Ventura County District Council of Carpenters *and* Commercial Industrial Constructors, Inc. Cases 31-CB-3572 and 31-CC-1264

December 7, 1981

DECISION AND ORDER

BY MEMBERS FANNING, JENKINS, AND ZIMMERMAN

On October 17, 1980, Administrative Law Judge Roger B. Holmes issued the attached Decision in this proceeding. Thereafter, the Respondent filed exceptions and a supporting 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 brief and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge, to modify his remedy,[1] and to adopt his recommended Order, as modified herein.[2]

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, as modified below, and hereby orders that the Respondent, Ventura County District Council of Carpenters, Ventura, California, its officers, agents, and representatives, shall take the action set forth in the said recommended Order, as so modified:

1. Substitute the following for paragraph 1(a):

"(a) Restraining and coercing employees in the exercise of the rights guaranteed them in Section 7 of the National Labor Relations Act by charging, trying, fining, or otherwise disciplining Ron Purseley, Mel Ellison, Steve Gerhardt, Mike O'Connor, Mark Valencia, Ray E. Thomas, John Schembri, Roger Haynes, Richard Crawford, and Tim Becker, or any of its members, in order to induce or encourage them to withhold their services from a neutral employer, with an object of forcing or requiring the neutral employer to cease doing business with a primary employer."

[1] Interest is to be computed in accordance with *Florida Steel Corporation*, 231 NLRB 651 (1977). See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

[2] We have modified the Administrative Law Judge's recommended Order to conform with his findings.

DECISION

STATEMENT OF THE CASE

ROGER B. HOLMES, Administrative Law Judge: The unfair labor practice charges in Cases 31-CB-3572 and 31-CC-1264 were both filed on January 18, 1980, by Commercial Industrial Constructors, Inc., which is referred to herein as the Employer or the Charging Party. (See G.C. Exhs. 1(a) and (c).)

The Regional Director for Region 31 of the National Labor Relations Board, herein called the Board, who was acting on behalf of the General Counsel of the Board, issued on February 22, 1980, an order consolidating cases and consolidated complaint and notice of hearing against Ventura County District Council of Carpenters, herein called the Respondent or the Union. (See G.C. Exh. 1(e).)

The General Counsel's consolidated complaint, which was amended at the outset of the hearing, alleges that the Respondent has engaged in unfair labor practices within the meaning of Section 8(b)(1)(A) and Section 8(b)(4)(i) and (ii)(B) of the National Labor Relations Act, as amended, herein called the Act. The Respondent filed an answer to the General Counsel's consolidated complaint, and the Respondent denied that it had committed the alleged unfair labor practices. (See G.C. Exh. 1(g).) In response to the additional allegations which were made by the General Counsel at the beginning of the hearing, the attorney for the Respondent entered the Respondent's denial of those allegations on the record. (See G.C. Exh. 2, which sets forth the additional allegations.)

The hearing was held before me on July 1, 1980, in Ventura, California. The time for filing post-hearing briefs was extended to September 5, 1980. Both counsel for the General Counsel and the attorneys for the Respondent prepared and filed briefs which have been considered.

FINDINGS OF FACT

I. THE EMPLOYER

At all times material herein, the Employer has been a California corporation with an office and place of business located in Ventura, California, where the Employer has been engaged in the building and construction industry as a framing subcontractor.

In the course and conduct of its business operations, the Employer annually purchases and receives goods or services valued in excess of $50,000 from sellers or suppliers located within the State of California, which sellers or suppliers receive such goods in substantially the same form directly from outside the State of California.

In view of the foregoing admitted or stipulated facts, I find that the Employer has been at all times material herein an employer engaged in commerce and in a business affecting commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE UNION

It was admitted in the pleadings that the Respondent has been at all times material herein a labor organization

within the meaning of Section 2(5) of the Act. In view of the foregoing, and the entire record in this case, I find that fact to be so.

