**JD(ATL)–24–13**
**Jacksonville, FL**

**UNITED STATES OF AMERICA**
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**
**DIVISION OF JUDGES**
**ATLANTA BRANCH OFFICE**

**ANHEUSER-BUSCH, LLC**[1]

**and** **Case 12-CA-094114**

**MATTHEW C. BROWN, an Individual**[2]

**and**

**INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 947 AND INTERNATIONAL BROTHERHOOD OF TEAMSTERS, BREWERY AND SOFT DRINK WORKERS CONFERENCE, Parties in Interest**[3]

***Marinelly Maldonado, Esq.,*** for the Government.[4]
***Thomas Royall Smith, Esq.,*** for the Company.[5]
***Joseph Egan, Jr., Esq.,*** for the Union.
***Jeffery H. Klink, Esq.,*** for the Charging Party.

## DECISION

### Statement of the Case

**WILLIAM NELSON CATES, Administrative Law Judge**. This case involves a single allegation that the Company, on or about June 4, 2012, unilaterally and without notice to the Union and without affording the Union an opportunity to bargain about a particular change,

---

1 In an all party stipulation the name of the Respondent was amended to "Anheuser-Busch, LLC." The parties stipulated Anheuser-Busch, LLC is a successor to Anheuser-Busch, Inc.

2 I shall refer to the Charging Party as Brown and counsel for the Charging Party as counsel for Brown or counsel for the Charging Party.

3 I shall refer to the Parties in Interest as the Union and counsel for Local 947 as counsel for the Union Local 947.

4 I shall refer to counsel for the Acting General Counsel as counsel for the Government and the Acting General Counsel as the Government.

5 I shall refer to counsel for the Respondent as counsel for the Company and shall refer to the Respondent as the Company.

an alleged mandatory subject for bargaining, the Company violated Section 8(a)(5) and (1) of the National Labor Relations Act (the Act). I heard this case in trial in Jacksonville, Florida, on July 11, 2013. The case originates from a charge filed on December 3, 2012, by Matthew C. Brown, an individual. The prosecution of the case was formalized on March 29, 2013, when the Regional Director for Region 12 of the National Labor Relations Board (the Board), acting in the name of the Board's Acting General Counsel, issued a complaint and notice of hearing (the complaint), against Anheuser-Busch LLC. (the Company). The Company, in its answer to the complaint, and at trial, denies having violated the Act in any manner alleged in the complaint.

The parties were given full opportunity to participate, to introduce relevant evidence, to examine and cross-examine witnesses, and to file briefs. I carefully observed the demeanor of the witnesses as they testified and I rely on those observations here. I have studied the whole record, and based on the detailed findings and analysis below, I conclude and find the Company violated the Act essentially as alleged in the complaint.

## FINDINGS OF FACT

### I. Jurisdiction, Supervisory/Agency Status, and Labor Organization

The Company is a Missouri limited liability corporation, with an office and place of business in Jacksonville, Florida, where it has been, and continues to be, engaged in the manufacture, sale, and distribution of beer and related products. During the past year, a representative period, the Company sold and shipped from its Jacksonville, Florida facility goods and materials valued in excess of $50,000 directly to customers located outside the State of Florida. The parties stipulated, and I find, the Company is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

The parties stipulated, and I find, that since January 1, 2010, Senior People Director Susan Brueggemann has been an agent of the Company within the meaning of Section 2(13) of the Act. It is admitted, that at all times material here, Jacksonville Brewery People Manager Timothy Saggau has been a supervisor and agent of the Company within the meaning of Section 2(11) and (13) of the Act.

The parties stipulated, and I find, International Brotherhood of Teamsters Local 947 and International Brotherhood of Teamsters, Brewery and Soft Drink Workers Conference (jointly the Union), both are labor organizations within the meaning of Section 2(5) of the Act.

### II. Alleged Unfair Labor Practices

#### *A. Brief Background*

The issue here centers around the employment history of Brown at the Company, including his preemployment documents, his work and disciplinary history, and, his postemployment actions, including filings with the Equal Employment Opportunity Commission (EEOC) and in the United States District Court, Middle District of Florida, Jacksonville Division (District Court). It is necessary to set forth Brown's employment history even though the

validity of his suspension and termination is not before me, nor, is the correctness of his posttermination actions. The issue before me only relates to the alleged unilateral action by the Company and whether it gave notice and an opportunity to bargain to the Union.

