

**Sturdevant Sheet Metal & Roofing Co., Inc., and Orion Trading Company, Inc., d/b/a Sturdevant Roofing Company and United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association, Local No. 174, AFL-CIO.** Case 28-CA-4433

September 19, 1978

DECISION AND ORDER

BY CHAIRMAN FANNING AND MEMBERS MURPHY  
AND TRUESDALE

On June 8, 1978, Administrative Law Judge Julius Cohn issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the General Counsel filed an answering brief.

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

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,<sup>1</sup> and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Sturdevant Sheet Metal & Roofing Co., Inc., and Orion Trading Company, Inc., d/b/a Sturdevant Roofing Company, Albuquerque, New Mexico, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, except that the attached notice is substituted for that of the Administrative Law Judge.

<sup>1</sup> Although we agree with the Administrative Law Judge that Respondent's unilateral implementation of wage proposals violated Sec. 8(a)(5) and (1) of the Act, we do not view Respondent's actions as motivated by bad faith. Rather, Respondent's implementation of the wage rates was apparently based upon a less than careful reading of the memorandum attached to the proposed wage rates sent by the Union to Respondent. But in any event, in situations such as that here before us involving unilateral changes in contractually established terms and conditions of employment, good or bad faith is not a relevant consideration.

APPENDIX

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

WE WILL NOT unilaterally, and without consultation with United Slate, Tile and Composi-

tion Roofers, Damp and Waterproof Workers Association, Local No. 174, AFL-CIO, institute or implement any changes with respect to the wage rates of our residential apprentice employees.

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

WE WILL bargain collectively, upon request, with United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association, Local 174, AFL-CIO, as the exclusive representative of the employees in the appropriate unit described below and embody any understanding reached in a signed agreement. The appropriate bargaining unit is:

All employees of Respondent engaged in the application of materials when used as roofs, whether it be slate, tile, composition, built up, hot or cold tar application and any materials used in lieu of, whether or not the materials are applied with mop, brush, swab, spray system, or rollers; any water proofing and damp resisting preparation in or outside of buildings and all damp course sheeting or coating on all foundation work.

WE WILL restore the status quo with respect to the changed wage rates of our residential apprentice employees.

WE WILL make whole our employees who may have suffered any loss of pay as result of our reducing wage rates of the residential apprentices, with interest.

STURDEVANT SHEET METAL & ROOFING CO.,  
INC., AND ORION TRADING COMPANY, INC.,  
D/B/A STURDEVANT ROOFING COMPANY

DECISION

STATEMENT OF THE CASE

JULIUS COHN, Administrative Law Judge: This case was heard at Albuquerque, New Mexico, on November 8 and 9, 1977. The charge in this proceeding was filed on July 11, 1977, by United Slate, Tile and Composition Roofers, Damp and Waterproof Workers' Association, Local No. 174, AFL-CIO, herein called the Union. Upon this charge, the Acting Regional Director for Region 28 issued a complaint on August 10, 1977, alleging that Sturdevant Sheet Metal & Roofing Co., Inc., d/b/a Sturdevant Roofing Company,<sup>1</sup> herein called SSMR, had unilaterally implemented wage proposals in violation of Section 8(a)(1) and (5) of the Act. SSMR filed an answer denying the commis-

<sup>1</sup> The title appears as amended at the hearing.

sion of unfair labor practices and also pleading that proper service had not been made.

At the hearing various motions were made by the General Counsel to amend and Respondent to dismiss, which will be hereinafter discussed.

#### Issues

1. Whether SSMR and Orion are *alter egos*.
2. Whether Respondent unilaterally placed into effect a wage proposal before an agreement or an impasse had been reached and thereby violated Section 8(a)(1) and (5) of the Act.

All parties were given full opportunity to participate, to produce relevant evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. The General Counsel, SSMR, and Orion filed briefs which have been carefully considered.