III. THE WITNESSES

In alphabetical order by their last names, the following four persons appeared as witnesses at the hearing in this proceeding:

Doug Chickering has been the secretary-treasurer of the Employer for the past 3-1/2 years. He also works as a field superintendent for the Employer.

Douglas Dole is a business representative of the Respondent.

Samuel Heil has been the executive secretary of the Respondent for approximately 7 years.

John Schembri worked for the Employer as a journeyman carpenter from mid-November 1979 until mid-January 1980.

IV. CREDIBILITY RESOLUTIONS

The findings of fact made herein are based upon portions of the credible testimony of each one of the witnesses named above in section 3. There are a few minor differences in some parts of the testimony, but there are no differences which are of consequence or significance in resolving the issues raised in this proceeding.

Additionally, certain findings of fact are based upon documentary evidence which was introduced by the parties at the hearing.

V. FACTS NOT DISPUTED IN THE PLEADINGS

Certain allegations in the General Counsel's consolidated complaint were not disputed in the pleadings. Accordingly, those facts are found to be true. (See Sec. 102.20 of the Board's Rules and Regulations, Series 8, as amended.)

The findings of fact set forth below are numbered to correspond with the numbers given to those paragraphs in General Counsel's Exhibit 1(e):

> 2. (c) At all times material herein, Buena Vista Properties, Inc. (herein called Buena Vista), with an office and principal place of business located in Ventura, California, has been engaged as a general contractor in the building and construction industry.
>
> (d) At all times material herein, Buena Vista has been engaged in the construction of an office building in Ventura, California (herein called the jobsite).
>
> (e) At all times material herein, Buena Vista subcontracted the framing work at the jobsite to the Employer.
>
> (f) At all times material herein, Buena Vista subcontracted the finishing carpentry work at the jobsite to Cal-Built Construction (herein called Cal-Built).
>
> (g) At all times material herein, Cal-Built has been a general partnership with an office and place of business located in Ventura, California, where it is engaged as a finishing carpentry subcontractor in the building and construction industry.
>
> * * * * *
>
> 6. (a) At all times material herein, the Respondent has had a labor dispute with Cal-Built.
>
> (b) At no time material herein has the Respondent had a labor dispute with any person herein other than Cal-Built.
>
> 7. Commencing on or about December 13, 1979, and continuing to the latter part of December 1979, the exact date presently unknown, Respondent picketed the jobsite with placards containing the following legend: "Cal-Built Construction not in Compliance With Area Standards—Ventura DC of Carpenters."

VI. THE UNFAIR LABOR PRACTICES

A. *The Jobsite Involved in This Proceeding*

As indicated above in section V, an office building was being constructed at the jobsite involved in this proceeding. The building was three stories in height, and was surrounded on three sides by a parking lot.

The jobsite was located just north of the Ventura freeway. It was located on Alessandro Street approximately one-quarter mile west of Seaward Avenue. The project was on the north side of Alessandro Street which is a dead end street. Except for some clumps of dirt, the construction site was on flat ground.

There were two driveways from Alessandro Street to the parking lot surrounding the office building. One such driveway was on the west side of the building, and the other was on the east side of the building.

There was a sign at the driveway to the west of the building, which for convenience herein will be referred to as the west gate. The sign posted at the west gate indicated that the gate was reserved for the employees and the suppliers of Cal-Built and Royal Electric. As indicated in section V herein, Cal-Built had the subcontract to perform the finishing carpentry work at the jobsite. As further indicated in section V herein, the Respondent has had at all times material herein a labor dispute with Cal-Built. Royal Electric was described at the hearing as being a nonunion contractor on the project.

Another sign was posted at the driveway to the east of the building, which for convenience herein will be referred to as the east gate. The sign at the east gate indicated that the gate was reserved for all of the employees and suppliers other than the employees and suppliers of Cal-Built and Royal Electric.