It is admitted the following employees of the Company (the unit), constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All maintenance and production and utilities employees of the Company, including hourly rated employees at its Jacksonville, Florida brewery, excluding clerical employees, professional employees, guards, watchmen and supervisors as defined in the National Labor Relations Act.

Since, on or before, March 28, 1998, the Company recognized the Union as the exclusive collective-bargaining representative of the unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which, is effective by its terms from November 7, 2008, to February 28, 2014. At all times since, on or before, March 28, 1998, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

### *B. Facts*[6]

Since on or about April 1, 2004, until the present, the Company has maintained the Anheuser-Busch Dispute Resolution Program policy (DRP), at its Jacksonville, Florida facility, which states in relevant part:

> SPECIAL NOTICE TO EMPLOYEES
>
> THIS POLICY CONSTITUTES A BINDING AGREEMENT BETWEEN YOU AND THE COMPANY FOR THE RESOLUTION OF EMPLOYMENT DISPUTES
>
> By continuing your employment with Anheuser-Busch Companies, Inc. or any of its subsidiary companies ("Company"), you are agreeing as a condition of your employment to submit all covered claims to the Anheuser-Busch Dispute Resolution Program ("DRP"), to waive all rights to a trial before a jury on such claims, and to accept an arbitrator's decision as the final, binding, and exclusive determination of all covered claims.
>
> This program does not change the employment at-will relationship between you and the Company:
>
> GENERAL RULES

[6] The facts set forth are, for the most part, admitted or stipulated. I do not indicate such at each series of facts. It will be apparent on the one occasion where it is necessary for me to make credibility resolutions, that the facts are contested, and, I resolve them.

> COVERED EMPLOYEES
>
> The DRP applies to all salaried and non-union hourly employees of Anheuser-Busch Companies, Inc. or any of its U.S. subsidiaries. . . .

The practice, since April 1, 2004, has been that applicants for positions at the Company, both for nonbargaining and bargaining unit positions, agree to the same DRP application language set forth above.

Brown applied for employment with the Company as a weekend worker (Weekender), on June 16, 2004. The DRP language was in the employment forms completed by Brown and presented to the Company. Brown, however, did not receive a copy of the DRP at any time before or during his employment with the Company.

Brown was offered employment at the Company on September 20, 2004, as a Weekender, and, began working that position on September 25, 2004. Brown worked continuously as a Weekender from September 25, 2004, until May 20, 2005, when he became an apprentice I. Brown worked continuously, as an apprentice I, from May 20, 2005, until his termination on March 11, 2010. Brown's positions, as Weekender and apprentice I, are included in the bargaining unit described elsewhere here, and as such, Brown was in the bargaining unit during his entire employment at the Company.

The parties collective-bargaining agreement, contains, at article 8, a three-step grievance procedure culminating in final and binding arbitration before a multiplant grievance committee (the MPGC) consisting of two members each from the Company and the Union and a neutral member chosen by the MPGC from a list of neutrals provided by the American Arbitration Association.

On September 23, 2009, the Company suspended Brown for 4 weeks. On September 25, 2009, the Union filed a grievance claiming Brown's suspension was not for good cause. The grievance advanced through the various steps of the grievance process including the MPGC which, on December 9, 2009, denied Brown's suspension grievance. On December 7, 2009, Brown filed a charge with the Florida Commission of Human Relations alleging he was unlawfully suspended based on race.

As noted elsewhere here, the Company discharged Brown on March 11, 2010. On March 22, 2010, the Union filed a grievance claiming Brown's discharge was not for good cause. This grievance advanced to the MPGC level where, on May 3, 2010, the MPGC upheld Brown's discharge.

On March 30, 2010, Brown filed a charge with the Florida Commission of Human Relations alleging he was unlawfully discharged based on retaliation for filing the charge regarding his suspension with the Florida Commission of Human Relations on December 7, 2009.

On April 3, 2012, Brown filed a complaint against the Company in District Court alleging race discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964. On June 4, 2012, the Company, in response to Brown's complaint, filed a motion with the District Court to Dismiss or Stay and Compel Arbitration pursuant to the DRP in Brown's pre-employment application.

As of June 4, 2012, when the Company filed its motion with the District Court, Brown was a regular employee of Bacardi Rum.

