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VT Hackney, Inc. and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC. Cases 06-CA-199799, 06-CA-200380, and 06-RC-198567

October 24, 2018

DECISION AND ORDER

BY CHAIRMAN RING AND MEMBERS KAPLAN
AND EMANUEL

On April 19, 2018, Administrative Law Judge Robert A. Ringler issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel and Charging Party each filed an answering 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 and briefs and has decided to affirm the judge's rulings,¹ findings, and conclusions² and to adopt the recommended Order as modified.³

¹ The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), *enfd.* 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

In addition, some of the Respondent's exceptions allege that the judge's rulings, findings, and conclusions demonstrate bias and prejudice. On careful examination of the judge's decision and the entire record, we are satisfied that the Respondent's contentions are without merit.

The Respondent has also requested oral argument. The request is denied as the record, exceptions, and briefs adequately present the issues and the positions of the parties.

² In excepting to the judge's finding that it unlawfully confiscated union materials, the Respondent points to inapposite Board law holding that an employer may enforce a valid no-solicitation/no-distribution rule against employees while lawfully permitting its supervisors to distribute antiunion material on company time. The exception is meritless. Here, although the judge refers to the supervisors' distribution of materials in his description of the Respondent's unlawful conduct, the Respondent's distribution of antiunion material is not alleged to be unlawful. Rather, the relevant paragraph of the complaint only alleges that the Respondent unlawfully "removed union literature and union buttons" from employees' tool cabinets while permitting other paraphernalia to remain in the tool cabinets. See *Earthgrains Co.*, 336 NLRB 1119, 1125 (2001) (prohibitions restricted only to union conversations and the possession of union literature violated Sec. 8(a)(1)), *enfd.* 61 Fed.Appx. 1, 9 (4th Cir. 2003). In addition, in agreeing with the judge that the Respondent violated Sec. 8(a)(1), we have modified the Order consistent with the complaint allegation that the Respondent unlawfully "removed" the union material, which more accurately reflects the violation found. Finally, we do not rely on the judge's citation to *Circuit-Wise, Inc.*, 306 NLRB 766, 766 fn. 1 (1992), *enfd.* mem.

AMENDED CONCLUSIONS OF LAW

Substitute the following for the judge's Conclusion of Law 3(a).

"3(a) Removing union materials from its employees' tool cabinets while permitting other paraphernalia to remain in the tool cabinets."

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondent, VT Hackney, Inc., Montgomery, Pennsylvania, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

1. Substitute the following for paragraph 1(a) of the judge's recommended Order.

"(a) Removing union materials from its employees' tool cabinets while permitting other paraphernalia to remain in the tool cabinets."

2. Substitute the following for the final paragraph of the judge's recommended Order.

"IT IS FURTHER ORDERED that the election held on June 1, 2017, is set aside, and Case 06-RC-198567 is severed and remanded to the Regional Director for Region 6 to direct a second election whenever the Regional Director shall deem appropriate."

3. Substitute the attached notice for that of the Administrative Law Judge.

Dated, Washington, D.C. October 24, 2018

John F. Ring, Chairman

Marvin E. Kaplan, Member

William J. Emanuel, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

992 F.2d 319 (2d Cir. 1993), because the issue for which he cited it was not before the Board.

We adopt the judge's finding that the Respondent unlawfully interrogated an employee about his union views. See *Rossmore House*, 269 NLRB 1176 (1984), *affd.* sub nom. *Hotel Employees Local 11 v. NLRB*, 760 F.2d 1006 (9th Cir. 1985).

In adopting the judge's finding that the Respondent, through its labor consultant, unlawfully solicited and promised to remedy grievances, we note that the labor consultant is an admitted agent of the Respondent within the meaning of Sec. 2(13) of the Act.

³ We have modified the judge's conclusions of law and recommended Order consistent with the complaint, the violations found, and standard Board language, and we have substituted a new notice for that of the 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 remove flyers or other material from your tool cabinets that support the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO (the Union) or any other union, while permitting other paraphernalia to remain in the tool cabinets.

