

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

SYSCO GRAND RAPIDS, LLC,)
)
)
) Petitioner/Cross-Respondent,)
)
)
) v.)
)
) NATIONAL LABOR RELATIONS BOARD,)
)
) Respondent/Cross-Petitioner,)
)
) GENERAL TEAMSTERS UNION LOCAL NO. 406,)
)
) Intervenor.)

FILED
 Jan 14, 2021
 DEBORAH S. HUNT, Clerk

Nos. 19-2371/
19-2421

JUDGMENT ENFORCING IN PART AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

Before: SUTTON, COOK, and MURPHY, Circuit Judges.

THIS CAUSE came to be heard upon a petition filed by Sysco Grand Rapids, LLC, for review of an Order of the National Labor Relations Board issued April 4, 2019, in Board Case Nos. 07-CA-146820, 07-CA-148609, 07-CA-149511, 07-CA-152332, 07-CA-155882, and 07-CA-166479, reported at 367 NLRB No. 111 (2019), and upon a cross-application filed by the National Labor Relations Board for enforcement of said Order. The Court has considered the arguments, briefs and transcript of record filed in this case. On September 4, 2020, the Court, being fully advised in the premises, handed down its opinion granting in part the petition of Sysco Grand Rapids, LLC, and granting in part the Board’s cross-application for enforcement. In conformity therewith, it is hereby

ORDERED AND ADJUDGED by the United States Court of Appeals for the Sixth Circuit that Sysco Grand Rapids, LLC, its officers, agents, successors,

and assigns, shall abide by said order as modified by the Court. (See attached Order and Appendix).

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt". The signature is written in a cursive style with a large initial "D".

Deborah S. Hunt, Clerk

NATIONAL LABOR RELATIONS BOARD

v.

SYSCO GRAND RAPIDS, LLC

ORDER

The National Labor Relations Board orders that the Respondent, Sysco Grand Rapids, LLC, Grand Rapids, Michigan, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

- (a) Threatening employees that a strike is inevitable if they choose to be represented by General Teamsters Union Local No. 406, International Brotherhood of Teamsters (the Union).
- (b) Threatening employees that it would close the facility if they choose to be represented by the Union.
- (c) Threatening employees with layoff if employees select the Union as their bargaining representative.
- (d) Threatening employees that negotiations will start from scratch if they choose to be represented by the Union.
- (e) Threatening employees with a reduction in wages and benefits if they select the Union as their bargaining representative.
- (f) Threatening employees with the loss of seniority if they choose to be represented by the Union.
- (g) Threatening employees with more onerous working conditions if they select the Union as their bargaining representative.
- (h) Threatening employees with loss of access to supervisors to discuss working conditions if they choose to be represented by the Union.
- (i) Interrogating employees about their union membership, activities, and sympathies.
- (j) Promulgating a rule prohibiting employees from wearing union insignia.

- (k) Promulgating a rule instructing employees not to talk to each other about the Union.
 - (l) Soliciting grievances and promising to remedy them in order to discourage employees from selecting union representation.
 - (m) Granting increased benefits in the form of safety bonuses in order to discourage employees from selecting union representation.
 - (n) Creating the impression among employees that their union activities are under surveillance.
 - (o) Videotaping or photographing employees engaged in union activity.
 - (p) Reducing the hours of work of employees because of their support for and activities on behalf of the Union.
 - (q) Discharging or otherwise discriminating against employees for supporting the Union or any other labor organization.
 - (r) In any other 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) Within 14 days from the date of this Order, offer George Brewster full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.
 - (b) Make George Brewster and Jesse Silva whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of the judge's decision as amended in the Board's decision.
 - (c) Compensate George Brewster and Jesse Silva for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 7, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for George Brewster and Jesse Silva.
 - (d) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of George Brewster, and within 3 days thereafter notify him in writing that this has been done and that the discharge will not be used against him in any way.

- (e) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
- (f) Within 14 days after service by the Region, post at its facilities in Grand Rapids, Niles, White Pigeon, Alanson, Kalkaska, Cadillac, and West Branch, Michigan, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 7, 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, 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 notice is not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facilities 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 December 9, 2014.
- (g) Within 21 days after service by the Region, file with the Regional Director for Region 7 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 AND MEMBERS

**POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN 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 threaten you that a strike is inevitable if you choose to be represented by General Teamsters Union Local No. 406, International Brotherhood of Teamsters (the Union).

WE WILL NOT threaten you that we would close the facility if you choose to be represented by the Union.

WE WILL NOT threaten you with layoff if you select the Union as your bargaining representative.

WE WILL NOT threaten you that negotiations will start from scratch if you choose to be represented by the Union.

WE WILL NOT threaten you with a reduction in wages and benefits if you select the Union as your bargaining representative.

WE WILL NOT threaten you with the loss of seniority if you choose to be represented by the Union.

WE WILL NOT threaten you with more onerous working conditions if you select the Union as your bargaining representative.

WE WILL NOT threaten you with loss of access to supervisors to discuss working conditions if you choose to be represented by the Union.

WE WILL NOT interrogate you about your union membership, activities, and sympathies.

WE WILL NOT promulgate a rule prohibiting you from wearing union insignia.

WE WILL NOT promulgate a rule instructing you not to talk to each other about the Union.

WE WILL NOT solicit grievances and promise to remedy them in order to discourage you from selecting union representation.

WE WILL NOT grant increased benefits in the form of safety bonuses in order to discourage you from selecting union representation.

WE WILL NOT create the impression that your union activities are under surveillance.

WE WILL NOT videotape or photograph you engaged in union activity.

WE WILL NOT reduce your hours of work because of your support for and activities on behalf of the Union.

WE WILL NOT discharge or otherwise discriminate against you for supporting the Union or any other labor organization.

WE WILL NOT in any other manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, within 14 days from the date of this Order, offer George Brewster full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

WE WILL make George Brewster whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings, plus interest, and WE WILL also make him whole for reasonable search-for-work and interim employment expenses, plus interest.

WE WILL make Jesse Silva whole for any loss of earnings and other benefits suffered as a result of our unlawful reduction in his hours of work, plus interest.

WE WILL compensate George Brewster and Jesse Silva for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and WE WILL file with the Regional Director for Region 7, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for George Brewster and Jesse Silva.

WE WILL, within 14 days from the date of this Order, remove from our files any reference to the unlawful discharge of George Brewster, and WE WILL, within 3 days thereafter, notify him in writing that this has been done and that the discharge will not be used against him in any way.

SYSKO GRAND RAPIDS, LLC

**UNITED STATES COURT OF APPEALS
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GENERAL TEAMSTERS UNION LOCAL NO. 406,)	
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Intervenor.)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2020, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the appellate CM/ECF system. I further certify that the foregoing document was served on all the parties or their counsel of record through the CM/ECF system.

/s/David Habenstreit
David Habenstreit
Assistant General Counsel
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570

Dated at Washington, D.C.
this 17th day of September 2020