Brown testified that after he received a Right to Sue letter from the EEOC he consulted an attorney who informed him of the Company's DRP program about which he became concerned. Brown testified he telephoned the Company's St Louis corporate headquarters, and after explaining to the receptionists he was a collective-bargaining employee and needed to speak with someone about the DRP program, his call was transferred to Senior People Director Brueggemann. Brown told Brueggemann he was a collective-bargaining employee who had just gone through the MPGC process, and lost, and wanted to know if the Company's DRP program applied to him. Brown testified Brueggemann replied: "[S]ince I had been through the grievance process, that the DRP did not apply to me because I was a collective bargaining employee."

Brown testified that a week after he filed his District Court lawsuit against the Company he again contacted Brueggemann. Brown again asked if the Company's DRP program applied to him and was again told it did not because he was a collective-bargaining unit employee.

Brueggemann testified she could not recall speaking with Brown and stated she believed if she had been called twice by Brown she would remember it. Brueggemann stated a collective-bargaining employee would not be covered by the DRP program but a former employee would be.[7]

Brown testified he was a member of the Union and served as a steward but did not know of the Company's DRP program[8] until he started exploring a lawsuit against the Company.

Brown stopped paying union dues around May 2010. The Union was not involved with, nor did anything for Brown, at the time he filed his District Court case, or when the Company filed its Motion to Compel on June 4, 2012. Brown was not aware of any labor dispute between the Company and the Union at the time the Company filed its Motion to Compel.

At no time did the Company give written notice of its intent to apply its DRP policy to bargaining unit employees. At no time did the Company offer to bargain, or bargain, with the Union regarding its DRP policy and/or the application of the DRP policy to bargaining unit employees.

---

[7] Brown impressed me he was testifying truthfully and without reservation. Brueggemann, on the other hand, impressed me as not being absolutely certain of her testimony. I credit Brown.

[8] Thirty-year employee and former union steward, trustee, and Vice President James Miller testified he was unaware of the Company's DRP program. International Brotherhood of Teamsters Secretary/Treasurer Larry Knouse testified he was unaware of the DRP program until July 2012 when he was contacted by Brown's attorney.

### *C. The Allegations, Discussions, and Conclusions*

It is alleged at paragraphs 8 and 9 of the complaint:

> (a) On June 4, 2012, Respondent filed a Motion to Dismiss or Stay and Compel Arbitration to the DRP, herein called Motion, in response to Matthew C. Brown's lawsuit described above. . ., notwithstanding that Brown was employed in the Unit and the DRP states that it applies to "salaried and non-union hourly employees," thereby changing the terms and conditions of employment of the Unit.
>
> (b) The subject described above in paragraph 8(a) relates to wages, hours, and other terms and conditions of employment of the Unit, and is a mandatory subject for the purposes of collective bargaining.
>
> (c) Respondent engaged in the conduct described above in paragraph 8(a) without prior notice to the Union and without affording the Union an opportunity to bargain with the Respondent.

It is alleged the Company's actions violate Section 8(a)(5) and (1) of the Act.

#### 1. The Government's position

The Government notes the facts are mostly undisputed and asserts the case primarily presents the legal issue of whether the Company violated Section 8(a)(5) and (1) of the Act by changing terms and conditions of employment of its bargaining unit employees, specifically by attempting, in Brown's District Court case, to apply its DRP policy to a bargaining unit employee without providing the Union notice and an opportunity to bargain. The Government points out that, at all times material, the Union represented, and continues to represent, hourly paid production and maintenance employees, of which Brown was one. Government counsel asserts the Company's DRP policy, in effect since 2004, is applicable only to nonunion and salaried employees. The Government notes the parties collective-bargaining agreement contains a grievance and arbitration procedure applicable to unit employees, including Brown, and further notes Brown utilized that grievance procedure both with respect to his suspension and discharge. The Government states the lawfulness of Brown's suspension and discharge are irrelevant to the issues here, but rather, contends that when, on June 4, 2012, the Company filed its Motion to Dismiss or Stay Brown's Title VII lawsuit and compel arbitration pursuant to the Company's DRP policy, the Company changed the terms and conditions of employment for unit employees, including Brown, without notice to or bargaining with the Union and as such violated Section 8(a)(5) and(1) of the Act. As part of any relief provided the Government simply seeks to have the Company withdraw that portion of its defense to Brown's District Court lawsuit that requests the District Court direct the matter be decided pursuant to the Company's DRP policy.