WE WILL NOT interrogate you about your union or other protected concerted activities.

WE WILL NOT solicit your grievances and make implied promises to remedy them in order to discourage you from supporting the Union.

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

VT HACKNEY, INC.

The Board's decision can be found at <https://www.nlr.gov/case/06-CA-199799> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273–1940.



David L. Shepley, Esq., for the General Counsel.
James H. Fowles, III and Sara McCreary, Esqs. (Ogletree, Deakins, Nash, Smoak & Stewart, PC), for the Respondent.
Brad Manzolillo, Esq., for the Charging Party.

DECISION

STATEMENT OF THE CASE

ROBERT A. RINGLER, Administrative Law Judge. This case was tried in Williamsport, Pennsylvania, on February 21, 2018. The complaint alleged that VT Hackney, Inc. (Hackney or the Respondent) violated Section 8(a)(1) of the National Labor Relations Act (the Act) by, inter alia, removing union literature and materials from its employees' tool cabinets, interrogating workers about their union sympathies, and soliciting employees to present their grievances in order to discourage them from unionizing. The complaint allegations were consolidated with several election objections,¹ which the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO (the Union) asserts warrant setting aside an election that it consequently lost.

On the entire record, including my observation of the witnesses' demeanors, and after considering the parties' post-hearing briefs, I make the following

FINDINGS OF FACT²

I. JURISDICTION

At all material times, Hackney, a corporation with an office and place of business in Montgomery, Pennsylvania (the plant), has manufactured and sold refrigerated truck bodies and trailers. Annually, it sells and ships from its plant goods valued at more than \$50,000 directly outside of Pennsylvania. It, thus, 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. It further admits, and I find, that the Union is a labor organization, within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. Introduction

In early 2017,³ the Union began organizing the plant. On May 18, the parties entered into a *Stipulated Election Agreement*, which set a vote in this bargaining unit (the unit):⁴

All . . . production, maintenance, shipping and receiving, and quality control employees, . . . employed at the plant, excluding all office clerical employees and guards, professional employees and supervisors as defined by the Act.

(GC Exh. 1.) A vote was held on June 1, which the Union lost by a 113 to 83 margin. (Id.) The complaint alleged that Hackney committed 3 unfair labor practices (the ULPs) before the election; the Union averred in its objections that 2 of the ULPs caused its election defeat.

B. May—Confiscation of Union Election Materials

1. General Counsel's (the GC) stance

Electrician Brian Schutt testified that, on May 11, he placed

¹ The Union initially filed eight objections. (GC Exh. 1(m).) On October 13, it withdrew Objections 1, 2, 3, and 5. (Id.) At the hearing, it then retracted 6 and 8 (tr. 6), which only left Objections 4 and 7. Objection 4 mirrors complaint ¶7 (i.e., removal of prounion material), and objection 7 mirrors complaint ¶9 (i.e., solicitation of grievances).

² Unless otherwise stated, factual findings arise from joint exhibits, stipulations and undisputed evidence.

³ All dates are in 2017, unless otherwise stated.

⁴ There were approximately 215 employees in the unit.

prounion flyers and a pin in his tool cabinet.⁵ He said that 4 coworkers (i.e., Jason Koch, Joe Hemus, Willie Wingo, and Mike Mitchtree) also placed prounion flyers in their tool cabinets. He recollected David Bohannon, his then supervisor,⁶ removing and discarding these flyers. He said that Bohannon handed the pin back to him and said that pins could only be worn.⁷ He insisted that Hackney never previously limited what was stored in tool cabinets.⁸ He said that, shortly thereafter, Bohannon contradictorily passed out antiunion flyers to himself, Koch, Hemus, Wingo, and Mitchtree, and directed them to educate themselves. (Tr. 37–38.) He recollected the others placing these antiunion flyers in their tool cabinets in Bohannon’s presence, without objection. (Tr. 38.) He noted that, when employees received antiunion flyers at company meetings, their flyers were often placed in their tool cabinets, without objection from Bohannon or Baker.

