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Union-Tribune Publishing Co., A Division of Copley Press, Inc. and Graphic Communications Conference, International Brotherhood of Teamsters, Local 423M, Graphic Communications International Union. Case 21–CA–37535

January 12, 2011

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS BECKER
AND HAYES

On September 9, 2008, the two sitting members of the Board issued a Decision and Order in this proceeding, which is reported at 353 NLRB 11.¹ Thereafter, the Charging Party filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S. Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained. Thereafter, the court of appeals remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.²

The Board has considered the judge's decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order to the extent and for the reasons stated in the decision reported at 353

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

² Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the remaining member who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board member not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.

NLRB 11 (2008),³ which is incorporated herein by reference, except as modified below.⁴

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified in 353 NLRB 11 and as further modified below, and orders that the Respondent, Union-Tribune Publishing Co., a division of Copley Press, Inc., San Diego, California, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

Substitute the following for paragraph 2(c).

“(c) Within 14 days after service by the Region, post at its San Diego, California facility, copies of the attached notice marked “Appendix.”³⁸ 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 and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at

³ The decision reported at 353 NLRB 11 affirmed the judge's application of *Anheuser-Busch, Inc.*, 351 NLRB 644 (2007), in denying reinstatement to discharged employees Michael Gurnett and Nathan Jennings. Then-Member Liebman observed that *Anheuser-Busch* was before the United States Court of Appeals for the District of Columbia Circuit on the Charging Party's petition for review. The court later denied the Charging Party's petition in an unpublished decision. See *Brewers & Maltsters Local 6 v. NLRB*, 303 Fed. Appx. 899 (D.C. Cir. 2008).

⁴ We shall modify the previous Order to provide for the posting of the notice in accord with *J. Picini Flooring*, 356 NLRB No. 9 (2010). For the reasons stated in his dissenting opinion in *J. Picini Flooring*, Member Hayes would not require electronic distribution of the notice.

DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 19, 2006.”

Dated, Washington, D.C. January 12, 2011

Wilma B. Liebman, Chairman

Craig Becker, Member

Brian E. Hayes, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD