Western Summit Flexible Packaging, Inc. ***and*** **Graphic Communications Union, District Council No. 2, Local 388M, affiliated with Graphic Communications International Union, AFL–CIO** ***and*** **Graphic Communications Union, District Council No. 2, affiliated with Graphic Communications International Union, AFL–CIO.** Cases 31–CA–18101, 31–CA–18736, 31–CA–18924, and 31–CA–18940

January 8, 1993

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND RAUDABAUGH

On July 22, 1992, Administrative Law Judge Gerald A. Wacknov issued the attached decision. The General Counsel filed a brief supporting portions of the judge's decision and excepting to portions of the decision, and the Respondent filed exceptions with a supporting brief and a brief in opposition to the General Counsel's exceptions.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommended Order as modified below.[2]

The General Counsel has excepted to the judge's failure to find that the Respondent unlawfully refused to provide certain information requested by the Union. We agree with the General Counsel that the requested information was relevant and necessary to the Union's representational duties. Contrary to the judge, therefore, we find that by refusing to provide the information, the Respondent has violated Section 8(a)(5) and (1) of the Act.

The material facts are as follows. The Union sent a letter to the Respondent on March 25, 1991, requesting information about the Respondent's subcontracting or transferring work from the North Hollywood plant to its Juniper Street facility. The Union reminded the Respondent that ''such transfers concern terms and conditions of employment upon which [the Respondent] had a duty to negotiate,'' and requested a list of all jobs transferred to Juniper Street or any other location, the amount of production transferred, and the work hours lost to the bargaining unit as a result of the transfers.

The Respondent's counsel, by letter of April 1, refused to supply the information because:

> (1) it is no more than a thinly disguised attempt to obtain discovery relative to the pending [unfair labor practice] charges; and (2) in view of the RD Petition filed by our . . . employees, the Employer has a good faith doubt that your client represents a majority of employees in an appropriate bargaining unit.

The judge correctly found that the filing of a decertification petition, alone, is insufficient to establish a basis for a good-faith doubt of a union's majority status. He found merit, however, to the Respondent's second reason for denying the Union's information request. The judge found that:

> [O]n March 22, 1991, just three days prior to the request for information, the Union filed the charge in Case 31–CA–18736, alleging, *inter alia* . . . layoffs of three employees. Although the Union would customarily be entitled to such necessary and relevant bargaining information regarding the contracting out or transferring of unit work outside the unit [footnote omitted] the requested information may also be relevant and supportive of the aforementioned charge. . . . Under such circumstances I find that the Respondent was privileged to withhold such information from the Union.

We agree with the judge that the requested information is necessary and relevant to the Union's duties as the exclusive representative of the unit employees. We do not agree with the judge's conclusion that the existence of the unfair labor practice charges pending here privileged the Respondent's refusal to comply with the Union's information request.

The Union's charges and the resulting complaint in Case 31–CA–18736 did not allege that the Respondent unlawfully subcontracted or transferred unit work, either as an independent violation or in conjunction with the layoffs or any other specific allegation. Further, the Respondent did not present persuasive evidence at the hearing linking any of the allegations in that case to

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir 1951). We have carefully examined the record and find no basis for reversing the findings.

The Respondent also excepted to the judge's decision, asserting that it evidences bias and prejudice. On our full consideration of the entire record in these proceedings, we find no evidence that the judge prejudged the case, made prejudicial rulings, or demonstrated bias against the Respondent in his analysis and discussion of the evidence.

[2] In adopting the judge's finding that the Respondent did not bargain in good faith with an intention of reaching agreement on a collective-bargaining agreement and the recommended bargaining order, we also grant the General Counsel's request that the Respondent be ordered to restore the status quo ante until the parties bargain to agreement or reach impasse. Member Raudabaugh does not agree with the judge to the extent that the judge holds that an employer violates Sec. 8(a)(1) if it expresses opposition to a union in an effort to persuade an employee not to join that Union. See JD at section III,C, par. 5.

the outsourcing of unit work on which the Union's March 25 request for information was based. Thus, any connection between the Union's information request and the allegations of the unfair labor practice charges is speculative. We find, therefore, that the Respondent was not privileged to withhold the information.

To the extent that the judge reads *Union-Tribune Publishing Co*., 307 NLRB 25, 26 (1992), and *WXON-TV*, 289 NLRB 615, 617–618 (1988), to privilege the withholding of any information which ''may also be relevant and supportive'' of an unfair labor practice charge, we think the judge has misapplied those cases. Those cases do not state a general rule that information with even a speculative connection to unfair labor practice charges—or as the judge held here, information which *may* also be relevant—can lawfully be withheld. Moreover, the cases are factually distinguishable from the case before us.

In this case, the Union requested information having no apparent connection to any pending unfair labor practice allegation; and its request remained outstanding for 2 months before the Union amended its charges to allege this additional matter. In contrast, in *WXON-TV* the Board found that an employer did not violate the Act by refusing to respond to an information request which raised virtually identical matters to those alleged as unfair labor practices in charges filed by the union 1 day after it made the request. The Board concluded that the union there had elected to pursue resolution of the matter through Board proceedings rather than through the collective-bargaining process. Similarly, in *Union-Tribune* the issue before the Board was whether it was proper to infer an employer's unlawful motive for a suspension and discharge in violation of Section 8(a)(3) from its refusal to provide the discriminatee with information relevant to her suspension and discharge. Citing *WXON-TV*, the Board upheld the judge's finding the suspension and discharge unlawful, but did not rely on the employer's withholding information because the request amounted to an impermissible attempt to obtain prehearing discovery.

As we have found the information necessary and relevant, and have rejected the judge's finding of privilege, we find that the Respondent violated the Act by withholding information requested by the Union on March 25.

ORDER

The National Labor Relations Board adopts the recommended order of the administrative law judge as modified below and orders that the Respondent, Western Summit Flexible Packaging, Inc., North Hollywood, California, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

1. Insert the following as paragraph 1(e) and renumber the remaining paragraphs.

''(e) Refusing to provide information about subcontracting or transferring unit work, which is necessary and relevant to the Union's duties as the exclusive representative of the unit employees.''