Upon the entire record of the case and from my observation of the witnesses and their demeanor, I now make the following:

#### FINDINGS OF FACT

##### I. THE BUSINESS OF RESPONDENT

###### A. *The Alter Ego Issue*

At the hearing, Respondent moved to dismiss on the ground that SSMR, the only Respondent named in the complaint, had ceased operations as of December 31, 1976, and that Orion Trading Company, Inc., d/b/a Sturdevant Roofing Company, herein called Orion, a new corporation, had commenced doing business on January 1, 1977 and had not been served with a charge. Respondent<sup>2</sup> also argued that service upon James P. Sturdevant, who had been manager of SSMR, but no longer had any relationship with that company, was therefore ineffective. Respondent urged that the charge should have been filed against Orion which is the company now managed by James Sturdevant and in which he and his wife own a major portion of the stock.

The General Counsel moved to amend the complaint to designate the Respondent as Sturdevant Sheet Metal & Roofing Co., Inc., and its *alter ego* and/or successor, Sturdevant Roofing company, and also served an amended charge on Orion. Upon hearing testimony concerning the status of these corporations, I denied Respondent's motion to dismiss and granted the General Counsel's motion to amend. Respondent then moved to dismiss the complaint on the ground that the charge against Orion was barred by Section 10(b) of the Act since it had been served on the date of the hearing, November 8, more than 6 months after the commission of the alleged unfair labor practice. I denied that motion as well.

According to the testimony of James P. Sturdevant, which with respect to these issues, is uncontradicted, and provides the basis for my rulings, Sturdevant had been a

roofing contractor for 8 years and until December 31, 1976, operated under the name of SSMR. He has had collective-bargaining agreements with the Union during this time, the latest having been signed by him for SSMR in April 1976.

James Sturdevant's father, George, was the major stockholder of SSMR. James and a brother each held one share of stock in the corporation. The father and the brother were based in Oklahoma where they engaged in the business of roofing in that State and in the State of Kansas. James was vice president of SSMR and the sole manager of its Albuquerque office.

On January 1, 1977, James Sturdevant, remaining at the same location, commenced doing business under the name of Orion Trading Company, Inc., d/b/a Sturdevant Roofing Company. The sign outside the door of the building was changed to read Sturdevant Roofing Company. Sturdevant stated that the changes were made for personal and family reasons. It appears that he had built up the business in New Mexico while his father and brother remained in Oklahoma, and he considered the New Mexico operation rightfully his own. As his mother had died and his father was getting along in years, Sturdevant requested that these changes be made so as to protect him for the future. A dormant corporation which Sturdevant had in New Mexico, Orion, was activated for this purpose. As a result of the rearrangements, James Sturdevant and his wife became the owners of two-thirds of the stock of Orion, while his father retained one-third. James Sturdevant became the president of Orion, his father vice president, and his wife secretary-treasurer. James still owns one share in SSMR. After January 1, 1977, Orion took over all the assets in New Mexico of SSMR including the accounts receivable and personal property such as tools, equipment, vehicles, office furniture, and the like. Orion made no payment to SSMR for this. In addition, Orion continued to occupy the premises owned by SSMR, but made the mortgage payments due to the bank.

James Sturdevant testified that the actual management of the business in New Mexico did not change after January 1. On that date he had approximately 18 employees, all of whom were employed both before and after January 1. He was the sole person both before and after who was involved in hiring and firing employees. In addition, James Sturdevant took care of all dealings with the Union. In this regard, he also stated that he never informed anyone in the Union as to the change in the name and status of his company. Apparently, the only outward change was to put up the new sign and inform the telephone company of the name change, retaining the same telephone number.

Curiously, the most recent collective-bargaining agreement that is dated May 5, 1976, prior to the name changes, was signed by James Sturdevant for "Sturdevant Roofing Co." On the other hand, a letter dated February 2, 1977, after the change, addressed to the Union, was signed by him for SSMR.

Sturdevant continued to recognize the Union after January 1977.