Located between the west gate and the east gate were two construction shacks on the project. The general superintendent of the project occupied one of the construction shacks, and the Employer occupied the other construction shack. The shacks were described as being within 20 feet of each other.

Doug Chickering served as the field superintendent for the Employer on the jobsite, as well as on other projects for the Employer. Thus, Chickering was not at that one project on a full-time basis, but he had a full-time foreman who did work on that one jobsite. His name was Gary Fishback. Fishback had the authority to hire, to fire, and to assign work to employees. The Employer had a varying number of journeymen carpenters and ap-

prentice carpenters at the jobsite between the middle of September 1979 and March 1980, during which time the Employer performed framing work at the jobsite. Chickering estimated that the number of the Employer's employees varied from 2 employees a day to 45 employees a day, with an average of approximately 25 employees a day.

Identified as employees of the employer who worked at the jobsite during the month of December 1979 were Ron Pursley, Mel Ellison, Steve Gerhardt, Mike O'Connor, Mark Valencia, Ray E. Thomas, John Schembri, Roger Haynes, Richard Crawford, and Tim Becker.

Schembri testified that he worked at the jobsite from mid-November 1979 until mid-January 1980. He worked as a journeyman carpenter performing framing work. Schembri was a member of the Respondent.

Although Chickering was a field superintendent, he also was a member of the Respondent in December 1979.

B. *The Picketing and Other Occurrences at the Jobsite*

Picketing by the Respondent was first observed at the jobsite at 8 a.m. on December 13, 1979. The Respondent's pickets were at the west gate of the project. The wording on the picket signs has been described in section V above. There were no pickets at the east gate of the project.

In addition to the pickets at the west gate, the Respondent also had pickets at the corner of Alessandro Street and Seaward Avenue, but those pickets were not on the jobsite location.

Chickering said that he drove his truck to the project, and that he parked his truck on Alessandro Street between the west gate and the east gate. He then walked onto the project. On occasion Chickering walked through the east gate, and sometimes he walked onto the project in the area adjacent to the construction shacks. Sometimes he left the project by walking out near the construction shacks. Chickering never went through the west gate.

Schembri also parked his vehicle on Alessandro Street, and he walked onto the project in the area adjacent to the construction shacks. He also left the project by walking out in the same area.

Dole observed persons walk onto the jobsite at the construction shacks located between the two gates. He also saw some persons park their vehicles at the curb, and he saw some persons drive their vehicles over the curb and onto the project on a couple of occasions. Dole did not observe anyone using the east gate.

On December 13, 1979, a steward's report was taken by the Respondent on the project. Schembri stated that he wrote his own name on the steward's report on that occasion. Chickering asked the Respondent's executive secretary, Heil, on that same date on the jobsite "why he was harassing my troops on that job—my employees." Heil responded that he was simply checking union cards, whereupon Chickering volunteered showing his union card to Heil.

C. *The Sign Posted at the Christmas Party and the Sign Posted at the Respondent's Office*

One of the local unions affiliated with the Respondent held its annual Christmas party on either December 17 or 21, 1979, at the fairgrounds.

As Schembri entered the area where the Christmas party was being held, he noticed that there was a sign posted where persons came in to show their union cards. The sign was about 2 feet by 3 feet in size.

According to Schembri, the sign stated, "Members of CICI have crossed the union-sanctioned picket line at the . . . jobsite." Thereafter listed on the sign were the names of the 12 persons involved in this proceeding.

On January 14, 1980, Schembri observed a similar sign posted at the Respondent's office. However, he said the sign at the Respondent's office was not as large as the one which had been posted at the Christmas party.

D. *The Filing of the Intraunion Charges on January 4, 1980*

Business Representative Dole filed on January 4, 1980, intraunion charges against certain members of the Respondent. Copies of those charges were introduced into evidence as General Counsel's Exhibits 4(a) through (1). The charges were filed against Ron Pursley, Mel Ellison, Steve Gerhardt, Mike O'Connor, Mark Valencia, Ray E. Thomas, John Schembri, Roger Haynes, Richard Crawford, Gary Fishback, Tim Becker, and Doug Chickering.