2. Insert the following as paragraphs 2(b) and (c) and renumber the remaining paragraphs.

''(b) On request, provide the Union with the requested information about subcontracting or transferring unit work, which is necessary and relevant to the Union's duties as the exclusive representative of the unit employees.

''(c) Restore the wages, hours, and other terms and conditions of employment to the conditions that existed before the Respondent unlawfully refused to bargain in good faith with the Union.''

3. Substitute the attached notice for that of the administrative law judge.

APPENDIX

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

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

> To organize
>
> To form, join, or assist any union
>
> To bargain collectively through representatives of their own choice
>
> To act together for other mutual aid or protection
>
> To choose not to engage in any of these protected concerted activities.

Graphic Communications Union, District Council No. 2, Local 388M is the collective-bargaining representative of our employees in the following unit:

> All production, warehouse, shipping and maintenance employees employed by Western Summit Flexible Packaging, Inc., at its North Hollywood, California facility, excluding all other employees, guards and supervisors, as defined in the Act.

WE WILL NOT interrogate employees about their union membership or activities.

WE WILL NOT cause or attempt to cause employees to refrain from joining or supporting the Union.

WE WILL NOT make unilateral changes in terms and conditions of employment.

WE WILL NOT refuse to process grievances.

WE WILL NOT refuse to provide the Union on requests relevant information about subcontracting or transferring unit work outside the unit.

WE WILL NOT refuse to bargain collectively with the Union as the exclusive representative of our employees in the unit described above.

WE WILL NOT, during bargaining, make and adhere to proposals seeking to reserve to ourselves the right to control employees' terms and conditions of employment in a manner that defeats the Union's ability to represent the unit employees.

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

WE WILL, on request, provide the Union with the requested relevant information about subcontracting or transferring unit work outside the unit.

WE WILL restore the wages, hours, and other terms and conditions of employment that existed before the Respondent unlawfully refused to bargain in good faith with the Union and WE WILL bargain collectively in good faith with the Union until agreement or lawful impasse is reached and, if an understanding is reached, embody the understanding in a signed, written agreement.

WESTERN SUMMIT FLEXIBLE PACKAGING, INC.

Ann Weinman, Esq., for the General Counsel.
Norman H. Kirshman, Esq. and *Francis I. Lynch, Esq., (Kirshman & Harris)*, of Las Vegas, Nevada, for the Respondent.

DECISION

STATEMENT OF THE CASE

GERALD A. WACKNOV, Administrative Law Judge. Pursuant to notice, a hearing in this matter was held before me in Los Angeles, California, on November 6 and 7, 1991. The charges were filed by Graphic Communications Union, District Council No. 2, affiliated with Graphic Communications International Union, and Graphic Communications Union, District Council No. 2, Local 388M, affiliated with Graphic Communications International Union (jointly called the Union), on various dates between February 6, 1990, and August 23, 1991. Thereafter, the Regional Director for Region 31 of the National Labor Relations Board (the Board) issued various complaints and amended complaints, and the final consolidated complaint was issued on September 16, 1991. The complaint and notice of hearing alleges violations by Western Summit Flexible Packaging, Inc. (the Respondent), of Section 8(a)(1), (3), and (5) of the National Labor Relations Act (the Act). The Respondent's answer to the complaint, duly filed, denies the commission of any unfair labor practices. Following the opening of the hearing the parties entered into a settlement agreement in settlement of the Section 8(a)(3) allegations of the complaint, and those allegations were withdrawn.

The parties were afforded a full opportunity to be heard, to call, examine, and cross-examine witnesses, and to introduce relevant evidence. Since the close of the hearing, briefs have been received from counsel for the General Counsel and counsel for the Respondent.

On the entire record,[1] and based on my observation of the witnesses and consideration of the briefs submitted, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent is a California corporation with its principal office and facility located in North Hollywood, California, where it is engaged in the business of printing flexible packaging materials. In the course and conduct of its business operations the Respondent annually sells and ships goods and services valued in excess of $50,000 directly to customers located outside the State of California, and annually purchases and receives goods and materials valued in excess of $50,000 directly from suppliers located outside the State of California.

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

II. THE LABOR ORGANIZATION INVOLVED

It is admitted, and I find, that the above-named Union is, and has been at all times material, a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The Issues*

The principal issue raised by the pleadings is whether the Respondent has violated Section 8(a)(5) and (1) of the Act by failing and refusing to bargain in good faith with the Union regarding the terms and conditions of an initial collective-bargaining agreement.

B. *The Facts*

1. Bargaining: proposals and negotiations

The Union and the Respondent's predecessor, Kleerpak Manufacturing Company, had been parties to a succession of collective-bargaining agreements for some 30 years. The most recent contract extended from June 1, 1986, to May 31, 1989. On February 13, 1989, the Respondent purchased the assets of Kleerpak after it defaulted on a bank loan. The Respondent hired all of the approximately 35 employees of Kleerpak, and commenced to engage in the same business operations as had Kleerpak, at the same location, selling the same goods, and providing services to substantially the same customers. Thereby the Respondent continued as the employing entity, and became a successor of Kleerpak. It extended

[1] The Respondent's posthearing motion to substitute the dismissal documents in Case 31–CA–18331 for a different exhibit which was received in evidence as R. Exh. 10 (R10) is hereby granted. R10 now consists of the aforementioned dismissal documents in Case 31–CA–18311.

recognition to the Union, and negotiations for an initial agreement between the Respondent and the Union commenced on May 18, 1989.

Six negotiating sessions were held between the dates of May 18 and July 28, 1989. On July 31, 1989, the Respondent sent the Union its ''Last, Best and Final Proposal,'' which incorporated all items that had been agreed on to that point in negotiations. A further meeting with a mediator from the Federal Mediation and Conciliation Service (FMCS), during which no face-to-face negotiations between the parties took place, was held on October 5, 1989. No further progress was made as a result of that meeting. On October 27, 1989, the Respondent sent the following letter to the Union:

> In view of the negotiating history between the parties it is clear that we are at an impasse. Both sides have shown intransigence on critical issues including, but not limited to, at-will employment, union security and dues checkoff.
>
> Therefore, we are not prepared to meet further unless you can assure me that you are prepared to make significant movement from your position.