### 2. The Company's position.

The Company asserts that when Brown filed his District Court case in April 2012 he had not been an employee of the Company for approximately 2 years. The Company, more specifically argues, that when it filed its Motion to Dismiss or Compel arbitration in Brown's District Court lawsuit, its actions did not violate the Act because Brown was not, at that time, an employee of the Company. The Company does contends, however, Brown is subject to its DRP policy because before Brown was an employee of the Company, he admittedly, signed an application for employment form agreeing to be subject to the Company's DRP policy for dispute resolutions between he and the Company.

The Company contends Brown does not, under the circumstance here, meet the definition of an employee within the meaning of Section 2(3) of the Act. The Company notes Brown's suspension and discharge were both processed through the parties collective-bargaining grievance procedure, where his suspension and discharge were upheld. The Company also notes there was no labor dispute between it and the Union and that Brown never claimed he was fired in violation of the Act. The Company contends its DRP policy was established for situations just like Brown's, where at the time of the its actions regarding Brown's lawsuit, he was not an employee of the Company, nor, a member of the bargaining unit. The Company contends where an employee is discharged for just cause and does not involve a labor dispute, or an unfair labor practice, as the Company asserts was the case with Brown, the individual is no longer an employee within the meaning of the Act. The Company notes this case is not about the merits of its DRP policy, nor, is it a case about Brown being denied access to the Federal courts, but, rather whether the Company's actions related to Brown's District Court lawsuit violates the Act. Summarized and stated differently, the Company articulates the "sole issue" here as whether it violated Section 8(a)(1) and (5) of the Act by moving in Federal court to compel Brown to arbitrate his Federal litigation 2 years after his termination was upheld and at a time when he has no right or prospect of returning to the bargaining unit. Again further summarized, the Company asserts it did not violate Section 8(a)(5) of the Act because at the time Brown agreed to the Company's DRP policy and when the Company filed its motion to compel arbitration, Brown was not a member of the bargaining unit. The Company further argues that because Brown was not a bargaining unit member either before he was hired or after he was terminated, there was no obligation to bargain over the application of the DRP policy to him. The Company argues the issue of the DRP's application does not vitally affect terms and conditions of employment of unit employees and does not require it to bargain about it.

### 3. The *Noel Canning* issue

The Company asserted at trial and, reasserts in brief, the Board, and those who represent it, had no authority to prosecute this action pursuant to the reasoning in *Noel Canning v. NLRB*, 705 F.3d 490 (D.C. Cir. 2013), cert. granted 133 S.Ct. 2861, (2013) (No. 12-1281), and circuit courts reaching similar conclusions. In *Noel Canning,* the circuit court found the recess appointments of two Board Members (Block and Griffin) were unconstitutional and invalid leaving the Board without a quorum to fulfill its responsibilities under the Act. The Board , in part, does not accept the *Noel Canning* decision The Board explained its position on this point

in *Belgrove Post Acute Care Center* 359 NLRB No. 77, slip op. at 1 fn. 1 (2013), stating: "We recognize that the United States Court of Appeals for the District of Columbia Circuit has concluded that the President's recess appointments were not valid. . . . However, as the court itself acknowledged, its decision conflicts with rulings of at least three other courts of appeals…This question remains in litigation, and pending a definitive resolution, the Board is charged to fulfill its responsibilities under the Act."

Accordingly, I reject the Company's contention the Board lacks authority to proceed in this case.

### 4. The employee status of Brown

Inasmuch as the Company's defense to the unilateral action allegations rests on its contention Brown, at the time of the Company's actions here, was not an employee of the Company within the meaning of Section 2(3) of the Act; I address that issue first.

Section 2(3), in part, states:

> The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act [this subchapter] explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, . . . .

The Board historically has interpreted Section 2(3) of the Act to include "members of the working class generally." *Briggs Mfg. Co*., 75 NLRB 569, 570 (1947). The Supreme Court has consistently upheld the Board's broad interpretation noting the breath of Section 2(3) is "striking" and applies to any employee, except those explicitly excluded. Applicants for employment are statutory employees under Section 2(3), entitled to the Act's protection. *NLRB v. Town & Country Electric, Inc.,* 516 U.S. 85 (1995); see also *Phelps Dodge Corp. v. NLRB,* 313 U.S. 177 (1941). The Board in *Little Rock Crate & Basket Co*., 227 NLRB 1406 (1977), held that "Section 2(3) of the Act, as the Board has long held that term means, 'members of the working class generally,' including 'former employees of a particular employer'."