The intraunion charges allege a violation of the provisions of section 55,A, paragraph 10, of the constitution and laws of the United Brotherhood of Carpenters and Joiners of America. Specifically, the charges allege, "This member was working behind a duly authorized picket line of the United Brotherhood." The offense is alleged in the charge to have occurred on December 13, 1979, at the jobsite.

Copies of the intraunion charges were sent by mail to the individuals named in the charges. Accompanying the charges was a letter dated January 4, 1980, from Executive Secretary Heil to the member involved. The letter advised the member of the time, date, and place for his appearance before the Respondent's executive board to answer the charges brought against the member. (See G.C. Exhs. 5(a) through (1).)

The Respondent's procedure in such situations was also to include a copy of certain sections of the constitution and laws of the United Brotherhood of Carpenters and Joiners of America in order to advise the member of his rights. Those sections reproduced for the member were: Section 55, "Offenses and Penalties"; section 56, "Charges and Trials"; and Section 57, "Appeals and Grievances." (See G.C. Exh. 6.)

The Respondent's executive board did meet as scheduled, and the executive board referred the charges to the Respondent's trial committee.

E. *The Conversation on January 14, 1980, Among Heil, Chickering, and Schembri*

About 1 or 1:30 p.m. on January 14, 1980, there was a conversation in Heil's office among Heil, Chickering, and

Schembri. Schembri had a good recollection of what was said by those persons on that occasion. He testified:

> All right. Doug asked Mr. Heil if he knew about the charges that were brought against us, and he said he did. Doug wanted to know if there was any way that we could settle it or have the charges dropped.
>
> And Mr. Heil told us that he hadn't brought the charges, that Doug Dole had and that we should be speaking to him.
>
> We asked him if we could see Mr. Dole, and he told us that he was out sick that day.
>
> Mr. Heil also stated that there was a member of the Sierra Group on the job site December 13th, and that somebody had called them to be there at that time. And we didn't respond to this because we didn't know who had called him.
>
> I asked Mr. Heil if he was familiar with the two signs that had been posted, and he said he was. And I asked him if he didn't think it was harassing and discriminatory to put those signs up before we were even given a chance to defend ourselves, and he said he did not.
>
> Doug Chickering also told Mr. Heil that if there was no way that we could settle the charges, that he would bring counter charges with the NLRB. And Mr. Heil responded by saying that he wished we would, because he wanted a test case. And people were asking him how members of CICI could work behind a picket line without getting in trouble.
>
> Doug also mentioned that it would cost the union money if they had to go through this legal battle. And Mr. Heil said well, it was our money anyway, meaning the money of the members of the union. That is about all I can recall from that day.

F. *The Conversation on January 17, 1980, Between Dole and Chickering*

There was a very brief conversation on January 17, 1980, between Dole and Chickering. The conversation took place at the jobsite.

Chickering asked Dole if Dole could drop the charges. Dole responded that he would not drop the charges.

G. *The Proceedings Regarding the Intraunion Charges*

Introduced into evidence as General Counsel's Exhibits 7(a) through (1) were copies of the Respondent's "Official Notification to Appear Before Trial Committee." The documents were dated February 22, 1980, and they directed the persons previously named above to appear before the Respondent's Trial Committee on March 4, 1980. Copies of the trial committee's reports were introduced into evidence as General Counsel's Exhibits 8(a) through (1). The reports for Pursley, Valencia, and Thomas were dated April 1, 1980. (See G.C. Exhs. 8(a), (e), and (f).) The other reports were dated March 4, 1980. All of the persons previously named were found guilty of the charges which had been filed by Dole.

