Cushman & Wakefield, Inc. *and* International Brotherhood of Electrical Workers Local 313 and United Association of Journeymen and Apprentice Plumbers and Pipefitters of the United States and Canada Local 74. Case 04–CA–085979

November 19, 2013

DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS JOHNSON AND SCHIFFER

On May 6, 2013, Administrative Law Judge Robert A. Giannasi issued the attached decision. The Respondent, Cushman & Wakefield, Inc., filed exceptions and a supporting brief. The Intervenor, United Association of Journeymen and Apprentice Plumbers and Pipefitters of the United States and Canada Local 74, also filed exceptions and a supporting brief. The Acting General Counsel filed an answering brief. The Respondent filed a reply brief.

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[1] and briefs and has decided to affirm the judge's rulings,[2] findings, and conclusions and to adopt the recommended Order as modified and set forth in full below.[3]

ORDER

The National Labor Relations Board orders that the Respondent, Cushman & Wakefield, Inc., Wilmington, Delaware, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain in good faith with International Brotherhood of Electrical Workers Local 313 in the unit described below by insisting to impasse on nonmandatory subjects as a condition of reaching an overall agreement, including proposals to include in section 7(1) of the agreement a provision to allow employees to satisfy their union-security obligation by membership in Plumbers and Pipefitters Local 74 and to include in a side letter to the agreement a statement that members of Plumbers Local 74 are not required to become members of Electrical Workers Local 313:

> All employees working at CDC 1 and CDC 2 in the classifications of Journeyman Engineer, Engineer-Safety, Engineer Training, Assistant Chief Engineer, Chief Engineer, and Apprentice Engineer, excluding supervisors, office help, and other workers coming within the jurisdiction of other crafts, which are under contractual relationship with the Company, and exclusions as provided by the National Labor Relations Act.

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

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

(a) On request, bargain in good faith with International Brotherhood of Electrical Workers Local 313 in the unit described above, without insisting to impasse on nonmandatory subjects of bargaining as a condition of reaching an overall agreement.

(b) Within 14 days after service by the Region, post at its facilities in Wilmington and Newark, Delaware, copies of the attached notice marked "Appendix."[4] Copies of the notice, on forms provided by the Regional Director for Region 4, 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, the 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

[1] The Intervenor filed exceptions to the judge's finding that the International Brotherhood of Electrical Workers Local 313 was the exclusive bargaining representative of unit employees and challenged the judge's rulings to exclude its proffered evidence during the hearing. The collective bargaining agreement unequivocally states that it "is made and entered into . . . by and between: Cushman & Wakefield, Inc., hereinafter referred to as 'Company' and the International Brotherhood of Electrical Workers Local 313[,] . . . hereinafter referred to as 'Union.'" The contract further states, "The Company recognizes the Union as the sole and exclusive bargaining agent" for all bargaining unit employees. In light of this unequivocal language designating Local 313 as the sole union representing the employees at issue, we affirm the judge's finding and related evidentiary rulings.

[2] In affirming the judge's decision that the contract proposal at issue was a nonmandatory subject of bargaining, we find it unnecessary to pass on whether it was a permissive or an unlawful subject.

[3] We have modified pars. 1(a) and 2(a) of the judge's Recommended Order to more clearly describe the violation found. Moreover, in the absence of a definitive unfair labor practice date in the record, the modified Order requires the Respondent, if necessary, to mail a copy of the notice to all current employees and former employees employed at any time since June 8, 2012. This is the date of the violation alleged in the complaint.

[4] 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."