Employee Corey Trojan testified that, in mid-May, he observed Bohannon removing and discarding pro-union flyers and pins from tool cabinets. He said that Bohannon told him that flyers “are not to be displayed,” and pins could only be worn. (Tr. 69.) He corroborated that he was unaware of any rule at that time, which supported Bohannon’s actions. Employee Jason Sees corroborated Schutt’s and Trojan’s accounts. He said that, when he asked Bohannon why it was okay for him to pass out antiunion flyers after contrarily discarding prounion flyers, Bohannon retorted that it was okay because the company was paying their salaries. (Tr. 95.)

2. Hackney’s position

Supervisor Baker testified that, in the interest of workplace safety, the plant must be kept free of debris. He said that standard housekeeping principles apply, and that employees possessing flyers at work is solicitation, which is covered by this policy:

Solicitation by employees on company property is prohibited when the person soliciting or the person being solicited is on working time. . . .

Distribution of non-work related literature by employees on company property in nonworking areas during working time is prohibited.

Distribution of non-work related literature by employees on company property in working areas is prohibited.

(R. Exh. 3.) He said that he would permit photos taped to tool cabinets, wallets, phones or similar items that could not be blown away and become litter. He added that the plant gets breezy, when doors are left open for ventilation in the spring and summer. It is noteworthy that Hackney did not rebut Bohannon’s confiscation of prounion flyers, his distribution of antiunion flyers during working time, or the open storage of antiunion flyers in tool cabinets.

3. Credibility analysis

Schutt’s, Trojan’s and Sees’ accounts that Bohannon confiscated prounion materials and then distributed his own antiunion

⁵ Electricians utilized multidrawer tool cabinets, which are several feet in height.

⁶ Bohannon left Hackney on May 22 and was replaced by supervisor Ryan Baker.

⁷ The pin only stated the Union’s name.

⁸ He added that workers routinely stored food, sodas, wallets, cell phones, and car keys in their tool cabinets.

materials during work hours, and that both Bohannon and Baker knowingly permitted antiunion flyers to be stored in tool cabinets was not rebutted and has been credited.⁹

C. May 20—Exchanges with HR Manager Judy Ross

Former employee David Wise testified that, on May 20, HR Manager Judy Ross stopped him on the plant floor, told him that Bohannon said that he was a good worker, and asked him what he thought about the Union. (Tr. 15.) He replied that he was still gathering information. He recalled her then stating that in reference to the election, “we are counting on you.”¹⁰

Ross generally recalled talking to Wise about the election and contended that she only asked him how he was faring with the “craziness of the campaign.” (Tr. 157.) She recalled generally telling employees that the company was counting on them to vote, their opinion matters, voting is a privilege and other words to that effect. She denied asking Wise how he felt about the Union and insisted that she knew better. She did agree, during cross-examination, that her question about the campaign craziness was vague, and could have coaxed the revelation of union activities. (Tr. 166–167.) She agreed that she had many conversations before the election, and that it was hard to recall each discussion. (Tr. 169.)

Given that Wise said that Ross asked him whether he supported the Union and told him that Hackney was counting on him during the election, and Ross denied such commentary, a credibility resolution must be made. For several reasons, Wise has been credited. He was a straightforward and consistent witness, with a strong recollection. He had a good overall demeanor and was consistently cooperative. Ross, however, had a poor recollection of their exchange. I also find it plausible that, after approaching dozens of workers about the election, Ross simply chose the specific words that she stated to Wise unartfully and made the alleged comments. In sum, I find that, on May 20, Ross asked Wise what he thought about the Union, and said that, “we are counting on you,” in reference to the election.

D. May 22—Meeting with Labor Consultant Charles Stephenson

On May 22, Schutt, Trojan, and about 15 coworkers attended a 1-hour meeting in the plant’s training room. Production Manager Jim Moser and Stephenson presented Hackney’s stance on the Union and election.