The parties, to that point in bargaining, had tentatively agreed on the following contract articles: the preamble, specifying the names of the parties; recognition, setting forth the appropriate unit; Government laws and regulations, stating that nothing in the agreement shall be construed as interfering with the obligations of the parties to comply with all applicable governmental laws, rules, and regulations; nondiscrimination, providing that neither the Respondent nor the Union will discriminate in any manner against any employee because of race, color, creed, marital status, sex, age, national origin, or union activity; bulletin board, providing that the Respondent shall provide a bulletin board for the use of authorized union representatives to post bulletins which must first be approved by the Respondent; separability, providing that each and every clause of the agreement shall be deemed separable from each and every other clause, and that the invalidity of one clause or part of one clause shall not invalidate the remainder of the clause or any other part of the agreement; and sole and entire agreement, providing that the agreement constitutes the sole, entire, and existing agreement between the parties.

Portions of other articles were tentatively agreed to; however, various areas of disagreement within such articles precluded agreement upon the entire article.

Among the significant proposals of the Respondent not agreed to were the following: that supervisors be permitted to perform bargaining unit work in the ratio of 1 supervisor to each 10 unit employees; a broad management-rights clause, giving management, inter alia, the exclusive discretionary right to establish or change shifts and work schedules, to establish, change, combine or eliminate jobs, positions, job classifications and descriptions, to establish or change incentive or bonus compensation, and to contract or subcontract any work; a no-strike or lockout provision which places the burden of proof on the Union, in the event of arbitration, to prove that the Union has taken all reasonable steps and has used its best efforts to terminate strikes, picketing, sympathy strikes, or work stoppages of any kind; a seniority clause stating that seniority shall prevail for layoffs and recall to the extent that, in the opinion of the Respondent, the employees' qualifications and ability to perform the required work are equal; an employment-at-will clause, providing that the Respondent may terminate the employment relationship at any time, with or without cause; reduced vacation and holiday benefits; a maximum of 3 days' pay per year for jury duty; a clause permitting the Respondent to change insurance plans or insurance carriers at any time provided the coverages shall not fall below the current coverage provided by the union health and welfare fund insurance; a provision limiting union access to the plant by permitting union visitation only at ''a place to be designated'' and only during nonworking hours; a grievance and arbitration provision which contains no formalized steps or procedure for the adjustment of grievances and which requires that the grievance must be raised within 5 days after the dispute ''occurred or began to exist''; a two-tiered wage system which provides for reduced starting hourly wages and increased number of service years before a new employee can reach the top of his or her pay scale; and no union-security or dues-checkoff provision.

While no agreement on the proposed wage or vacation articles was reached, it was agreed that the Respondent would not reduce the wages or vacation time of the current employees during the life of the agreement, even though the Respondent had proposed reduced starting hourly wages and increased years of service before reaching the top of the pay scale for new employees hired after the effective date of the contract. Initially the Respondent proposed no wage increase for the first year of the contract, a 2-percent increase for the second year, and a 2-percent increase for the third year. However, the Respondent retracted this proposal, and proposed no increase for the first year and a wage reopener for the second and third years of the agreement.

There was a lengthy hiatus between the first set of negotiations and the commencement of the second set of negotiations. As stated above, the first set of negotiations extended from May 18 to July 28, 1989; and the Respondent declared an impasse on October 27, 1989, several weeks after the unproductive October 5, 1989 meeting with the FMCS mediator. Thereafter the Union filed various charges against the Respondent. According to the representation made by the Respondent's counsel at the hearing, the Regional Office specified three areas which were deemed to be indicative of bad-faith bargaining. The Respondent made an economic decision to go back to the bargaining table rather than litigate the matter, and the next negotiating session occurred on November 1, 1990, some 16 months after the first set of negotiations had broken down.

The Respondent made some modifications to its prior proposal of July 31, 1989. It modified certain nonsubstantive language in its management-rights and grievance and arbitration proposals; deleted certain language in the no-strike clause which deletion apparently permitted strikes in certain circumstances; permitted union access to the Respondent's facility during working hours, while still limiting such access to ''a place to be designated'' by Respondent; and added a dues-checkoff clause but continued to oppose a union-security clause.

At the November 1, 1990 bargaining session, the Respondent distributed its new proposal. The Union noted that there was no union-security clause. The Respondent replied that:[2]

> We are not prepared to agree to an arrangement where an employee is required to join the union. We don't want to be in the position of saying you have to join the union or there is no job. We need flexibility.

After further bargaining on other proposals, the Union stated that union security was critical, that ''Union security is a policy with us. We must have full Union Security.''

The next bargaining session was held on December 26, 1990. The Union stated that the current pay scale was the same pay scale that had been in effect since June 1988, and that the employees had not had a raise since that time. The Respondent had proposed no wage increase in its latest proposal, and stated:

> The amount being paid is substantial. It is actually more than is required to attract and retain qualified people to do the job. It is a healthy amount. There is a reason for the two tiered system. It kept the caps but stretched the time. . . . We believe this is enough to keep the people we need.

Wages were again discussed at the next negotiating session on January 21, 1991. The Respondent returned to its original wage proposal and offered a 2-percent wage increase for the second year, and an additional 2-percent increase for the third year of a proposed 3-year contract, stating, ''We have given this proposal a lot of consideration. This is the best we're prepared to do.''

At the final bargaining session on February 12, 1991, the Respondent's proposals were reviewed. Regarding the Respondent's employment-at-will provision, the Union stated that ''We can't agree to 'at will' language. We should have a 'cause' standard.'' The Respondent explained that, for example, given an instance of theft, the burden on the Respondent imposed by the arbitrator may be so high as to preclude the Respondent from proving theft. The Union stated ''There is no way we can agree to an At Will Clause under a labor contract . . . we need a just cause standard.''

Regarding a grievance procedure, the Union suggested a one- or two-step process so that there would be an opportunity for the grievance to be resolved prior to arbitration. The Respondent stated that grievances would be discussed and most would be resolved between the parties, but the Respondent did not want a structured process.