The Board has generally found *alter ego* status, "where the two enterprises have 'substantially identical' management, business purpose, operation, equipment, customers, and supervision, as well as ownership." *Crawford Door Sales Company, Inc.*, 226 NLRB 1144 (1976). In the instant

<sup>2</sup> SSMR and Orion will sometime be referred to collectively as Respondent.

case the whole operation is "identical." Both before and after January 1, 1977, James Sturdevant managed the enterprise in its entirety, including the labor relations. The business continued under the same roof with the same employees and management, the same business, same customers, same equipment. The only change really was that of the name of the company and a shuffling of ownership interest among the family. I find in the circumstances that Orion, d/b/a Sturdevant Roofing Company, is the *alter ego* of SSMR.<sup>3</sup>

As noted, Respondent further contests the service upon Orion as not having been properly made. It is undisputed that service of the original charge and complaint was made on SSMR through James Sturdevant. Since I have found Orion and SSMR to be *alter egos*, the service upon SSMR is sufficient to bind Orion. In any event, Orion would have actual notice of this proceeding because process had been made upon James Sturdevant who managed both entities. Moreover, the Board has held that where a Respondent has had actual notice, it is sufficient, particularly where the error is one of misnomer.<sup>4</sup> In this case the error could easily have resulted from the failure of Sturdevant to notify the Union of the change in the name of Respondent. In this regard Sturdevant continued to recognize the Union even after the change of name.

Finally, I find that Respondent's motion to dismiss against Orion because the amended charge was served upon it at the hearing, more than 6 months after the permission of the unfair labor practices, is also without merit. Service upon one of the two *alter egos*, SSMR, was sufficient to initiate the proceeding well within the limitations of Section 10(b). The service of the amended charge was merely to correct the record with respect to the naming of the proper Respondent. Accordingly, I reaffirm my rulings, made at the hearing with respect to the various motions made by Respondent to dismiss all or part of the charges herein.

#### B. Jurisdiction

The complaint alleges, and the answer admits, that Respondent (referring to SSMR) purchased during the past 12 months, and caused to be transported and delivered to its Albuquerque, New Mexico, place of business, goods and materials valued in excess of \$50,000, which were delivered from enterprises located in the State of New Mexico, which in turn received such materials in interstate commerce directly from states other than the State of New Mexico. I have found that since January 1977, Orion has been engaged in the same business operation formerly conducted by SSMR, has employed the same employees, and has been its *alter ego*. I therefore find that both SSMR and Orion are each, and are collectively, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.<sup>5</sup>

<sup>3</sup> See also *Ramos Iron Works, Inc., and Rasol Engineering*, 234 NLRB 896 (1978).

<sup>4</sup> *Peterson Construction Co., Inc.*, 106 NLRB 850, 851 (1953); *Southeastern Envelope Co., Inc.*, 206 NLRB 933 (1973).

<sup>5</sup> *Johnson Electric Co., Inc.*, 196 NLRB 637 (1972).

## II. THE LABOR ORGANIZATION INVOLVED

The Union is a labor organization within the meaning of Section 2(5) of the Act.

### III. THE UNFAIR LABOR PRACTICES ALLEGED

#### A. The Facts

At the time of the hearing, the current contract between the parties had been executed on May 5, 1976, and provided that the agreement shall be effective from April 1, 1976, to and including March 31, 1978.<sup>6</sup> This agreement contains an Addendum No. 1 dealing with residential housing that permits either party, should it feel not competitive in residential work, to ask for the contract to be opened for renegotiation on residential roofing only. By letter dated February 4, 1977, the four roofing contractors, including Respondent, requested opening of the contract on residential roofing in accordance with section 5 of Addendum No. 1. Pursuant to this request, a meeting was held on March 22.

The contractors had requested this meeting in order to seek relief from the rates established for residential roofing so as to make them more competitive with nonunion contractors. Particularly, the contractors desired a change in rates paid to apprentices in residential work. Although the contract provided that journeymen on residential housing be paid 85 percent of the commercial rate, it did not provide for a similar percentage for apprentices. Thus, apprentices received the same rate in residential work as apprentices obtained in commercial work. Since apprentices worked on a graduated scale whereby their rates were increased every 6 months until they approached the rate of a journeyman, there were some apprentices on residential work who were receiving more pay than journeymen.

