

**Atlas Microfilming, Division of Sertafilm, Inc. and
United Labor Unions, Local 862, Cases 4-CA-
11473, 4-CA-11689, and 4-RC-14405**

26 August 1983

DECISION AND ORDER

**BY MEMBERS JENKINS, ZIMMERMAN, AND
HUNTER**

On 15 October 1982 Administrative Law Judge Leonard M. Wagman issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the General Counsel filed a brief in response and a cross-exception and brief in support thereof.

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 briefs and has decided to affirm the rulings, findings,¹ and conclusions² of the Administrative Law

¹ Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions 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 his findings.

² The Administrative Law Judge found, and we agree, that Respondent threatened its employees with plant closure in the event that they selected the Union as their representative. This finding is based on Supervisor Ayers' having told all 22 of the employees in her department, and additional employees outside her department, that Respondent's production manager, Greenberg, had told her that, if the Union were selected, the plant would cease operating and move elsewhere, and the employees would lose their jobs. In its exceptions, Respondent argues that any such threats transmitted through Ayers were effectively retracted, and their coercive effect cured, when Respondent's president, Roman, told the employees that the plant would not close. We need not decide whether, had Roman made such a statement to all the employees, it would have been sufficient to mitigate the coercive effect of Ayers' continuing threats to employees, because the record fails to support Respondent's contention that Roman made any such statement to all the employees. In support of its contention, Respondent cites one witness' testimony that, at two meetings of employees held just prior to the election, Roman said the plant would not close. Roman, however, testified that he did not vary from his prepared text while delivering his remarks at the employee meetings. Copies of those speeches were introduced into evidence, and they reveal that although Roman did refer to the possibility that the plant might close, stating that "We could be forced out of business if our prices are too high," he never offered the assurance that the plant would *not* close. Thus, while Roman's remarks themselves are not alleged to be threats of plant closure, neither do they cure the threats disseminated by Ayers.

Moreover, Roman expressly stated in his speeches to employees that he would not answer questions in the open meetings, but would be willing to do so on an individual basis afterwards. Thus, even if, in response to an employee's question, he did express the view that the plant would not close, he did so in an individual conversation with that employee, and not in a general meeting for the benefit of all the employees. Accordingly, since Roman's only assurance to all employees that the plant would not close appeared in a letter distributed to employees on 10 October, and, as the Administrative Law Judge found, Ayers continued to spread the threat of closure long after that letter reached the employees, we find that Respondent's threat of plant closure was never effectively retracted in a manner which would cure its coercive effect.

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Judge and to adopt his recommended Order, as modified herein.³

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, Atlas Microfilming, Division of Sertafilm, Inc., Philadelphia, Pennsylvania, its officers, agents, successors and assigns, shall take the action set forth in the said recommended Order, as so modified:

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

"(l) In any other manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed them by Section 7 of the Act."

2. Insert the following as new paragraph 2(e) and reletter the subsequent paragraphs accordingly:

"(e) Rescind any written warnings issued after 1 January 1981, pursuant to its unlawfully instituted written warning system, and expunge from its files any reference to such written warnings, and notify any employees who had received such warnings that this has been done and that evidence of these warnings will not be used as a basis for future personnel actions against them."

3. Substitute the attached Appendix C for that of the Administrative Law Judge.

³ The General Counsel has excepted to the Administrative Law Judge's failure to require in his recommended Order that Respondent remove from its files any written warnings issued after 1 January 1981, pursuant to its unlawfully instituted written warning system. The Administrative Law Judge found that this system was adopted unilaterally by Respondent at a time when it had an obligation to bargain over such subjects with the Union. Accordingly, we shall modify his recommended Order to require Respondent to remove from its files any written warnings issued pursuant to the unlawfully instituted system.

The Administrative Law Judge failed to provide a broad cease-and-desist order. In light of Respondent's pervasive unfair labor practices committed here, it is clear that it has demonstrated a proclivity to violate the Act. Accordingly, we conclude that under the standard of *Hickmott Foods*, 242 NLRB 1357 (1979), a broad remedial order is warranted.