By letter dated February 15, 1991, the Respondent stated that it had repeatedly advised the Union that the Respondent's proposal of January 21, 1991 was its last, best, and final offer. The letter states:

> At our meeting on February 12, 1991 you did not accept the company's proposal. Rather, you proposed changes to most of the articles contained in the January 21, 1991 last, best and final proposal. Unless you accept the contract proposal within five business days of the date of this letter, the company reserves the right to implement some or all of the terms of that proposal.

The Union replied by letter dated February 26, 1991, stating than no impasse had been reached. The letter states:

> During the session of February 12, 1991 the Union made significant modifications to its proposals relative to wages and benefits and presented eminently reasonable counter-proposals to Company proposals encompassing seniority, grievance procedure and health insurance. Conversely, you have steadfastly refused to modify your proposals in any fashion during the past few sessions, extending the pattern that has existed since June, 1989 at least with respect to significant and/or meaningful modification.
>
> It has become apparent that you, on behalf of Western Summit, have been bargaining in bad faith, so as to preclude any possibility to achieve a fair collective-bargaining agreement. This conclusion is buttressed by your feeble attempts to reach impasse on a proposal that would be repugnant to any labor organization.
>
> The Union reiterates the demand that the parties resume negotiations in the hopes of securing a contract that both can live with, as the NLRB has already admonished you to do.

On March 7, 1991, the Respondent advised the Union that, ''Contrary to your conclusion, we *have* reached an impasse. In view of the impasse and the union's failure to accept the company's last, best and final proposal, further meetings would serve no useful purpose.''

On March 21, 1991, a decertification petition (Case 31–RD–1225) was filed with the Board by one of the Respondent's employees.

On March 25, 1991, the Union replied to the Respondent's foregoing March 7, 1991 letter. The Union disagreed that an impasse had been reached, accused the Respondent of failing to bargain in good faith, and requested certain information. In this latter regard, the Union states:

> There is an additional matter of concern to the Union. Apparently, [the Respondent] has been subcontracting or transferring work to its facility on Juniper Street. Any such transfers concern terms and conditions of employment upon which your client had a duty to negotiate with the Union. *Fiberboard Paper Products Corp. v. N.L.R.B.*, 379 U.S. 203 (1964).
>
> We demand a list of all jobs transferred to Juniper street and to any other location since [the Respondent] acquired the North Hollywood facility. This list must contain information sufficient to identify all transferred jobs, estimate the amount of production transferred, and determine the work hours lost to the bargaining unit as a result of the unlawful transfers. Of course, any jobs so transferred and still ongoing, must be returned to the bargaining unit immediately.

The Respondent replied by letter dated April 1, 1991, as follows:

> The demand for information is rejected because, (1) it is no more than a thinly disguised attempt to obtain

[2] The Respondent's notes of the bargaining sessions are complete and provide some detail regarding what was said by the parties during negotiations.

discovery relative to the pending charges; and (2) in view of the RD Petition filed by our client's employees, the Employer has a good faith doubt that your client represents a majority of employes in an appropriate bargaining unit.

The demand to resume negotiations is rejected because (1) the Employer has a good faith doubt of your client's majority representative status, as noted above; and (2) the impasse referred to in previous letters from Michael Harris remains unbroken.

As the rights and obligations of our respective clients are now pending before the National Labor Relations Board, Western Summit Flexible Packaging will let the processes of the Board determine the outcome.

2. Owner Don Clark's conversations with employee Juan Perdomo

Juan Perdomo, a current employee of the Respondent, had previously worked as a plate mounter at another printing facility owned by the Respondent, and terminated his employment at that facility on August 31, 1990. Several months later he he called the Respondent's owner, Don Clark, about a job. He told Clark that he needed a job very badly and that he didn't have any money to rent an apartment. Clark said that work was slow and that there was no work for him at the time but, anticipating that business might pick up, he told Perdomo to come and see him.

Perdomo met with Clark on October 22, 1990. Perdomo testified that Clark commenced the conversation by stating that there were some problems with the Union and that he didn't have those problems at the other facility where the employees and management worked together like family. He said that he believed that only four or five guys were pushing the Union, and he named one of them. He said that in his opinion the Union was against the American way. He told Perdomo to keep the conversation confidential. Clark asked Perdomo how much he had made at the other facility, and said that he would do Perdomo a favor and hire him. Clark said that Perdomo's starting wage would be the same as what he had previously earned, as this is what the union contract permitted him to pay.

About a month later, Perdomo asked Clark if he would pay him holiday pay for Thanksgiving as he needed the money and understood that he was not yet eligible to receive holiday pay as he had not been employed for the required 60-day period in accordance with the expired Kleerpak contract. Clark told him that the union contract did not permit this, but that he was going to do him a favor and give him the money even though he was not supposed to. He told Perdomo to keep the matter confidential so that the shop steward and the guys from the Union would not make a big deal about it because he didn't want any headaches.

On several occasions thereafter Clark asked Perdomo if he had heard any rumors. On the second of these occasions Perdomo had asked Clark for a loan of $500, and apparently received it, and Clark again asked him about rumors. On the third occasion, in January 1991, Clark again asked about rumors and mentioned that somebody had thrown acid on his car at the plant. Perdomo said that he had heard no rumors, but added that he had heard that Clark was going to sign a contract with the Union. Clark replied, ''That's a lie. I'm not going to sign any contracts.'' Clark added that he was tired of the negotiations, that they bothered him, and that he wasn't going to put up with the Union anymore. Clark stated, according to Perdomo, ''And one of these days the Union is going to be gone or I going [sic] to be gone.''

On cross-examination Perdomo was asked whether Clark said, during the aforementioned conversation, that he was not going to sign ''the Union's contract,'' and Perdomo answered affirmatively. However, on redirect, Perdomo stated that Clark said, ''I'm not signing any contract with the Union.''