1. GC’s stance

Trojan recalled the May 22 meeting and testified that Stephenson told employees that they did not need a Union, “asked the employees what our concerns were,” said that he would then take those concerns back to management,” and pledged that “management would fix any issue addressing our concerns.” (Tr. 63.) Schutt generally corroborated his account.

2. Hackney’s position

Stephenson testified that he made individual and small group presentations to workers before the election. He related that he used power point slides and recited selected provisions from the *Basic Guide to the National Labor Relations Act* (the NLR Guide), which he found on the NLRB’s website. See also (R.

⁹ Schutt, Trojan and Sees were also credible and consistent witnesses, with solid demeanors.

¹⁰ He denied ever communicating his position on unionization to Ross.

Exhs. 1–4.) He denied asking employees to state their concerns, or promising to bring their problems to management for resolution. He initially insisted that he read his slides verbatim, but, then reluctantly agreed that he might have elaborated. (Tr. 149.) He remarkably denied, however, that the goal of his meetings was to help the company win the election, and astonishingly claimed that his only goal was to neutrally and impartially educate workers.¹¹ Moser stated that he was present during Stephenson’s meetings; he also averred that the meetings were designed to educate employees and not sway them.

3. Credibility analysis

I credit Schutt and Trojan. Stephenson was a slick and, unfortunately, deceitful witness. His contention that his sole goal was to kindly educate workers as a neutral was preposterous, given that Hackney paid him to present its lawful stance against unionization. His claim that he was an impartial educator was also contradicted by his slides, which clearly advocated against unionization. I find, as a result, that his neutral educator defense was unavailing, and eviscerated his credibility. I found Moser’s comparable claims to be equally unappealing. I found Schutt and Trojan, however, to be persuasive and believable witnesses with strong demeanors. As current employees, they courageously and diplomatically presented difficult facts to the detriment of their employer in the presence of high level company officials at the hearing; such candor enhanced their credibility. I find, as a result, that, on May 22, Stephenson told employees that they did not need a Union, asked them what their concerns were, and said that he would bring their concerns back to management for resolution.

III. ANALYSIS

A. ULP Allegations

1. Removal of union literature¹²

Hackney violated Section 8(a)(1), when Bohannon confiscated pronoun materials stored in employees’ tool cabinets, distributed antiunion materials to the same workers, and then permitted them to store antiunion materials in their tool cabinets. The Board has long held that the application of a presumptively valid rule in a disparate manner violates Section 8(a)(1). *Circuit-Wise, Inc.*, 306 NLRB 766, 787–788 (1992); *South Nassau Hospital*, 274 NLRB 1181 (1985); *St. Vincent’s Hospital*, 265 NLRB 38 (1982), *enfd.* in pertinent part 729 F.2d 730 (11th Cir. 1984). Bohannon’s actions were, as a result, unlawful.

2. Interrogation¹³

Hackney violated Section 8(a)(1), when, on May 20, Ross asked Wise, a neophyte whose union sympathies were unknown, what he thought about the Union, and told him that, “we are counting on you” in the election. In *Westwood Healthcare Center*, 330 NLRB 935 (2000), the Board held that the following factors determine whether an interrogation is unlawful:

- (1) The background, i.e. is there a history of employer hostility and discrimination?
- (2) The nature of the information sought, e.g., did the interro-

gator appear to be seeking information on which to base taking action against individual employees?

(3) The identity of the questioner, i.e. how high was he in the company hierarchy?

(4) Place and method of interrogation, e.g. was employee called from work to the boss’s office? Was there an atmosphere of unnatural formality?

(5) Truthfulness of the reply.

Id. at 939. In applying these factors, however, the Board concluded that:

In the final analysis, our task is to determine whether under all the circumstances the questioning at issue would reasonably tend to coerce the employee at whom it is directed so that he or she would feel restrained from exercising rights protected by Section 7 of the Act.

Id. at page 940.