The following persons received a fine of $100 with $50 suspended and were placed on 1 year's probation: Pursley, Ellison, O'Connor, Valencia, Thomas, Schembri, Haynes, Crawford, Fishback, and Chickering. (See G.C. Exhs. 8(a)-(b), (d)-(j), and (l).)

Gerhardt was given a $50 fine with $50 suspended and placed on 1 year's probation. (See G.C. Exh. 8(c).)

Becker was given a $50 fine with $25 suspended and placed on 1 year's probation. (See G.C. Exh. 8(k).)

General Counsel's Exhibits 9(a) through 9(1) are copies of the Respondent's "Official Notification of the Action of Ventura County District Council of Carpenters."

Only 1 of the 12 members of the Respondent appealed the foregoing action. That person was Roger Haynes. His appeal had not been decided by the time of the hearing in this case.

H. *Conclusions*

In analyzing the evidence presented herein, it is especially helpful to study the Board's decision in *Orange County District Council of Carpenters; and Carpenters Local 2361 (J. A. Stewart Construction Co.)*, 242 NLRB 585 (1979).

The Board found that the respondents in that case had violated Section 8(b)(1)(A) of the Act by imposing internal union discipline, including fines, upon certain employees in order to induce or encourage them to withhold their services from a neutral employer with an object of forcing or requiring the neutral employer to cease doing business with a primary employer.

In the *J. A. Stewart* case, as in the present case, the respondents therein had a labor dispute with one of the several employers who were engaged in the construction of a building. There was picketing of the common situs jobsite, and two reserved gates were established. Three carpenters worked for neutral employers on that jobsite, and they observed the reserved gate system for neutral employees. Nevertheless, a business representative brought internal union charges against the three carpenters for "working behind a duly authorized picket line." *J. A. Stewart, supra* at 586. Thereafter, as a result of the charges, two of the employees were assessed fines, and the other one was cited to appear before the council to select a trial committee.

The Board distinguished the Court's opinion in *N.L.R.B.* v. *Allis- Chalmers Manufacturing Co.*, 388 U.S. 175 (1967), and the Board specifically relied on the Court's holding in *Scofield, et al.* v. *N.L.R.B.*, 394 U.S. 423 (1969), where the Court stated at 430: "§8(b)(1) leaves a union free to enforce a properly adopted rule which reflects a legitimate union interest, impairs no policy Congress has imbedded in the labor laws, and is reasonably enforced against union members who are free to leave the union and escape the rule."

The Board held in *J. A. Stewart, supra* at 587:

> We have no trouble in finding that such discipline not only frustrates the policy reflected in the secondary boycott provisions of the Act, which forbids labor organizations from enmeshing neutral employers in primary labor disputes, but, as alleged, would also require a finding of unlawful secondary boycott activity. We are guided to this conclusion by Board precedent.

In *Belleville, supra*, as pointed out by the General Counsel, the Board found that a union violated Section 8(b)(1)(A), as well as Section 8(b)(4)(i)(B), by fining and threatening with internal union discipline members who worked for a neutral employer during a labor dispute involving another employer at a construction site. The Board assumed, without deciding, that the picket line aimed at the primary employer by another union was lawful and concluded:[7]

> While it is true that a union may lawfully impose internal union discipline on an employee for refraining from certain kinds of activity from which he has a Section 7 right to refrain (for example, making a delivery across a primary picket line or working during a primary economic strike against his own employer), a union may not lawfully impose such discipline on a member for working for a secondary employer at a common situs where an employer other than his own is being subjected to a primary (or, *a fortiori*, a secondary) picket line.

The rationale supporting this result is that such discipline induces or encourages employees of a neutral employer to refuse to perform services, within the meaning of Section 8(b)(4)(i)(B), a natural and apparent object of which is to cause the neutral employer to cease doing business with the primary employer.[8]

[7] 221 NLRB at 353.