On or about March 7, 1991, Union Representative Bill Elkins was visiting the plant and meeting the employees. Chuck Vanole, a supervisor, had been assigned by the Respondent to escort Elkins through the plant. Another employee, in the presence of Supervisor Vanole, introduced Perdomo to Elkins as ''a Union member.'' Apparently on the following morning Clark called Perdomo over and asked him if he had joined the Union. Perdomo said yes. Clark asked him why he joined, and Perdomo said he wanted better wages and benefits. Clark said, ''But I told you that . . . if you ever needed anything, just to come to me. Why did you have to join the Union?'' Then Clark asked if Perdomo was forced to join the Union. Perdomo said no, and added that he had been told by the shop steward, Max Bedon, that if he wanted to get Kaiser insurance he had to become a union member. Clark said, ''Why, I guess you're going to be working for the Union now and the Union's going to pay your salary now.'' Then he asked Perdomo if he was willing to sign a statement to the effect that the Union had forced him to join. The following week Clark asked him if he had written the note or statement, and Perdomo said no. Clark said, ''Well, I guess . . . its not important to you.'' Perdomo said that it was not important, and Clark said that was all he wanted to know.

3. Unilateral changes; request for information; refusal to process grievances

Perdomo said that about a week after he was hired he noticed a job posting on the bulletin board for a plate mounter which is the job Perdomo was hired to perform. The Respondent stipulated that the posting occurred after Perdomo had been hired for the job. According to article IX: JOB POSTING of the expired Kleerpak contract, current employees were to be given the right to bid on jobs prior to the hiring of new employees to fill the position. The Respondent's proposal regarding job posting contains a similar requirement.

The complaint alleges that in about December 1990, the Respondent unilaterally removed the door to the men's locker room, and further, that in about February 1991, the Respondent ''installed a door that covered only partially the doorway to the locker room used by the employees.'' There is no record testimony and only brief record reference to these complaint allegations. According to the Respondent's counsel, there was a public telephone inside the door to the men's locker room. Management was concerned that employees were either abusing the privilege of using the phone or lingering in the locker room to avoid work. Therefore, the Respondent removed the door to the locker room and later replaced it with a half-door, so that the employees could be seen from the outside of the room. There is no evidence that

the Union requested bargaining or that the Respondent refused to bargain over this matter.

The complaint alleges that commencing in about January 1991, the Respondent refused to process six individual grievances filed by the Union on behalf of various employees. Regarding one of the grievances, the Respondent wrote to the Union on January 30, 1991, that:

> Western Summit recently received a written grievance from Jose Martinez. As you know, since there is no contract between the union and the company, the union has a right to strike. As a corollary, there is no obligation to engage in any grievance and arbitration procedure and the company declines to do so.
>
> We will, however, provide you with information concerning the events which are the subject of the grievance.

On February 4, 1991, the Respondent wrote to the Union as follows with regard to the matter of grievances:

> It should also be noted that there has never been a contract between the union and Western Summit Flexible Packaging. Therefore those parties have never agreed to grievance and arbitration. Finally, I don't believe that the expired agreement between the union and Kleerpak contemplated that the grievance and arbitration machinery would continue to apply after termination of the collective bargaining agreement.

At the hearing Respondent's counsel stipulated that the Respondent refused to formally process six grievances, and represented that the aforementioned letters set forth the Respondent's position very clearly, and that whether the Respondent was right or wrong in its position on this matter was a matter of law.

The complaint also alleges that in or about May 1991, the Respondent unilaterally implemented a new health insurance plan for unit employees. The Union and the Respondent's predecessor, Kleerpak, had agreed to health insurance coverage for unit employees through the Joint Employer and Union Printing Specialties Fund (Fund); also, however, it appears that the employees could opt for Kaiser heath coverage if they preferred.

The Respondent continued to make the monthly payments for its employees to the Printing Specialties Fund throughout the course of bargaining, during which time the parties engaged in bargaining about a contract provision permitting the Respondent to purchase health insurance from another source provided that the benefits remained the same as or more favorable than the benefits under the Printing Specialties Fund. The parties never agreed on such a provision, as they continued to disagree as to whether each specific item of coverage of any new plan must be equal to or better than the corresponding coverage of the Printing Specialties Fund plan, or whether, as the Respondent proposed, the new plan, as a whole, was an equal or superior plan than the Printing Specialties Fund plan.

On March 27, 1991, the attorney for the Printing Specialties Fund wrote a letter to the Respondent, with a copy to the Union, advising that the trustees of the Fund had taken action to terminate the Respondent's participation in the Fund because the Fund's provisions required that there be a written collective-bargaining agreement between the Union and the Respondent.

The Respondent replied to the Fund by letter dated April 9, 1991, that the parties were at impasse regarding the negotiation of a collective-bargaining agreement, and that a decertification petition had been filed with the Board by the Respondent's employees. Nevertheless, the Respondent offered to continue its contributions to the Fund pending final resolution of the refusal-to-bargain charges filed by the Union against the Respondent. By letter dated April 22, 1991, the Fund advised the Respondent and the Union that the Fund's position remained unchanged, and that health and welfare coverage under the Fund would terminate on May 31, 1991.

On April 24, 1991, the Union wrote to the Respondent requesting information about the new health plan ''[i]n the event Western Summit obtains alternative health coverage for employees, as we believe it is legally obligated to do if it is unable to make arrangements for continued participation in the Fund.''

By letter dated April 29, 1991, the Respondent replied as follows:

> Although, by virtue of [Case] 31–RD–1225, Western Summit does not believe it has any present legal obligation to provide you or your client with any information, or to maintain conditions of employment consistent with those set forth in the expired labor agreement, I will advise you, without prejudice to the Employer's rights, that efforts are underway to obtain a substitute health plan. I expect a more definitive statement from the Employer well in advance of the termination of coverage by the Fund. However, until such time as the Union's majority status can be reliably demonstrated to Western Summit, your requests for information have no legal basis and are therefore denied. As soon as a new health plan is secured, the Employer will advise its employees in an appropriate manner.

On July 11, 1991, the Union wrote to the Respondent noting that it had earlier, on April 24, 1991, requested ''specific information related to the health plan coverage obtained by Western Summit for its bargaining unit employees as successor coverage to the Printing Specialties Fund,'' and that it had been informed that the Respondent had obtained alternative coverage. It again requested the same information. The Respondent replied by letter dated July 16, 1991, in which it again maintained that it had no obligation to bargain with the Union, but nevertheless enclosed information regarding the CareAmerica 700 plan, the substitute health plan it had obtained for its employees.