The meeting of March 22 was attended by Otis Johnson, an international representative of the Union, Pete Martinez, a business agent, Charlie Romero, union president, and several other union members. Present for the contractors were James Sturdevant, for Respondent, Nicolas Sanchez, president of Goodrich Roofing Co., and James Ward, president of Weatherite Roofing Company.<sup>7</sup> Sanchez testified that he started the discussion by informing the Union that the contractors were not able to obtain residential work because of the lower wages paid by nonunion contractors. They wanted a decreased rate on residential and suggested that it be set at 75 percent of the commercial rate for both apprentices and journeymen. Ward also made two proposals. In

<sup>6</sup> The appropriate bargaining unit as described in the contract is:

All employees of Respondent engaged in the application of materials when used as roofs, whether it be slate, tile, composition, built up, hot or cold tar application and any materials used in lieu of, whether or not the materials are applied with mop, brush, swab, spray system and rollers; any waterproofing and damp resisting preparation in or outside of buildings and all damp course sheeting or coating on all foundation work.

<sup>7</sup> The account of what occurred at the meeting which follows, is based mainly upon the testimony of Sanchez and Ward, both of whom were called by and testified on behalf of the Respondent. I credit both of these witnesses, and find their version of the events to be the most coherent and probable. Moreover, of all the witnesses who testified at the hearing, they are the most disinterested.

one he requested of Johnson to change the ratio of apprentices to journeymen, providing, of course, for more apprentices. He also said that a 10-cent-an-hour contribution to the apprentice training program was too much. Both of Ward's proposals were rejected by Johnson on the ground that the contract could not be opened for anything except residential rates and they were dropped at once. Further discussion was held regarding the problem of some apprentices making more money than journeymen on residential work. The Union then caucused.

The union representatives returned and Johnson told the contractors that they felt they could sell to their members 75 percent of commercial rate for residential apprentices but no such reduction for journeymen because there was no way the Union could sell it to the journeymen. Martinez stated that journeymen voted and they would never vote to cut their own wages. Sanchez testified that he personally was happy with the offer of the Union to cut the rate of apprentices and he leaned over to Sturdevant and Ward and told them it sounded good and repeated this to the Union people. He said that the meeting concluded by the union representatives saying, "we feel that we can sell this to the members."<sup>8</sup>

After meeting with the contractors, the Union representatives later met with the executive board of the Union. As a result of this meeting, the Union prepared and dispatched a letter to the roofing contractors, dated April 2, 1977. It is necessary to point out certain language in the letter in order to later discuss Respondent's contention that the parties reached an agreement. The letter refers to a meeting of the Union's executive board "to discuss your proposal of a 75 percent of the apprentice commercial rate to be applied to a residential rate. After discussing the matter very thoroughly we reached the following proposal:" The letter goes on to state that "we will consider the 75 percent of the current commercial rate to be applied on residential for apprentices only." The letter then also refers to a proposal for a 10-cent-per-hour contribution to be made by the contractors to the apprenticeship training fund and the application of the 25-cent health and welfare contribution to residential rates. The letter concludes with a statement as follows: "We will not accept a less offer if, your committee does not agree with our proposal then we will continue without residential rate for apprentices for the duration of the contract which expires March 31, 1978. Please advise us of your decision." Attached to the letter is a second page which is headed "Effective April 1, 1977" and then lists the residential rates for apprentices at 75 percent of the current commercial rates. It concludes with a statement as to the residential rate for journeymen effective April 1, 1977.

It is undisputed that upon receipt of the letter Respondent put into effect the residential rates for apprentices listed on the second page of the letter as of April 13, 1977, which was the first date on which Respondent had apprentices working in residential roofing.

On the other hand, Sanchez testified that when he received the April 2 letter he believed that it was not responsive to the negotiations. Sanchez felt that the 75-percent

residential apprentice rate was a union proposal, not the contractors', that the 10-cent apprenticeship training fund contribution was not part of the negotiations or considered although it had been mentioned; and that the same was true of the 25-cent health and welfare contribution. Sanchez further testified that he did not post the rates and had not put them into effect nor did he intend to put them into effect. He said there had been no agreement with the Union because the Union had come up with something new by including the 10-cent contribution to the training fund and he did not agree with it.