Wise’s commentary was an unlawful interrogation. These factors are controlling: Ross, the questioner, was a high-ranking plant official; Wise, the recipient, was a neophyte who was reasonably insecure about his employment status; Hackney concurrently committed other ULPs before the election; and the interrogation occurred less than 2 weeks before the election. Under these circumstances, Ross’ query to Wise about how he felt about the Union and pointed reminder that Hackney was counting on him during the election was highly coercive. Wise could have reasonably concluded that Ross was subtly threatening him to support Hackney, and that his ongoing tenure might be conditioned upon this ultimatum.

3. Solicitation of grievances¹⁴

Hackney violated Section 8(a)(1), when, on May 22, Stephenson told employees during a meeting that they did not need a Union, asked them what their concerns were, and said that he would bring their concerns back to management for resolution. An employer’s solicitation of grievances during a campaign is unlawful when it “carries with it an implicit or explicit promise to remedy the grievances and ‘impress[es] upon employees that union representation [is] . . . [un]necessary.’” *Albertson’s, LLC*, 359 NLRB 1341, 1341 (2013) (quoting *Amptech, Inc.*, 342 NLRB 1131, 1137 (2004), *enfd.* mem. 165 Fed.Appx. 435 (6th Cir. 2006)), *affd.* and incorporated by reference 361 NLRB 761 (2014). The Board has held that:

Absent a previous practice of doing so . . . the solicitation of grievances during an organizational campaign accompanied by a promise, expressed or implied, to remedy such grievance violates the Act . . . [I]t is the promise, expressed or implied, to remedy the grievances that constitutes the essence of the violation. . . . [T]he fact [that] an employer’s representative does not make a commitment to specifically take corrective action does not abrogate the anticipation of improved conditions expectable for the employees involved.

Maple Grove Health Care Center, 330 NLRB 775, 775 (2000). “An employer may rebut the inference of an implied promise by . . . establishing that it had a past practice of soliciting grievances in a like manner prior to the critical period, or by [showing] . . . that the statements at issue were not promises.” *Mandalay Bay Resort & Casino*, 355 NLRB 529, 529 (2010).

Stephenson’s commentary was unlawful. A reasonable em-

¹¹ Although Hackney paid him, he amazingly said that, “I really don’t have a dog in the fight.” (Tr. 149–50.)

¹² This allegation is listed under complaint pars. 7 and 10.

¹³ This allegation is listed under complaint pars. 8 and 10.

¹⁴ This allegation is listed under complaint pars. 9 and 10.

ployee would have interpreted his solicitation of grievances as an implied promise to remedy the very same issues that prompted the organizing drive. Hackney made no evidentiary showing that it had an established past practice of previously soliciting grievances in a comparable way. Stephenson's solicitation, thus, violated Section 8(a)(1). See, e.g., *Reliance Electric Co.*, 191 NLRB 44, 46 (1971), *enfd.* 457 F.2d 503 (6th Cir. 1972); *Mandalay Bay Resort & Casino*, *supra* at 530. Cf. *Johnson Technology, Inc.*, 345 NLRB 762, 764 (2005) (employer did not unlawfully solicit grievances because it had an established a past practice predating the organizing drive).

B. Representation Case

The Union's objections are valid and warrant a rerun election. It avers that objection 4 (i.e., removal of prounion material) and objection 7 (i.e., solicitation of grievances) prevented employees from exercising free choice during the election. These objections are sustained, inasmuch as they mirrored complaint paragraphs 7 and 9, which were found to be 8(a)(1) violations and occurred during the critical period before the election (i.e., May 11 to June 1).¹⁵ Regarding Section 8(a)(1) violations occurring during the critical period, the Board has held that:

A violation of Section 8(a)(1) during the critical election period is, a fortiori, conduct that interferes with the results of the election unless it is so de minimis that it is "virtually impossible to conclude that [the violation] could have affected the results of the election." *Super Thrift Markets, Inc.*, 233 NLRB 409, 409 (1977). See also *Baton Rouge General Hospital*, 283 NLRB 192, 192 fn. 5 (1987); *Dal-Tex Optical Co.*, 137 NLRB 1782, 1786 (1962). In determining whether the unlawful conduct is de minimis, the Board considers the number of incidents, their severity, the extent of dissemination, the size of the unit, and other relevant factors. See *Super Thrift Markets*, 233 NLRB at 409.