Guided by the principles set forth above, I find Brown, at all times here, was an employee of the Company within the meaning of Section 2(3) of the Act. Brown, as an applicant for employment with the Company, became an employee within the meaning of the Act when he filled out his application for employment. The DRP policy agreement Brown signed was part of his application for employment with the Company. It is without question Brown was an employee during the approximately 6 years he worked for the Company as a Weekender and apprentice I. Likewise, as a former employee, in the circumstances here, Brown remained a statutory employee of the Company. Brown has since September 2009 challenged his suspension, and later discharge, from the Company. A grievance was filed over Brown's suspension on September 25, 2009, claiming his suspension was not for just cause. Although Brown's suspension grievance was denied and he was thereafter discharged on March 11, 2010,

he continued to pursue his employment status through the parties "collective-bargaining agreement grievance procedure," as well as, with State and Federal agencies, including his action in District Court. Brown's discharge was upheld through the grievance procedure, but, he has continued to pursue his employment status. Brown's status is still being pursued in the District Court.

In these circumstances, Brown remains an employee of the Company even if he is labeled a former employee of the Company. The fact Brown no longer works on a daily basis at the Company is not controlling here.

Having found Brown, at applicable times, an employee within the meaning of the Act, I now considered the issue of the alleged unilateral action by the Company and whether it gave notice and an opportunity to bargain to the Union.

**5. The unilateral action**

Section 8(a)(5) and (d) of the Act requires an employer to bargain in good faith with the collective-bargaining representative of unit employees with respect to wages, hours, and other terms and conditions of employment. *NLRB v. Borg-Warner Corp.,* 356 U.S. 342, 349 (1958). It is well established an employer violates Section 8(a)(5) of the Act if it makes material changes during the course of a collective-bargaining relationship on matters that are mandatory subjects of bargaining. *NLRB v. Katz*, 369 U.S. 736 (1962). Simply stated the Government can establish a prima facie violation of Section 8(a)(5) of the Act if it shows an employer unilaterally made a material and substantial change in a term of employment without negotiating with the Union. The burden is on the employer to show, or demonstrate, the unilateral change was somehow permissible. The Board held in *Utility Vault Co.,* 345 NLRB 79 fn 2 (2005), that the implementation of a dispute resolution process which requires employees arbitrate claims involving their terms and conditions of employment constitutes a mandatory subject of bargaining.

Guided again by the principles set forth above, I find the Company, unilaterally and without notice to, and without affording the Union an opportunity to bargain, applied its DRP policy against Brown, a unit employee, notwithstanding the fact, its DRP policy, by its terms, only applied to "salaried and non-union hourly employees." The Company's actions violate Section 8(a)(5) of the Act.

It is undisputed Brown worked in the unit during his entire active employment at the Company. It is undisputed Brown has pursued the status of his employment with the Company from his suspension on September 23, 2009, until the present. It is undisputed the Company applied its DRP policy to Brown on June 4, 2012, when it filed its Motion to Dismiss or Stay and Compel Arbitration in response to Brown's April 3, 2012 District Court lawsuit regarding his suspension and discharge. It is undisputed the Company applied its DRP policy to Brown without notice to or affording the Union an opportunity to bargain.

As outlined above, the Government here established a prima facie violation of Section 8(a)(5) of the Act. The Company changed the terms and conditions of unit employees without

notice or bargaining. The establishment of a dispute resolution program, or, the unilateral application, or attempted application, of such a program for unit employees is a mandatory subject of bargaining because it requires employees to arbitrate terms and conditions of their employment, including suspension and discharge. The Company does not dispute it took the unilateral action.

The Company contends it did not have to bargain mainly because Brown was not an employee during his pre-employment application process and after he was terminated. I reject the Company's contention it had no obligation to bargain when it applied its DRP policy to Brown because Brown was not an "employee" within the meaning of the Act, at the time he agreed to be bound by the DRP policy or when the Company applied it to him. The Company's position Brown was not an employee at the application stage of his quest for employment with the Company is contrary to Board law. Brown was a unit employee his entire active employment and remains, under the circumstances here, an employee pursuant to Board precedent. Stated differently Brown was, and continues to be, an employee at all times applicable here, including when the Company filed its June 4, 2012 Motion with the District Court. Brown is still, at present, challenging his employment status in the District Court. The fact Brown has not worked at the Company, nor paid union dues, for the 2 years before he filed his District Court lawsuit does not compel a different result than I reach here. Nor does the fact Brown has, for some time, been fully employed at Bacardi Rum require a different result than I reach here. As an employee within the meaning of the Act, Brown is still a bargaining unit employee.