C. *Analysis and Conclusions*

There is little need in this analysis to review the history of bargaining. From the outset of negotiations the Respondent has insisted on contract provisions which it knew were totally unacceptable to the Union and which, unless modified or deleted, would preclude agreement on the terms of a contract. Thus the Respondent, while insisting on a broad management-rights clause reserving to itself exclusive control over all conceivable terms and conditions of employment not specifically precluded by other contract language, and by refusing to agree to other language that would have the effect

of limiting such enumerated rights, severely hampered the Union's exercise of its duty to represent the employees.

In this regard, the Respondent, while proposing seniority and grievance and arbitration articles, has effectively negated the significance or effectiveness of either of these proposals with regard to layoffs, recalls, opportunity for advancement, or termination. Thus, it reserved to itself the absolute right to determine which employees would be laid off or recalled, regardless of their seniority, by insisting that the Respondent's ''opinion'' of the employees' ''qualifications and ability to perform work'' would govern. Similarly, with regard to job openings, the Respondent reserved to itself the ''absolute right to determine qualifications for such positions, notwithstanding any seniority provisions in this Agreement.'' Accordingly, by its insistence upon such absolute discretion in these highly significant areas, there is no effective contract machinery through which the Union could require the Respondent to adhere to the principle of seniority; arbitration, under the circumstances, would simply be a costly exercise in futility.

Further, and of overriding importance, part of the Respondent's seniority proposal includes the provision called ''employment at will,'' which permits the Respondent to terminate the employment relationship at any time, with or without cause. Here the Respondent reserves to itself the absolute discretion to terminate employees for any reason whatsoever, subject only to State and Federal prohibitions. Thus, the Respondent has steadfastly refused to include a just cause or fairness standard as a limitation of its authority and, simply stated, the employee's tenure is subject to the whim of the Respondent. Again, in this context, the arbitration machinery of the contract is of no value to the Union or the employees.

Whether or not the Respondent's proposals were advanced in good faith or were contrived, in violation of the Act, to preclude the reaching of any agreement, is a matter for the Board to determine upon reviewing all the surrounding circumstances. In this regard it is appropriate to examine the Respondent's conduct during the course of bargaining in order to ascertain whether its conduct is consistent with its bargaining obligation to make a sincere effort to accommodate interests of both the Respondent and the Union and reach agreement.

The credible record evidence shows, and I find, that the Respondent's owner, Don Clark, stated to then job applicant Juan Perdomo in late October, 1990, shortly before the resumption of negotiations on November 1, 1990, that Clark was aware of certain employees who were pushing the Union, that the Union was giving him problems which he did not have at his nonunion facility, and that the Union was against the American way. I find that such clear expressions of opposition to the Union and union supporters were designed to cause Perdomo to refrain from joining or supporting the Union, and that by such conduct the Respondent has violated Section 8(a)(1) of the Act. See *Danzansky-Goldberg Memorial Chapels*, 264 NLRB 840, 850 (1982).

During a subsequent conversation with Perdomo some 2 months later, in January 1991, while negotiations were ongoing, Clark questioned Perdomo about rumors and, in reply to Perdomo's statement that he had heard that Clark was going to sign a contract with the Union, told Perdomo that he did not intend to sign a contract with the Union, that he was tired of the negotiations and wasn't going to put up with the Union any longer, and that ''one of these days the Union is going to be gone or I [am] going to be gone.'' I find that Clark's various statements to Perdomo were coercive and in violation of Section 8(a)(1) of the Act, in that they had the reasonable effect of causing Perdomo to refrain from joining the Union or engaging in other Union activity. See *Warehouse Foods*, 223 NLRB 506, 508 (1976).

Finally, in early March 1991, shortly after the Respondent declared an impasse in negotiations, Clark was advised that Perdomo had joined the Union. Interestingly, Clark's knowledge of this fact came from a supervisor who, insofar as the record shows, observed and reported to Clark that Perdomo had been introduced as a union member to Union Representative Bill Elkins as Elkins was visiting the plant. Thereupon Clark summoned Perdomo, asked him if he had joined the Union, expressed his disapproval, and said that he, not the Union, was the person to come to if Perdomo needed anything. Having taken Perdomo into his confidence, and after giving him holiday pay to which he was not entitled, and loaning him money, Clark was clearly annoyed that Perdomo had aligned himself with the Union and stated that he guessed Perdomo was going to be working for the Union and the Union was going to be paying his salary. I find that by the foregoing conduct Clark interrogated Perdomo regarding his union activity, and again clearly conveyed his displeasure with Perdomo's decision to join the Union rather than come to him for anything he needed, in violation of Section 8(a)(1) of the Act. See *Johnston-Tomibigbee Furniture Co.*, 243 NLRB 116, 117 (1979).

In addition to finding that the foregoing conduct of the Respondent is violative of the Act, Clark's remarks provide some insight into the Respondent's motivation for the bargaining proposals it advanced. Taken at face value, Clark's remarks demonstrate that he harbored animus toward the Union and believed that it was an anti-American institution, that he had no intention of entering into a collective-bargaining agreement, and preferred that employees rely upon him, rather than the Union, for any benefits he might choose to confer.

The Respondent urges that it is important not to attach too much significance to a few isolated conversations between Clark and a single employee. While Clark's feelings and beliefs about the Union were not necessarily incompatible with agreement upon the terms of a contract, nevertheless Clark did not testify in this proceeding to offer his account of the content or context of his foregoing conversations with Perdomo, and the only record evidence before me shows that Clark took Perdomo into his confidence and told him just how he felt. It may reasonably be concluded, therefore, that Clark's general antipathy toward the Union as the collective-bargaining representative of the Respondent's employees was incorporated into and reflected by the Respondent's bargaining proposals.