Intertape Polymer Corp., 363 NLRB No. 187, slip op. at 2 (2016).

Hackney's unlawful conduct interfered with employees' free choice in what was already a fairly close election. See, e.g., *Allied Mechanical, Inc.*, 343 NLRB 631, 632 (2004) (removing union literature during the critical period "denied employees access to an important medium of communication during the union campaign" and warranted setting aside the election); *Bon Marche*, 308 NLRB 184, 185 (1992) (change in bulletin board policy to prohibit nonwork literature "clearly affected the entire bargaining unit that the Union sought to represent"); *Mandalay Bay Resort & Casino*, *supra*, 355 NLRB at 530 (unlawful solicitation of grievances during critical period warrants rerun). I recommend, accordingly, that the election be invalidated and employees be permitted to vote in a second untainted election. *Intertape Polymer Corp.*, *supra*; *IRIS U.S.A., Inc.*, 336 NLRB 1013 (2001).

CONCLUSIONS OF LAW

1. Hackney is an employer engaged in commerce within the meaning of §2(2), (6), and (7) of the Act.
2. The Union is a §2(5) labor organization.
3. Hackney violated §8(a)(1) of the Act by:
 - (a) Confiscating Union materials from its employees' tool

¹⁵ *Ideal Electric Mfg. Co.*, 134 NLRB 1275 (1961) (critical period runs from petition to election dates).

cabinets.

(b) Interrogating employees about their Union or other protected concerted activities.

(c) Soliciting grievances from employees and making an implied promise to remedy such issues in order to discourage their union support.

4. Such unfair labor practices affect commerce within the meaning of Section 2(6) and (7).

5. By engaging in the conduct cited by objections 4 and 7, Hackney prevented employees from participating in a fair election in Case 06-RC-198567.

6. The election in Case 06-RC-198567 should be set aside and rerun.

REMEDY

Hackney is ordered to cease and desist, and take certain affirmative action designed to effectuate the Act's policies. It must distribute appropriate remedial notices electronically via email, intranet, internet, or other appropriate electronic means to its unit employees at the plant, if it normally communicates with its workers electronically, in addition to the traditional physical posting of paper notices. *J. Picini Flooring*, 356 NLRB 11 (2010).

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended¹⁶

ORDER

The Respondent, VT Hackney, Inc., Montgomery, Pennsylvania, its officers, agents, and representatives, shall

1. Cease and desist from
 - (a) Confiscating union materials from its employees' tool cabinets.
 - (b) Interrogating employees about their Union or other protected concerted activities.
 - (c) Soliciting grievances from employees and making an implied promise to remedy such issues, in order to discourage their union support.
 - (d) In any like or related manner 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) Within 14 days after service by the Region, post at it Montgomery, Pennsylvania plant, copies of the attached notice, marked "Appendix."¹⁷ Copies of the notice, on forms provided by the Regional Director for Region 6, 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 such paper notices, notices shall be distributed electronically such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily

¹⁶ 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.

¹⁷ 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."

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. If the Respondent has gone out of business or closed the facility involved in these proceedings, it shall duplicate and mail, at its own expense, a copy of the notice to all unit employees employed by it at its Montgomery, Pennsylvania plant at any time since May 11, 2017.

(b) 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 it has taken to comply.

IT IS FURTHER ORDERED that the Regional Director for Region 6 shall, in Case 06-RC-198567, set aside that election, and hold a new election.

Dated Washington, D.C., April 19, 2018

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 confiscate flyers and other materials from your tool cabinets, which support the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO (the Union).

WE WILL NOT ask you about your Union or other protected concerted activities.

WE WILL NOT solicit your grievances and make implied promises to remedy your issues in order to discourage you from supporting the Union.

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.

VT HACKNEY, INC.

The Administrative Law Judge's decision can be found at <https://www.nlr.gov/case/06-CA-199799> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