APPENDIX C

**NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

The Act gives employees the following rights:

To engage in self-organization
 To form, join, or assist any union
 To bargain collectively through representatives of their own choice
 To engage in activities together for the purpose of collective bargaining or other mutual aid or protection
 To refrain from the exercise of any or all such activities.

WE WILL NOT discourage membership in United Labor Unions, Local 862 (referred to herein as Local 862), or any other labor organization, by discharging employees, or by any other discrimination, in regard to their hire or tenure of employment.

WE WILL NOT interrogate employees concerning their membership in, sentiments toward, or activity on behalf of Local 862, or any other labor organization.

WE WILL NOT threaten employees with discharge, plant closure, layoff, stricter work rules, or other reprisals because they support Local 862, or any other labor organization, or because Local 862, or any other labor organization, has organized our employees.

WE WILL NOT give employees the impression that their union activities are under surveillance by informing employees of our knowledge of their union activities or the union activities of other employees, or by informing employees that we are engaged in surveillance with the use of spies.

WE WILL NOT inform employees that we will establish a grievance committee and suggest that employee grievances would be satisfactorily resolved provided employees do not select Local 862, or any other labor organization, as their collective-bargaining representative.

WE WILL NOT advise employees that they were not selected for promotion or other improvements because they are engaged in union activity, or supported Local 862, or any other labor organization.

WE WILL NOT suggest to employees that it is futile for them to select Local 862, or any other labor organization, as their collective-bargaining representative because we will not reach an agreement with the selected collective-bargaining representative.

WE WILL NOT promise employees that we will satisfy their grievances, or grant improvements in their medical benefits and increase their sick leave benefits or otherwise improve their wages, hours, and conditions of employment provided they do not select Local 862,

or any other labor organization, as their collective-bargaining representative.

WE WILL NOT exhibit the work production sheets of employees who support Local 862, or any other labor organization, in order to persuade other employees to abandon or withhold support from Local 862, or any other labor organization.

WE WILL NOT unilaterally institute a written warning notice and disciplinary system or otherwise change your wages, hours, or other conditions of employment without notifying and bargaining with Local 862 as the exclusive bargaining representative of our employees in the bargaining unit described below.

WE WILL NOT refuse to recognize Local 862 as the collective-bargaining representative of:

All regular full-time and regular part-time employees employed by Atlas Microfilming, Division of Sertafilm, Inc., at its 401 North Broad Street, Philadelphia, Pennsylvania, facility, excluding all salesmen, confidential employees, casual employees, guards, and supervisor as defined in the Act.

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

WE WILL offer Rose Bud Fleming reinstatement to her former job which she held prior to the discrimination against her or, if that job no longer exists, to a job substantially equivalent to her former job, without prejudice to her seniority or other rights and privileges.

WE WILL make whole Rose Bud Fleming for any loss of pay which she may have suffered because of the discrimination which we inflicted upon her, together with interest.

WE WILL expunge from our files any reference to the discharge of Rose Bud Fleming on 3 October 1980, and notify her in writing that this has been done and that evidence of this unlawful discharge will not be used as a basis for future personnel actions against her.

WE WILL rescind any written warning issued after 1 January 1981, pursuant to our unlawfully instituted written warning system, and expunge from our files any reference to such written warnings, and notify any employees who received such warnings that this has been done and that evidence of these warnings will not be used as a basis for future personnel actions against them.

WE WILL, upon request, recognize and bargain with United Labor Unions, Local 862, as

the exclusive collective-bargaining representative in the unit described above, respecting rates of pay, wages, hours, or other terms and conditions of employment, and, if an understanding is reached, embody such understanding in a signed collective-bargaining agreement.

WE WILL, upon request, bargain collectively with United Labor Unions, Local 862, about a written warning and disciplinary procedure and, if an agreement is reached, embody such agreement in a written document.

ATLAS MICROFILMING, DIVISION OF
SERTAFILM, INC.