Ward testified that when he received the April 2 letter, he was not quite sure what to do with it as he had never been in negotiations before, and after discussion with his partner and secretary, he posted it on the bulletin board. Ward said they were not certain what to do about the rates that were on page 2 of the April 2 letter. His payroll assistant changed the rates on the timecards but did not implement them, because Ward first had his daughter call Martinez, the business agent, who told her to continue to pay the same rates as they had been paying before. As a result the timecards were changed back to the old rates. Ward stated that his practice was to call the Union whenever there was a question and in this instance they were not certain whether the letter contained an agreement for a new rate or a proposal. Actually Ward asserted that as a result of the meeting and the letter of April 2 he did not put in the new rates because he thought that the Union would be fighting for about 6 months before they made up their mind what they wanted to do.

#### Discussion and Analysis

The General Counsel contends that by instituting new rates for apprentices on residential roofing, Respondent unilaterally changed conditions of employment in violation of Section 8(a)(1) and (5) of the Act, arguing that no agreement or impasse had been reached on this matter. On the other hand, Respondent contends that agreement had been reached at the March 22 meeting to cut the rates of residential construction to 75 percent of commercial apprentice rate and that this was verified by the letter of April 2.

It is well settled that an employer violates his duty to bargain if, when negotiations are sought or are in progress, he unilaterally institutes changes in the existing terms and conditions of employment.<sup>9</sup> However, if parties have bargained in good faith to an impasse, then an employer may institute unilateral changes in terms and conditions of employment so long as they are not substantially different or greater than any which the employer has proposed during the negotiations.<sup>10</sup>

Respondent contends initially that agreement was reached during the March 22 meeting and negotiations. Obviously, if there had been an agreement then the employer could implement new wage rates as agreed upon. Respondent relies on the events and the words used by International Representative Johnson following the caucus of the Union which he reported back to the contractors. However,

<sup>8</sup> Ward's Recollection is that Johnson said, "I think I can sell 75 percent to my people." He went on to state that he interpreted this to mean Johnson's Union people. In any event, the effect is the same.

<sup>9</sup> *N.L.R.B. v. Benne Katz, etc., d/b/a Williamsburg Steel Products Co.*, 369 U.S. 736 (1962).

<sup>10</sup> *N.L.R.B. v. Crompton-Highland Mills, Inc.*, 337 U.S. 217 (1949).

Respondent's contention is not borne out by the evidence as reflected in the testimony of its own witnesses. Sanchez and Ward. Sanchez said that Johnson in referring to the proposal to cut residential apprentices to 75 percent of the commercial rate, reported "We feel that we can sell this to the members." Sanchez stated that he understood this to mean that the Union would get back to the contractors and let them know the decision of the membership. Although Ward's recollection is only slightly different, the effect is the same. Ward's recollection was that Johnson said he thought he could sell the 75 percent proposal to his "people." Ward interpreted people to mean union people. As Ward expressed it, based upon his prior experience, he thought the Union would be fighting among themselves for about 6 months on this matter.<sup>11</sup>

Although there is a difference among the witnesses, it is one of semantics. Whether Johnson referred to his "membership," or "Executive Board" or "people," it is clear that he was going to take the matter up with some group and would advise the contractors of the result. I find therefore in the circumstances that no final agreement was reached at the meeting of March 22. It is further noted that, of course, no agreement in writing was executed nor is there evidence that the Union membership ratified any agreement which is the normal process.

Finally, Respondent argues that the Union's letter to the contractors of April 2 including the second sheet indicating residential rates for apprentices effective April 1, constitute an agreement by the Union regarding the matter of the rates. While the document in question is certainly not a model of coherent prose, I find the interpretation placed by Respondent on its meaning to be strained, to say the least. The first page, excerpts of which have been quoted above, is replete with words indicating that it is a proposal that the Union is setting forth. The final paragraph is written in conditional language. Thus the Union wrote "We will not accept a less offer if, your committee does not agree with our proposal then we will continue without residential rate for apprentices. . . . Please advise us of your decision." In view of such language, the only reasonable interpretation to be placed upon the second page which lists rates for apprentices effective April 1, 1977, is that those would be the rates provided the contractors agree to the counterproposals set forth in this letter. I so find.<sup>12</sup>

In sum, I find that the negotiations of March 22 and the letter of April 2 did not result in any agreement between the Union and the contractors, nor is there evidence that the parties had reached an impasse. In such circumstances, by implementing the proposed new wage rates for residential apprentices, Respondent violated Section 8(a)(1) and (5) of the Act.