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 its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since June 8, 2012.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

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 refuse to bargain in good faith with International Brotherhood of Electrical Workers Local 313 in the unit described below by insisting to impasse on nonmandatory subjects as a condition of reaching an overall agreement, including our proposals to include in section 7(1) of the agreement a provision to allow employees to satisfy their union-security obligation by membership in Plumbers and Pipefitters Local 74 and to include in a side letter to the agreement a statement that members of Plumbers Local 74 are not required to become members of Electrical Workers Local 313:

> All employees working at CDC 1 and CDC 2 in the classifications of Journeyman Engineer, Engineer-Safety, Engineer Training, Assistant Chief Engineer, Chief Engineer, and Apprentice Engineer, excluding supervisors, office help, and other workers coming within the jurisdiction of other crafts, which are under contractual relationship with the Company, and exclusions as provided by the National Labor Relations Act.

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

WE WILL, on request, bargain in good faith with Electrical Workers Local 313 in the unit described above, without insisting to impasse on nonmandatory subjects of bargaining as a condition of reaching an overall agreement.

CUSHMAN & WAKEFIELD, INC.

William Slack, Esq., for the General Counsel.
Richard Muser, Esq., for the Respondent.
Robert O'Brien, Esq., for the Charging Party.
Martin W. Milz, Esq., for Intervenor, United Association of Plumbers & Pipefitters, Local 74.

DECISION

STATEMENT OF THE CASE

ROBERT A. GIANNASI, Administrative Law Judge. This case was tried in Philadelphia, Pennsylvania, on March 20, 2013. The complaint alleges that, during negotiations for a new collective-bargaining agreement, Respondent violated Section 8(a)(5) and (1) of the National Labor Relations Act by insisting to impasse on a nonmandatory subject of bargaining. The contract provision at issue involves two unions: Intervenor, United Association of Plumbers & Pipefitters, Local 74 (Intervenor, Plumbers, or Local 74)[1] and the Charging Party Union (the Union, Electrical Workers, or Local 313), the exclusive bargaining representative of Respondent's employees. Respondent insisted on contract language under which membership in Plumbers would satisfy the union-security clause's requirement of membership in the Union. Respondent's answer denies the essential allegations in the complaint, contending that its proposed contract language constituted a mandatory subject of bargaining, which it could lawfully insist upon to impasse.[2]

After the trial, the parties, including Intervenor, filed briefs, which I have read and considered. Based on the entire record in this case, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The Facts

Background

Respondent provides maintenance services pursuant to a subcontract with JP Morgan's Critical Data Facilities located at two separate sites in Delaware, one in Wilmington and one in Newark. The Union has represented the approximately 50

[1] By order dated February 21, 2013, the Acting Regional Director for Region 4 granted the Plumbers' motion to intervene.

[2] Certain errors in the transcript are noted and corrected.

maintenance employees employed by Respondent or its predecessors since April 2004. The employees provide day-to-day maintenance on HVAC and electrical equipment at the two Delaware facilities. One-third of the unit is composed of members of Intervener because the maintenance work requires not only the skill of electricians, but also that of plumbers. (Tr. 24–26.)

In successive contracts since April 2004, Respondent's predecessors, EMCOR Facilities Services, Inc. and PM Realty Group LP (predecessors), recognized the Union as the exclusive bargaining representative for the following unit of employees:

> All employees working at CDC 1 and CDC 2 in the classifications of Journeyman Engineer, Engineer-Safety, Engineer Training, Assistant Chief Engineer, Chief Engineer, and Apprentice Engineer, excluding supervisors, office help, and other workers coming within the jurisdiction of other crafts, which are under contractual relationship with the Company, and exclusions as provided by the National Labor Relations Act.[3]

Both the predecessors' collective-bargaining agreements included a union-security clause requiring, as a condition of employment, that unit employees be members of the Union, after the statutory grace period. That clause also included the following sentence: "For the purpose of this provision, membership in good standing in Plumbers and Pipefitters Local Union 74, which shall also provide employees under this agreement, shall be considered as compliance with this provision." (Sec. 7(1) of GC Exh. 2; Int. Exh. 1.) The agreements also provided that, upon the signing of appropriate authorizations, Respondent would check off the required dues, including those of Plumbers Local 74, and remit them periodically to the Union. In addition, the agreements contained an agency shop clause providing that all employees "shall as a condition of employment, pay to [the Union,] the employee's exclusive collective bargaining representative[,] an amount of money equal to that paid by other employees in the bargaining unit who are members of the Union." Section 10(e) of the agreements.

