights:

- To engage in self-organization
- To form, join, or help unions
- To bargain collectively through a representative of their own choosing
- To act together for collective bargaining or other aid or protection

To refrain from any or all of these things.

WE WILL offer to Nancy Winchel immediate and full reinstatement to her former job or, if that job no longer exists, to a substantially equivalent job without prejudice to her seniority and other rights and privileges previously enjoyed.

WE WILL pay Nancy Winchel backpay for any loss of pay she may have suffered as a result of our discrimination against her.

WE WILL notify Nancy Winchel if presently serving in the Armed Forces of the United States of her right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act, as amended, after discharge from the Armed Forces.

WE WILL remove from Howard Vander Mey's file and all company records the warning notice given him on February 2, 1971.

WE WILL remove from Christine Powell's file and all company records the warning notice given her on February 18, 1971.

WE WILL, upon its request, recognize and bargain in good faith with Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, as the exclusive bargaining representative of all the employees in the appropriate unit, and put into writing and sign any agreement reached as a result of the good-faith bargaining. The appropriate unit consists of: All production and maintenance employees employed by the Company at its Distribution Center in Rockford, Michigan, but excluding truckdrivers, official clerical employees, guards and supervisors as defined in the Act.

WE WILL NOT refuse to recognize the Union as the exclusive bargaining representative of the employees in the appropriate unit.

WE WILL NOT unilaterally change employees' wages, hours, or working conditions, without negotiating the proposed changes in good faith with the Union.

WE WILL NOT discriminatorily reprimand, suspend, or discharge employees because of their union activity in order to discourage membership in the Union.

WE WILL NOT reprimand employees as a part of enforcing, to chill unionism and limit the Union's bargaining power, a rule customarily not enforced.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of the right to self-organization, to form labor organizations, to join or assist Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection, or to refrain from any and all such activity, 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 Act, as amended.

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

WOLVERINE WORLD  
WIDE, INC.  
(Employer)

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

This is an official notice and must not be defaced by anyone.

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. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 500 Book Building, 1249 Washington Boulevard, Detroit, Michigan 48226, Telephone 313-226-3200.