In summary, I find the Company violated Section 8(1)(1) and (5) of the Act when on June 4, 2012, it unilaterally applied its DRP policy (normally applicable to salaried and nonunion employees) to Brown, a bargaining unit employee, without notice to or affording the Union an opportunity to bargaining with respect thereto.

## CONCLUSIONS OF LAW

1. The Company, Anheuser-Busch, LLC., a successor to Anheuser-Busch, Inc., is an employer engaged in commerce with the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union, International Brotherhood of Teamsters Local 947 and International Brotherhood of Teamsters, Brewery and Soft Drink Workers Conference are, jointly and severably labor organizations within the meaning of Section 2(5) of the Act.

3. The Company, by filing a Motion to Dismiss or Stay and Compel Arbitration to its Dispute Resolution Program (DRP) in response to Matthew C. Brown's District Court lawsuit, changed the terms and conditions of its unit employees and violated Section 8(a)(5) and (1) of the Act.

## REMEDY

Having found the Company has engaged in certain unfair labor practices, I find it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the

policies of the Act. I recommend the Company be ordered to forthwith withdraw that portion of its defense in Brown's District Court lawsuit that seeks to have the District Court direct the matter be decided pursuant to the Company's DRP policy. I recommend the Company, upon request of the Union, bargain in good faith with the Union concerning the application of its DRP policy to unit employees. I also recommend the Company be ordered, within 14 days after service by the Region, to post an appropriate "Notice to Employees" in order that employees may be apprised of their rights under the Act, and the Company's obligation to remedy its unfair labor practices.

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

## ORDER

The Company, Anheuser-Busch, LLC., a successor to Anheuser-Busch, Inc., Jacksonville, Florida, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Requesting the District Court in Brown's Title VII lawsuit to have the matter before the District Court referred to and decided through the Company's DRP policy.

(b) Unilaterally changing terms and conditions of employment of unit employees by applying its DRP policy to unit employees.

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

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

(a) Forthwith withdraw that portion of its defense in Brown's District Court lawsuit that requests the District Court have the matter before it decided pursuant to the Company's DRP policy.

(b) Upon request of the Union bargain in good faith with the Union concerning the application of its DRP policy to unit employees.

(c) Within 14 days after service by the Region, post at its Jacksonville, Florida facility, copies of the notice marked "Appendix."[10] Copies of the notice, on forms

[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.

[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 the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

provided by the Regional Director for Region 12, after being signed by the Company's authorized representative, shall be posted by the Company 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 Company to ensure that the posted notices are not altered, defaced, or covered by any other material. In addition to the physical posting of paper notices, notices shall be distributed electronically, such as email, posting on an intranet or an internet site, or other electronic means, if the Company customarily communicates with its employees by such means. In the event that, during the pendency of these proceedings, the Company has gone out of business or closed the facility involved in these proceedings, the Company shall duplicate and mail, at its own expense, a copy of the notice to all current and former employees employed by the Company at any time since June 4, 2012.

Dated at Washington, D.C. September 10, 2013

**William Nelson Cates**
**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 Federal labor law and has ordered us to post and obey this notice.

**FEDERAL LAW GIVES YOU THE RIGHT TO**

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

**WE WILL NOT** do anything to prevent you from exercising the above rights.

**WE WILL NOT** unilaterally change terms and conditions of employment of unit employees by applying our Dispute Resolution Program policy to our unit employees.

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

**WE WILL** forthwith withdraw that portion of our defense in Matthew C. Brown's District Court lawsuit that requests the District Court have the matter before it decided pursuant to our Dispute Resolution Program policy.

**WE WILL** upon request of the Union bargain in good faith with the Union concerning the application of our DRP policy to Unit employees.

**ALL OUR EMPLOYEES** are free to become or remain, or refrain from becoming or remaining, members of any labor organization.

**ANHEUSER-BUSCH, LLC**
**(Employer)**

**Dated:** _____ **By:** _____
**(Representative)** **(Title)**

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak

confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

201 East Kennedy Boulevard, South Trust Plaza, Suite 530, Tampa, FL 33602-5824
(813) 228-2641, Hours: 8 a.m. to 4:30 p.m.

**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 ABOVE REGIONAL OFFICE'S
COMPLIANCE OFFICER, (813) 228-2455