According to Union Business Manager Douglas Drummond, sometime after he assumed that position in 2005, he directed that dues deducted from the wages of the employees by the employer and sent to the Union under the dues checkoff clause would be divided as follows: All dues of union members went to the Union. The portion of the dues of Plumbers Local 74 members equal to the Union's dues went to the Union; the remainder (Plumbers' dues were higher than the Union's dues) went to Plumbers. That procedure is still followed. Drummond apparently divided the dues in accordance with the agency shop clause mentioned above, and because the Union was responsible for administering the agreement. The division of dues is the subject of a separate lawsuit between the two unions. (Tr. 50–53.)

Both predecessors' bargaining agreements contained a hiring hall clause providing for the Union's referral of employees to the employer. The referral clause stated that, "in some instances where certain special qualifications are required, the Union, shall, through a separate understanding by and between it and Plumbers and Pipefitters Local Union 74, refer applicants from Local 74 to fill such positions," but that all employees "working under this agreement, whether members of [Electrical Workers] Local 313 or [Plumbers] Local 74, shall have their wages, hours and terms and conditions of employment governed by this agreement." (Int. Exh. 1; GC Exh. 2.) Both agreements also provided for the appointment of union stewards by the Union and for a grievance-arbitration procedure, which included the involvement of the Union's shop steward and business representative.

In addition, both agreements contained appendices setting forth separate wage and fringe benefits, depending on whether the employees belonged to the Union or Plumbers. For example, separate amounts to were to be paid to industry-based joint employer-union trust funds that provided fringe benefits to members of the Union or Plumbers, depending on the union to which the employee belonged. But the predecessor employers made the fringe benefit payments directly to the Union's trust funds, which then divided the payments between the trust funds. The trust funds had separate employer and union trustees, but were administered by the same company under a reciprocal agreement between the trust funds. (Tr. 48–49, 54–55.)

The Present Relationship

When Respondent took over the maintenance work in November 2009, it agreed with the Union to continue the terms and conditions of the predecessor PM Realty contract, until a successor agreement was negotiated. (GC Exh. 3.) The parties met about 10 times, from October 2011 to July 2012, to negotiate a successor collective-bargaining agreement. (Tr. 28–29.) In those negotiations, the Union proposed to remove the language quoted above from the union-security clause (sec. 7(1)), providing that membership in Plumbers complied with the union-security clause's requirement of membership in the Union. Respondent insisted on retention of that language. Both parties held to their positions throughout the negotiations and reached impasse on that issue. (Tr. 14, 29–30.)

In an exchange of emails, the parties agreed to all aspects of a collective-bargaining agreement, except for the union-security reference to Plumbers membership amounting to compliance

[3] The above language is from the collective bargaining agreement between the Union and the most recent predecessor employer, PM Realty Group LP, which ran from December 1, 2008, to November 30, 2011 (GC Exh. 2). That agreement identified the Union as the "sole and exclusive bargaining agent" for the unit employees. An earlier agreement between the Union and predecessor employer EMCOR Facilities Services Inc., which ran from April 1, 2004, to November 30, 2008, contained the same language describing the unit, except for certain differences in the language following the word "excluding," in the above quoted unit description. The EMCOR agreement also included a statement that the employer acknowledged that the unit employees had authorized the Union to act as their bargaining representative, and that the employer recognized the Union as the "exclusive bargaining representative" for the unit. (Int. Exh. 1.)

