FORM NLRB-5026
(5-78)

Release

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UNITED STATES GOVERNMENT
National Labor Relations Board

Memorandum

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A.D.

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TO : W. Bruce Gillis, Jr., Acting Regional Director
Region 27

DATE: June 20, 1979

FROM : Harold J. Datz, Associate General Counsel
Division of Advice

SUBJECT: Plumbing & Pipefitting Local No. 145
(Lunsford Brothers Mechanical Contractors, Inc.)
Cases 27-CC-698, 1-3

This case was submitted for advice on novel Section 8(b)(4)(i)(ii)(B) issues.

FACTS

Lunsford is a non-union plumbing and mechanical contractor that, for the past few months, has been performing subcontract work at three construction projects in Grand Junction, Colorado: one is a shopping center (Project 1); another, an office building (Project 2); and the third, an addition to a motel (Project 3).

In early March the Union began picketing these three Employer job sites with signs protesting the Employer's alleged payment of sub-standard wages. Reserved gates for Lunsford and its suppliers were immediately established by the General Contractor at each site and at Projects 1 and 3 the Union moved its picketing to the "reserved" gate. 1/ However, the unreserved gates at Projects 1 and 3 were monitored by a Union "observer," whose role, the Union contends, was to police the gates set aside for neutral employers and their suppliers. The "observers" wore white construction helmets which also bore in large bold capital letters the word "observer." Approaching cars were stopped by the "observer," who questioned the occupants about their identity and purpose at the site. The "observer" supplemented the interrogation with license-plate recording and picture-taking of the driver and passengers. The "observers," though, did not interfere with cars that were clearly identified as belonging to secondary employers.

On several occasions employees of neutral employers refused to enter the job site after being informed by the "observer" of the picketing at the primary gate.

1/ At Project 2 the Employer rearranged its work schedule so that its employees were not working when the other contractors were present.

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Finally, as the Union's picketing did not meet the conditions of Moore Dry Dock 4/ and seems to be a "deliberate attempt . . . to induce '(neutral) employees to engage in concerted conduct against their employer in order to force him to refuse to deal with the struck employer.'" General Teamsters Local No. 126, supra, 200 NLRB at 255, it was concluded that the Union's conduct was for an object condemned by Section 8(b)(4)(B). Accordingly, an 8(b)(4)(i)(ii)(B) complaint was deemed warranted.

H.J.D.

4/ Sailors Union of the Pacific, 92 NLRB 547. In particular, the Union's conduct at neutral gates clearly was not confined to places reasonably close to the location of the situs of the dispute and did not disclose that the dispute was with the primary employer.