Following the expiration of a contract the terms and conditions of the contract are to remain in effect, and the employer is required to adhere to such contractual provisions until a new agreement is reached or a legitimate impasse occurs. *Bay Area Sealers*, 251 NLRB 89 (1980), enfd. as modified sub nom. *Rayner v. NLRB*, 665 F.2d 970 (9th Cir. 1982); *Beitler-McKee Optical Co.*, 287 NLRB 1311 (1988). The Respondent herein, as a successor employer, is subject

to the same constraints, and may not unilaterally change such terms and conditions of employment. See *Howard Johnson Co.*, 198 NLRB 763 (1972); *Good Foods Mfg. & Processing Corp.*, 200 NLRB 623 (1972); *E & G Florida, Inc.*, 279 NLRB 444, 450 (1986).

The complaint alleges that the Respondent violated Section 8(a)(5) of the Act by failing and refusing to adhere to the provision of the expired Kleerpak contract regarding job posting. This provision requires that the Company post a notice on the bulletin board for 3 consecutive days when a permanent job opening occurs, and that during such period current employees may request the job by written application; further, the Company may fill the job in any manner which it desires only if there are no written applications. Similarly, the Respondent's job posting proposal which it advanced during the course of bargaining, contains provisions for a 3-day posting period during which current employees may apply for the position.

The Respondent admits that it hired Perdomo for a permanent position in October 1990, and did not post the job opening in accordance with either the provisions in the Kleerpak agreement or its own job-posting proposal. Accordingly, I find that the Respondent's failure to continue to adhere to the job posting provision of the expired Kleerpak contract constitutes a unilateral change in a material and significant term and condition of employment, and is violative of Section 8(a)(5) of the Act.

Similarly, the expired Kleerpak contract contains a grievance and arbitration clause providing for a multistep grievance procedure. In January 1991, the Union presented six separate grievances to the Respondent from six different employees, and sought to resolve the grievances during the course of bargaining. In response, the Respondent, although furnishing the Union some information regarding one of the grievances, simply refused to engage in any grievance and arbitration procedure, asserting that it had no legal obligation to do so in the absence of a signed agreement. In this regard, it apparently takes the position that as a successor employer it was never a party to a negotiated grievance and arbitration procedure, and that therefore such procedures do not survive the expired contract.[3] While, with some exceptions, the Respondent is correct that an employer may have no duty to arbitrate grievances arising after the expiration of a contract,[4] as noted above a successor employer has the same bargaining obligations as its predecessor. Thus, the Respondent's obligation to process grievances continued on the expiration of the Kleerpak contract. *Indiana & Michigan Electric Co.*, 284 NLRB 53 (1987); *Hilton-Davis Chemical Co.*, 185 NLRB 241 (1970); *Columbia Portland Cement Co.*, 294 NLRB 410 (1989). I find that by refusing to process such grievances, the Respondent has violated and is violating Section 8(a)(5) of the Act, as alleged.[5]

Regarding the Union's additional March 25, 1991 request for information, the Respondent refused to provide information regarding the transferring of work to another facility on the basis that this request constituted an attempt to obtain discovery relative to the charges which the Union had filed against the Respondent, and, moreover, that the filling of the decertification petition provided the Respondent with a good-faith doubt that the Union continued to remain the majority representative of the unit employees.

While the filing of a decertification petition, alone, is insufficient reason for an employer to doubt the majority status of a union,[6] I find merit to the Respondent's additional reason for its refusal to furnish the requested information. Thus, on March 22, 1991, just 3 days prior to the request for information, the Union filed the charge in Case 31–CA–18736 against the Respondent, alleging, inter alia, violations of Section 8(a)(3), (5), and (1) of the Act regarding the layoffs of three employees. Although the Union would customarily be entitled to such necessary and relevant bargaining information regarding the contracting out or transferring of unit work outside the unit,[7] the requested information may also be relevant and supportive of the aforementioned charge filed by the Union against the Respondent. Under such circumstances I find that the Respondent was privileged to withhold such information from the Union. *Union-Tribune Publishing Co.*, 307 NLRB 25, 26 (1992); *WXON-TV*, 289 NLRB 615, 617, 618 (1988).

I do not find that the Respondent violated the Act by obtaining a new health insurance plan without bargaining with the Union. Both the Respondent and the Union had been advised that the prior Printing Specialties Fund health plan would terminate on May 31, 1991. On April 24, 1991, the Union wrote to the Respondent requesting information about a new health plan ''[i]n the event Western Summit obtains alternative health coverage for employees, as we believe it is legally obligated to do if it is unable to make arrangements for continued participation in the Fund.'' By such letter, I find, the Union effectively waived its right to bargain about a replacement health plan and permitted the Respondent to unilaterally obtain such a plan. The General Counsel maintains that it would have been futile for the Union to request bargaining over this matter, as the Respondent had previously declared an impasse in negotiations and had refused to bargain further. I do not agree, because the Union's aforementioned letter does, in fact, request further bargaining about other matters despite the declared impasse. It appears that because of the urgency of the situation, the Union was willing to forgo bargaining in this area, and so advised the Respondent, in order to enable the Respondent to obtain alternate health coverage as expeditiously as possible.

[3] However, it should be noted that during or prior to October, 1989, the Respondent and Union had apparently processed two separate grievances through the first two steps of the three-step grievance procedure established by the terms of the expired Kleerpak agreement. By letter dated October 27, 1989, in which letter the Respondent asserted that the parties had reached an impasse in negotiations, the Respondent nevertheless agreed to continue with step 3 of the grievance procedure.

[4] See *American Gypsum Co.*, 285 NLRB 100 (1987).

[5] The complaint contains no allegation that the Respondent refused to arbitrate grievances, and the General Counsel has not moved that the complaint be amended to include such an allegation. Accordingly, I shall disregard the argument in the General Counsel's brief regarding this apparently belated contention.

[6] *Dresser Industries*, 264 NLRB 1088 (1982); *Beitler-McKee Optical Co.*, supra.

[7] See *Wallace Metal Products*, 244 NLRB 41 (1979); *Markle Mfg. Co.*, 239 NLRB 1142 (1979).