with membership in the Union.[4] The collective-bargaining agreement eventually ratified by union members included two side agreements. (GC Exhs. 4–5, 6, 7; Tr. 35–36.) Included in the side agreements was a provision that Respondent was to make contributions to the fringe benefit funds solely to the Union's fund administrator, who would then allocate the applicable contributions to the appropriate union members' funds, pursuant to reciprocity agreements among the funds. The second side agreement also included a paragraph providing that all employees covered by the bargaining agreement would be governed by its terms regardless of union affiliation. The last sentence of that paragraph stated that "present or future employees who are members of Plumbers and Pipefitters Local 74 may retain such membership in their home union and are not required to become members of Local 313." (GC Exh. 6.) The relevant language governing the final resolution of the bargaining agreement and the disputed issue, is as follows:

> The parties agree that this document represents the agreement between the parties. With the sole exception that the Union believes that the employer's insistence on the last sentence of Section 7(1) and the second sentence of the second paragraph of the second side letter constitutes an insistence on a permissive subject of bargaining and the union intends to file an unfair labor practice charge based on that allegation. In the event the NLRB dismisses the charge, the contract will continue as ratified. If the NLRB holds that the employer's insistence on this language is a violation of Section 8(a)(5) of the National Labor Relations Act, then those two sentences will be removed from the contract, which shall otherwise remain in effect. To be clear, the NLRB determination must be a final determination—if the Regional Director dismisses the charge, the determination will not be final until the Union's time to appeal the Regional Director's decision has expired or the appeal has been denied. If the Regional Director decides to issue a complaint, the determination will not be final until an ALJ has heard the case and the NLRB has accepted the ALJ's decision. [GC Exh. 5.]

At some point after July 26, 2012, the parties formally signed a collective-bargaining agreement in accordance with the understandings set forth above. (GC Exh. 8; Tr. 36–37.) Thereafter, and to the present, the parties adhered to their positions regarding Plumbers Local 74 in the union-security clause and the second side letter. (Tr. 38.)

Respondent's group engineering manager, Gregory Fernandez, who was a member of Respondent's negotiating team, testified about Respondent's reason for insisting on its union security clause position with regard to Plumbers Local 74 members. In response to a question from his counsel as to Respondent's "basis for wanting to retain the ability to have [Plumbers] Local 74 members work in the bargaining unit," Fernandez stated that "their skill sets are required by the equipment we service and maintain at the facility." (Tr. 56.) On cross-examination, Fernandez explained that Respondent needed both electrical and plumbing expertise at the Delaware facilities. (Tr. 57.)

Discussion and Analysis

Parties engaged in collective bargaining are required to bargain over so-called mandatory subjects—that is, matters that "vitally affect" wages, hours, and other terms and conditions of employment. *Bricklayers (Daniel J. Titulaer),* 306 NLRB 229, 235 (1992), citing relevant authorities. As to those subjects, the parties may hold to their positions without yielding, even to the point of impasse. But they are not required to bargain, and may not insist to impasse, on so-called permissive subjects, although the parties may bargain about those matters and include them in an agreement if both sides consent. *NLRB v. Borg-Warner Corp.,* 356 U.S. 342 (1958).

It is clear that union security generally is a mandatory subject because it involves whether employees will have to pay union dues or fees as a condition of employment. Union-security clauses requiring membership (after 31 days) in a union that is the bargaining representative of the employees are lawful under the first proviso to Section 8(a)(3) of the Act. The contractual requirement of membership as a condition of employment is, however, "whittled down to its financial core." *NLRB v. General Motors Corp.,* 373 U.S. 734, 742 (1963).

Although union security is generally a mandatory subject of bargaining, it is also clear that not all aspects of union security are mandatory subjects. Rather, they may involve internal union affairs that are governed by the proviso to Section 8(b)(1)(A) of the Act, which protects "the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein." Thus, the amount of dues and whether an initiation fee is required are not mandatory subjects, but rather matters to be determined between the union and the employees, not between the union and the employer. *Pleasantville Nursing Home,* 335 NLRB 961, 963–964 (2001), enfd. in relevant part 351 F.3d. 747 (6th Cir. 2003); and *Service Employees Local 535 (North Bay Center),* 287 NLRB 1223, 1225–1227 (1988), enfd. 903 F.2d. 476 (D.C. Cir. 1990), cert. denied 498 U.S. 1082 (1991).