[8] *Pace, supra*, 222 NLRB at 618; see *Local 252, Sheet Metal Workers' International Association, AFL-CIO (S. L. Miller, Inc.)*, 166 NLRB 262 (1967), enfd. 429 F.2d 1244 (9th Cir. 1970).

The case referred to by the Board in the text of the above quotation is *Local Union No. 153, International Brotherhood of Electrical Workers, AFL-CIO (Belleville Electric & Heating, Inc.)*, 221 NLRB 345 (1975). In that case, the Board found violations of Section 8(b)(1)(A) and Section 8(b)(4)(i) and (ii)(B) where the respondent therein threatened its members with internal union discipline and other reprisals if they worked for a neutral employer, and fined and expelled a member because he worked for a neutral employer, with an object of forcing or requiring certain neutral employers to cease doing business with a primary employer.

In addition to the foregoing cases, I have also looked for guidance to the Board's decision in *Glaziers and Glassworkers Local Union No. 1621, affiliated with International Brotherhood of Painters and Allied Trades (Alameda Glass and Mirror Co., Inc.)*, 242 NLRB 1011 (1979). In that case, the Board followed the rationale and holding in *J. A. Stewart, supra*. The Board concluded on "nearly an identical factual situation" as in *J. A. Stewart* (242 NLRB at 1012-13):

> We conclude, therefore, on the authority of our holding in *Stewart*, that Respondent unlawfully fined Ginestra and Bentley for working for a neutral employer at a common situs, thereby inducing or encouraging employees of a neutral employer to refuse to perform services, with the natural and apparent object of causing the neutral employer to cease doing business with a primary employer.[6]

[6] It makes no difference that the union discipline was imposed upon Ginestra and Bentley after they had completed work on the project. As we said in *Stewart*, quoting from an earlier case, "The 'cease doing business' element of Sec. 8(b)(4)(B) embraces prospective as well as existing business relationships, and does not require that the company-party to the primary dispute even be known at the time of the union conduct in question."

I conclude that the rationale and the holdings in the Board precedents cited above are applicable to the present case. Here the Respondent's picketing of the common situs jobsite was directed at Cal-Built with whom the Respondent had a labor dispute. The Employer in this case was a neutral employer. The 12 persons involved in this case worked for the neutral employer. Of those 12, 10 were employees, and 2, Chickering and Fishback, were supervisors.

The west gate was the gate reserved for the employees and the suppliers of Cal-Built and another non-union employer, Royal Electric. There is no evidence that the 12 persons involved in this case used the west gate in entering or leaving the jobsite.

There is evidence that they had entered and left the jobsite near the Employer's construction shack, rather than through the east gate. Nevertheless, that area near the construction shack was not a part of the west gate, where the picketing was being conducted and which was reserved for the primary employer's employees and suppliers. Because the 12 persons involved herein did not use the west gate in entering or leaving the premises, I conclude that their failure to use the east gate is not such a crucial or determinative fact which would negate the applicability of the Board precedents cited above.

Accordingly, for the reasons stated by the Board in its decisions referred to above, I conclude that the Respondent in this case has engaged in unfair labor practices within the meaning of Section 8(b)(1)(A) and Section 8(b)(4)(i) and (ii)(B) of the Act as alleged in the General Counsel's consolidated complaint.

In the Respondent's brief at pages 9 and 10, it is urged that:

> II. THE BOARD SHOULD HAVE REQUIRED THE EMPLOYEES IN THIS CASE TO EXHAUST INTERNAL UNION REMEDIES.
>
> Section 101(a)(4) of the Labor-Management Reporting and Disclosure Act provides that a union member may be required to exhaust internal union hearing procedures not exceeding four months before instituting proceedings before a court or administrative agency. In this case, had the Board stayed its hand and required the members to exhaust their remedies within the Union, the protected character of the fines imposed to ensure respect for the Union's picket line at the entrance reserved for the struck employer would have been obvious and the

> expensive and long complaint and hearing process of the Board would have been obviated. This is not a case in which members have been punished for filing charges with the Board, nor in which internal union procedures are inadequate, nor in which public policy rather than the internal affairs of the Union are involved. It is instead a case in which a union has sought to protect the effectiveness of a strike and picketing by using available internal measures to require its own members to observe the reserved gate system. Where no unlawful secondary object was pursued, the Board should have respected those internal union measures.