I find that the Respondent did not violate the Act by unilaterally removing a locker room door and installing a half door in its place. While the Respondent apparently made the change in order to be able to observe who was perhaps abusing telephone privileges, or who was lingering in the locker room, no adverse effect on employees has been demonstrated. Further, the ''Management Responsibilities'' clause of the expired Kleerpak agreement gives management the right to ''maintain discipline and efficiency of employees,'' and there is no record history of past practice showing that the Union, under the Kleerpak agreement, retained the right to bargain about such or similar physical changes to the facility. Cf. *Murphy Oil USA*, 286 NLRB 1039 (1987).

Regarding the matter of the Respondent's alleged refusal to permit Union Steward Max Bedon to post a copy of the Union's NLRB charge against the Respondent on the bulletin board, the expired Kleerpak agreement provides that the Union may post ''officially signed Union bulletins approved by the Management.'' Whether such language entitles the Respondent to disapprove the posting of Board charges against it is not clear, and there is no showing that this provision was liberally construed to permit any type of posting. In addition, the General Counsel did not present evidence bearing on this issue during her case in chief. I shall therefore dismiss this allegation of the complaint.

It is beyond doubt, and I find, that the Respondent was aware that a broad range of its bargaining proposals which reserved to itself the unfettered right to unilaterally do as it saw fit in areas of critical concern to the unit employees, and which provided the Union with virtually no authority to effectively grieve or arbitrate such matters, were clearly repugnant and antithetical to the Union's responsibilities as the employees' collective-bargaining representative, and that continued insistence upon such provisions provided the Respondent with the absolute assurance that no agreement would be reached. Further, as noted above, the Respondent's owner harbored a fundamental animus toward the Union, believing that such institutions are against the American way; and the Respondent's bargaining proposals, which give the Union little or no authority in areas fundamental to the customary representational rights of unions, appear to reflect this attitude.

During the course of bargaining, the Respondent engaged in conduct both inconsistent with its bargaining obligation and violative of Section 8(a)(1) of the Act, and clearly attempted to cause an employee, Juan Perdomo, to refrain from joining or supporting the Union while at the same time telling him that he should come directly to the Respondent for the conferral of benefits, rather than to the Union as his representative. That such conduct was limited to one employee and was not more pervasive is not significant under the circumstances, as the record shows that the Respondent was aware that all of its 35 employees, other than Perdomo, were union members; and, indeed, Clark became upset when he learned that Perdomo, too, had joined the Union.[8]

Finally, during the course of bargaining, the Respondent violated Section 8(a)(5) of the Act by failing to permit the current employees to bid upon a job opening prior to hiring a new employee for the job, and, more importantly, by refusing to process the grievances of six employees. Clearly, this wholesale refusal to process grievances is significant in that it was detrimental to the rights of a substantial percentage of the work force, and, moreover, demonstrated to the employees that the Union was ineffectual in representing their interests.

On the basis of the foregoing, on reviewing the Respondent's bargaining proposals, its general antiunion attitude, and the various instances of violative conduct which occurred during the course of bargaining, I conclude that the evidence establishes that the Respondent has not approached or engaged in bargaining with a good-faith intention of reaching agreement with the Union. Accordingly, I conclude that by such conduct specified above the Respondent has failed and refused to bargain in good faith in violation of Section 8(a)(5) of the Act, as alleged. *Reichhold Chemicals,* 288 NLRB 69 (1988); *Viking Connectors Co.*, 297 NLRB 95 (1989); *NLRB v. Mar-Len Cabinets*, 659 F.2d 995 (9th Cir. 1981).

CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. The Respondent has violated Section 8(a)(1) of the Act interrogating employees regarding their union membership or activity and by causing or attempting to cause them to refrain from supporting the Union.
4. The Respondent has violated Section 8(a)(5) and (1) of the Act by failing and refusing to bargain with the Union in good faith, by making unilateral changes in terms and conditions of employment, and by refusing to process grievances.

THE REMEDY

Having found that the Respondent has violated Section 8(a)(1) and (5) of the Act, I recommend that it be required to to cease and desist therefrom and from in any like or related manner interfering with, restraining, or coercing its employees in the exercise of their rights under Section 7 of the Act. Moreover, the Respondent shall be required to bargain with the Union, on request, and to post an appropriate notice, attached hereto as ''Appendix.''

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[9]

ORDER

The Respondent, Western Summit Flexible Packaging, Inc., North Hollywood, California, its officers, agents, successors, and assigns, shall

[8] There is record testimony by former Union Steward Max Bedon that he told employees that they were obliged to join the Union in order to obtain benefits or retain their jobs. The record does not show that Clark was aware of this representation by Bedon prior to the hearing herein. Clark did not become aware that Bedon may have made such a representation to Perdomo until after Clark persistently interrogated Perdomo regarding his reason for joining the Union, and after reminding Perdomo that, as Clark had previously told him, ''if you ever needed anything, just come to me.''

[9] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

1. Cease and desist from

(a) Interrogating employees regarding their union membership or activities.

(b) Causing employees to refrain from supporting the Union.

(c) Making unilateral changes in terms and conditions of employment.

(d) Refusing to process grievances.

(e) Proposing and rigidly adhering to contract language unreasonably retaining employer discretion over terms and conditions of employment, and thereby undermining the Union's ability to represent employees.

(f) In any manner engaging in surface bargaining or other collective bargaining not in good faith, without real intention of reaching a meaningful collective-bargaining agreement with Graphic Communications Union District Council No. 2, Local 388M, as the duly designated exclusive bargaining representative of its employees in the certified unit.

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

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

(a) Recognize the Union as the exclusive representative of employees in the following unit:

> All production, warehouse, shipping and maintenance employees employed by the Respondent at its North Hollywood, California, facility, excluding all other employees, guards and supervisors, as defined in the Act.

(b) Bargain, on request, with the Union as the collective-bargaining representative of its employees until such time as an agreement is concluded or the parties reach a lawful impasse.

(c) Post at the Respondent's North Hollywood, California facility copies of the attached notice marked ''Appendix.''[10] Copies of the notice, on forms provided by the Regional Director for Region 21, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the 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 this Order what steps the Respondent has taken to comply.

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[10] If this 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.''