The issue in the instant case involves drawing a line between terms and conditions of employment and internal union affairs. See *North Bay Development Disabilities Services v. NLRB*, 905 F.2d. 476, 478–479 (D.C. Cir. 1990), cert. denied 498 U.S. 1082 (1991). I find that the situation here falls on the side of internal union affairs. Therefore, Respondent was not entitled to insist to impasse that "membership in good standing in the Plumbers and Pipefitters Local Union 74 shall be considered compliance with" the union-security clause that required membership in the Union, which was the exclusive bargaining representative of its employees. Nor was Respondent entitled to insist on language in the side agreement that excused members of Plumbers Local 74 from becoming members of the Union. Those provisions were permissive, not mandatory subjects. Accordingly, by insisting on them to impasse, Respondent violated Section 8(a)(5) and (1) of the Act.

Respondent's insistence that Plumbers' membership be considered membership for the purposes of the union-security

[4] The agreement included all relevant provisions of the prior agreements, including those setting forth separate pay scales and fringe benefit payments for employees, depending on their union membership. It also included the agency shop clause in sec. 10(e).

clause flies in the face of the statutory scheme that permits union-security clauses in the first place. The proviso to Section 8(a)(3) that permits unions and employers to agree to a union-security clause assumes that union membership as a condition of employment applies only to the union that "is the representative of the employees as provided in section 9(a), in the appropriate collective bargaining unit covered by such agreement when made." Thus, the union to which payment may be contractually required is the union that is the exclusive bargaining representative and party to the contract. Recognition of that limitation precludes any effort to include as a condition of employment membership in another union that is not the exclusive bargaining representative.

Put another way, what makes union security a mandatory subject of bargaining is its requirement that payment of dues and fees to the bargaining representative may be a condition of employment. That requirement, in turn, is based on the fact that the bargaining agent administers the bargaining agreement on behalf of all unit employees and is entitled to financial support for that responsibility. As the Second Circuit has stated:

> [T]he national labor laws provide for an exclusive bargaining agent to represent each discrete employee bargaining unit. . . . To enable these agents to fulfill their statutory responsibility to represent all the employees while collectively bargaining with the employer, the statutes permit the levying of mandatory dues on all employees who will reap the benefits of the union's representation of them in the contract negotiations with the employer.[5]

Respondent's insistence also runs afoul of the proviso to Section 8(b)(1)(A) of the Act, which protects "the right of a labor organization to prescribe it own rules with respect to the acquisition or retention of membership therein." Although an employer may insist on not having a union-security clause at all, once an employer has agreed to such a clause, it has no right to insist upon how the exclusive bargaining agent determines union membership.

Respondent's insisted-upon proposal would weaken the independence of the incumbent bargaining agent, which, as the Ninth Circuit has noted, is an important factor illustrating that a proposal could be a permissive subject of bargaining. See *Retlaw Broadcasting Co. v. NLRB*, 172 F.3d. 660, 665 (9th Cir. 1999). There is no doubt that the Union is the recognized exclusive bargaining representative of the employees. It alone has bargained for the agreements covering the unit employees and it alone has represented the employees in grievance matters. And it alone bears the cost of administering the contract. While the Union has, in the past, accepted Plumbers' membership as compliance with the union-security clause, it did so voluntarily. But, as counsel for the Acting General Counsel points out (GC Br. 15), Respondent's insistence that membership in Plumbers be treated the same as membership in the Union would take that determination out of the Union's hands. And because union membership in this context amounts to financial support, Respondent's insistence could jeopardize the Union's ability to administer the contract. As the Acting General Counsel further points out, that insistence has the practical effect of forcing the Union to negotiate with Respondent over "the amount it will devote to representation of employees . . . which is surely an internal union matter." *North Bay Development Disabilities Services*, above, 905 F.2d at 479.