With regard to a person's "unimpeded access to the Board," the Supreme Court stated in *N.L.R.B.* v. *Industrial Union of Marine & Shipbuilding Workers of America, AFL-CIO, et al.* [*United States Lines Company*], 391 U.S. 418 at 424 (1968):

> A proceeding by the Board is not to adjudicate private rights but to effectuate a public policy. The Board cannot initiate its own proceedings; implementation of the Act is dependent "upon the initiative of individual persons." *Nash* v. *Florida Industrial Comm'n*, 389 U.S. 235, 238. The policy of keeping people "completely free from coercion," *ibid.*, against making complaints to the Board is therefore important in the functioning of the Act as an organic whole.

Congress has not incorporated the language found in Section 101(a)(4) of the Labor-Management Reporting and Disclosure Act into the National Labor Relations Act. After considering the foregoing, I conclude that the failure of 11 persons involved in this proceeding to exhaust their internal union remedies does not preclude the processing of the General Counsel's consolidated complaint nor the finding of unfair labor practices under the provisions of the National Labor Relations Act.

Conclusions of Law

1. The Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Cal-Built Construction and Buena Vista Properties, Inc., are persons and employers engaged in a business affecting commerce within the meaning of Section 8(b)(4) and Section 2(6) and (7) of the Act.

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

4. The Respondent has engaged in unfair labor practices within the meaning of Section 8(b)(1)(A) of the Act by restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act by charging, trying, fining, or otherwise disciplining Ron Pursley, Mel Ellison, Steve Gerhardt, Mike O'Connor, Mark Valencia, Ray E. Thomas, John Schembri, Roger Haynes, Richard Crawford, and Tim Becker in order to induce or encourage them to withhold their services from a neutral employer, with an object of forcing or requiring the neutral employer to cease doing business with a primary employer.

5. The Respondent has engaged in unfair labor practices within the meaning of Section 8(b)(4)(i) and (ii)(B) of the Act by charging, trying, fining, or otherwise disciplining Ron Pursley, Mel Ellison, Steve Gerhardt, Mike O'Connor, Mark Valencia, Ray E. Thomas, John Schembri, Roger Haynes, Richard Crawford, Tim Becker, Gary Fishback, and Doug Chickering in order to induce or encourage them to withhold their services from a neutral employer or other person engaged in commerce, or in an industry affecting commerce, with an object of forcing or requiring such neutral employer or other person to cease doing business with a primary employer.

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

The Remedy

Since I have found that the Respondent has engaged in unfair labor practices within the meaning of Section 8(b)(1)(A) and Section 8(b)(4)(i) and (ii)(B) of the Act, I shall recommend to the Board that the Respondent be ordered to cease and desist from engaging in those unfair labor practices.

I shall also recommend to the Board that the Respondent take certain affirmative action in order to effectuate the policies of the Act. Such affirmative action will include rescinding the disciplinary action taken against the 12 persons involved in this proceeding, expunging from the Respondent's records all references to the intraunion charges a and refunding the amount of the fines paid by the individuals involved. In addition, appropriate interest is to be paid by the Respondent to the individuals on the amounts to the refund. Such interest is to be computed in accordance with the Board's decisions in *F. W. Woolworth Company*, 90 NLRB 289 (1950), and *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962). See also the Board's decision in *Olympic Medical Corporation*, 250 NLRB 146 (1980).

In accordance with the Board's decision in *Hickmott Foods, Inc.*, 242 NLRB 1357 (1979), I shall recommend to the Board a narrowly drafted cease-and-desist order rather than a broadly drafted one.