<sup>11</sup> Sturdevant himself testified that Johnson said he thought he could sell this new rate to his people, denying that Johnson used the words "membership" or "Executive Board" as testified by Union witnesses. However, in his affidavit submitted to the Board, Sturdevant said "the Union said they would present the rate to our membership or their Executive Board and let us know what was decided."

<sup>12</sup> As previously noted, this is in line with the interpretation placed on it by Respondent's own witnesses, Sanchez and Ward.

#### IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent set forth in section III, above, occurring in connection with the operations of Respondent described in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE REMEDY

Having found that Respondent has engaged in certain unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

It has been found that Respondent unilaterally changed the working conditions of some of its employees by implementing a proposal cutting the wages of residential apprentices who had been earning the same wage rates as commercial apprentices to a new rate of 75 percent of the commercial apprentice rate. I shall therefore recommend that the employees affected by this change shall be made whole for any loss of earnings they may have sustained as a result of the Respondent having changed their wage rate on April 13, 1977. Backpay shall be computed in accordance with *F. W. Woolworth Company*, 90 NLRB 289 (1950), with interest as prescribed in *Florida Steel Corporation*, 231 NLRB 651 (1977).<sup>13</sup> Furthermore I shall recommend that Respondent be required to restore the *status quo ante* as existed prior to the implementation of the changes in the wage rates.<sup>14</sup> I shall also recommend that Respondent cease and desist from unilaterally changing conditions of employment and bargain collectively, upon request, with the Union as the exclusive representative of these employees concerning terms and conditions of employment and, if an understanding is reached, embody such terms in a signed agreement.

#### CONCLUSIONS OF LAW

1. Sturdevant Sheet Metal and Roofing Co., Inc., and Orion Trading Company, Inc., d/b/a Sturdevant Roofing Company, its *alter ego* for the purposes of the Act, constitute 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 appropriate bargaining unit is:

All employees of Respondent engaged in the application of materials when used as roofs, whether it be slate, tile, composition, built up, hot or cold tar application and any materials used in lieu of, whether or not the materials are applied with mop, brush, swab, spray system and rollers; any waterproofing and damp resisting preparation in or outside of buildings and all damp course sheeting or coating on all foundation work.

<sup>13</sup> See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

<sup>14</sup> *Atlas Tack Corporation*, 226 NLRB 222 (1976).

4. The Union has been the exclusive collective-bargaining representative of the employees in said unit at all material times.

5. By unilaterally changing working conditions with respect to the rates of pay of residential apprentice employees, and implementing those changes on April 13, 1977, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

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

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

#### ORDER<sup>15</sup>

The Respondent, Sturdevant Sheet Metal and Roofing Co., Inc., and Orion Trading Company, Inc., d/b/a Sturdevant Roofing Company, their officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Failing and refusing to bargain collectively with United Slate, Tile and Composition Roofers, Damp and Waterproof Workers' Association, Local 174, AFL-CIO, as the exclusive representative of its employees in the appropriate unit described above, by unilaterally changing working conditions and implementing changes in the wage rates of its residential apprentice employees.

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

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

(a) Bargain collectively, upon request, with the above-named Union as the exclusive representative of the employees in the appropriate unit and embody any understanding reached in a signed agreement.

(b) Restore the *status quo ante* with respect to the changed wage rates of the residential apprentice employees.

(c) Make whole those employees in the appropriate unit for any loss of pay they may have suffered as a result of the implementation of the lower wage rates for residential apprentices in the manner set forth in The Remedy section herein.

(d) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay that may be due under the terms of this Order.

(e) Post at its place of business in Albuquerque, New Mexico, a copy of the attached notice marked "Appendix."<sup>16</sup> Copies of said notice, on forms provided by the Regional Director for Region 28, after being duly signed by Respondent's representative, shall be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(f) Notify the Regional Director for Region 28, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

<sup>15</sup> In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

<sup>16</sup> In the event that 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."