Respondent counters (R. Br. 11) that a separate agency shop clause in the collective-bargaining agreement (sec. 10(e)) already provides that the Union is entitled to dues and fees to administer the contract. Respondent's assertion in this respect demonstrates it is interested in something beyond financial core support or membership in the Union, the extent of its legitimate concern. Otherwise, the agency shop language, to which it does not object, would suffice. Thus, Respondent seems interested only in membership qua membership, and it insists on having a say in how the Union determines membership. But, since the *General Motors* decision makes clear that any membership requirement in a union-security clause is reduced to its financial core, Respondent has no business injecting itself into union membership beyond that financial core aspect of union security. Working conditions are implicated by union security because an employee who fails to pay the financial core aspect of union security may be discharged under the second proviso to Section 8(a)(3). Any other benefits or aspects of union membership do not affect working conditions, are not part of the requirements of a union-security clause, and thus amount to a permissive, nonmandatory, subject of bargaining.

The disputed union-security language does not vitally affect working conditions in any other respect. Respondent's assertion that it needs the skill sets of Plumbers' members does not equate to a requirement that those employees remain members of Plumbers as a condition of employment. Plumbers' members may retain their membership in Plumbers if they wish, along with that in the Union, the exclusive bargaining agent. Respondent has no greater risk of loss of the services of Plumbers' members than it does of any other employee who fails to pay the dues and fees required in a union-security clause. The second proviso to Section 8(a)(3) permits such a discharge, but it also protects employees from denial of membership in the Union on the same terms and conditions generally available to other members.

Nor does Respondent have any other recognizable interest in protecting membership in Plumbers. Indeed, there is no other perceptible loss of benefits to Plumbers' members in requiring them to adhere to the union-security clause. Whatever their union membership, Plumbers' members retain their interest in the Plumbers' fringe benefit plans, for which they presumably have built prior credits. Their interest in those fringe benefit plans are protected by the collective-bargaining agreement negotiated on their behalf by the Union. And their interests in those plans are unaffected by union membership since the plans are funded by employer contributions, and not by union dues. Should the Union not fairly represent all members of the unit as their exclusive bargaining representative, the proper recourse for the affected employees would be to file a charge, under Section 8(b)(1)(A), that the Union has not fairly represented them.

[5] *Buckley v. Television & Radio Artists,* 496 F.2d 305 (2d Cir. 1974), cert. denied 419 U.S. 1093 (1974).

Finally, I reject Intervener's contention that it is a joint bargaining agent with the Union for the unit involved in this case. Although there are many references to Plumbers' members in the applicable bargaining agreements, past and present, and their wages and benefits are separately listed, nothing in any of the bargaining agreements involving the unit in this case refers to joint bargaining representation. To the contrary, the agreements identify the Union as the exclusive bargaining representative, and only the Union has bargained for and administered the agreements. Indeed, Respondent itself makes quite clear that it considers the Union as the exclusive bargaining representative of the employees in the unit. (R. Br. 9.) In these circumstances, Intervenor's contention that it jointly represents the employees is without merit.[6]

[6] Any attempt to prove otherwise by extrinsic evidence would run counter to the parol evidence rule, as it would contradict the explicit provisions of successive bargaining agreements.

CONCLUSIONS OF LAW

1. By insisting to impasse that any agreement between it and the Union include provisions that permits employees to comply with union-security obligations through membership in Plumbers Local 74 and that members of Plumbers Local 74 are not required to become member of the Union, which is the exclusive bargaining representative of its employees, Respondent has insisted to impasse on permissive subjects of bargaining and thus violated Section 8(a)(5) and (1) of the Act.

2. The above violations are unfair labor practices within the meaning of the Act.

REMEDY

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

[Recommended Order omitted from publication.]