On the basis of the foregoing findings of fact, conclusions of law, and the entire record in this proceeding, and pursuant to the provisions of Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[1]

The Respondent, Ventura County District Council of Carpenters, Ventura, California, its officers, agents, and representatives, shall:

1. Cease and desist from:

(a) Charging, trying, fining, or otherwise disciplining Ron Pursley, Mel Ellison, Steve Gerhardt, Mike O'Connor, Mark Valencia, Rav E. Thomas, John Schembri,

[1] 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.

Roger Haynes, Richard Crawford, and Tim Becker, or any of its members, in order to induce or encourage them to withhold their services from a neutral employer, with an object of forcing or requiring the neutral employer to cease doing business with a primary employer.

(b) Charging, trying, fining, or otherwise disciplining Ron Pursley, Mel Ellison, Steve Gerhardt, Mike O'Connor, Mark Valencia, Ray E. Thomas, John Schembri, Roger Haynes, Richard Crawford, Tim Becker, Gary Fishback, and Doug Chickering, or any of its members, in order to induce or encourage them to withhold their services from a neutral employer or other person engaged in commerce or in an industry affecting commerce, with an object of forcing or requiring such neutral employer or other person to cease doing business with a primary employer.

(c) 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 which is deemed necessary in order to effectuate the policies of the Act:

(a) Rescind disciplinary action taken against the 12 persons named above and expunge from its records any reference to that discipline.

(b) Refund to each one of the 12 persons named above any money held on account of the fines assessed against them in connection with the aforesaid disciplinary action, with interest, as set forth in the section of this decision entitled "The Remedy."

(c) Post at its offices and meeting halls copies of the attached notice marked "Appendix."[2] Copies of said notice, on forms provided by the Regional Director for Region 31, after being duly signed by the Respondent's representative, shall be posted by the Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(d) Sign and return to the Regional Director for Region 31 sufficient copies of the attached notice marked "Appendix" for posting by Commercial Industrial Constructors, Inc., if that employer is willing to do so, in conspicuous places, including all places where the employer customarily posts notices to its employees.

(e) Notify the Regional Director for Region 31, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith.

[2] 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."

APPENDIX

Notice To Employees and Members Posted by Order of the National Labor Relations Board An Agency of the United States Government

WE WILL NOT restrain and coerce employees in the exercise of the rights guaranteed them in Section 7 of the National Labor Relations Act, as amended, by charging, trying, fining, or otherwise disciplining Ron Pursley, Mel Ellison, Steve Gerhardt, Mike O'Connor, Mark Valencia, Ray E. Thomas, John Schembri, Roger Haynes, Richard Crawford, and Tim Becker, or any of our members, in order to induce or encourage them to withhold their services from a neutral employer, with an object of forcing or requiring the neutral employer to cease doing business with a primary employer.

WE WILL NOT charge, try, fine, or otherwise discipline Ron Pursley, Mel Ellison, Steve Gethardt, Mike O'Connor, Mark Valencia, Ray E. Thomas, John Schembri, Roger Haynes, Richard Crawford, Tim Becker, Gary Fishback, and Doug Chickering, or any of our members, in order to induce or encourage them to withhold their services from a neutral employer or other person engaged in commerce, or in an industry affecting commerce, with an object of forcing or requiring such neutral employer or other person to cease doing business with a primary employer.

WE WILL NOT in any like or related manner restrain or coerce employees in the exercise of the rights guaranteed them by Section 7 of the National Labor Relations Act.

WE WILL rescind the disciplinary action taken by us against the 12 persons named above, and WE WILL expunge from our records any reference to that discipline.

WE WILL refund to the 12 persons named above any money held on account of the fines assessed against them in connection with the aforesaid disciplinary action, and WE WILL pay them appropriate interest on such money.

VENTURA COUNTY DISTRICT COUNCIL OF CARPENTERS