DECISION

STATEMENT OF THE CASE

LEONARD M. WAGMAN, Administrative Law Judge: Upon an initial charge filed in Case 4-CA-11473 by the Union, United Labor Unions, Local 862, on October 6, 1980, the National Labor Relations Board's Regional Director for Region 4 issued a complaint on November 18, 1980.¹ On December 16, the Union filed a second charge in Case 4-CA-11689. Thereafter, on January 29, 1981, the Regional Director for Region 4 issued an order consolidating Cases 4-CA-11473 and 4-CA-11689 with Case 4-RC-14405 and a consolidated amended complaint. The consolidated complaint, as amended at the hearing before me, alleges that before and after a majority of a unit of employees of Atlas Microfilming, Division of Sertafilm, Inc., referred to herein as the Company, had designated the Union as their exclusive collective-bargaining representative; the Company engaged in various acts of interference, restraint, and coercion, which violated Section 8(a)(1) of the Act; and discriminated against employees in violation of Section 8(a)(3) and (1) of the National Labor Relations Act, as amended, herein called the Act, because of their union activity and support for the Union. The consolidated amended complaint also alleges that since October 10 the Company has violated Section 8(a)(5) and (1) of the Act by failing and refusing to recognize and bargain with the Union as the exclusive bargaining representative of an appropriate unit of its employees and by making unilateral changes in the unit employees' conditions of employment. In its answer, the Company denies the commission of the alleged unfair labor practices.

The representation proceeding before me began on October 14, when the Union filed a petition for certification in Case 4-RC-14405. On November 26, pursuant to a Stipulation for Certification Upon Consent Election, the Regional Director conducted an election in the following unit at the Company's facility located at 401 North Broad Street, Philadelphia, Pennsylvania:

All regular full time and regular part time employees, excluding all salesmen, confidential employees,

casual employees, guards and supervisors as defined in the Act.

The tally of ballots shows that, out of approximately 90 eligible voters, 39 voted for the Union, 42 voted against the Union, and 3 ballots were challenged. The challenged ballots were not sufficient in number to affect the results of the election.

On December 4, the Union timely filed objections to conduct affecting the results of the election.² On January 27, 1981, the Regional Director issued his Report and Recommendations on Objections to Election in which he found that the Union's objections in Case 4-RC-14405 and the allegations of unfair labor practices in Case 4-CA-11689 presented common issues which could best be resolved by consolidating the two cases. On January 29, 1981, the Regional Director consolidated Cases 4-CA-11473, 4-CA-11689, and 4-RC-14405 for purposes of hearing, ruling, and decision by an administrative law judge of the Board.

A hearing in the consolidated cases was held before me at Philadelphia, Pennsylvania, on July 14, 15, 16, and 23, 1981.

Upon the entire record in the cases, and from my observation of the demeanor of the witnesses, and after having considered the briefs filed by the General Counsel, the Company, and the Union, I make the following:

FINDINGS OF FACT

I. THE COMPANY'S BUSINESS

The Company, a Pennsylvania corporation, engages in the business of microfilming at its Philadelphia, Pennsylvania, facility. During the year preceding issuance of the complaint, the Company, in connection with its business, purchased and received goods valued in excess of \$50,000 from points directly outside the Commonwealth of Pennsylvania. I find that the Company is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

In its answer, the Company denies that United Labor Unions, Local 862, was a labor organization within the meaning of Section 2(5) of the Act.³ However, I find

² The Union's objections were as follows:

1. The Employer threatened employees because of their union activity.
2. The Employer interrogated employees to ascertain their views and sympathies regarding unionism.
3. The Employer caused there to be surveillance of employees engaged in union activity.
4. The Employer unlawfully discriminated against employees because of union activity.
5. The Employer conferred benefits and promised benefits calculated to improperly influence employees in their choice of a bargaining representative.

³ Sec. 2(5) of the Act provides as follows:

The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

¹ Unless otherwise stated, all dates occurred in 1980.

from the uncontradicted testimony of Keith Rohman, its former organizing director, that the Union is an organization in which employees participate and which exists for the purpose of representing employees as their collective-bargaining agent. I also find from Rohman's testimony that the Union has had a collective-bargaining agreement covering the employees of M. Swartz and Company, of Philadelphia, Pennsylvania. I find that United Labor Unions, Local 862 is a labor organization within the meaning of Section 2(5) of the Act. *Anheuser-Busch, Inc.*, 246 NLRB 29 (1979).

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. Background⁴ and Issues Presented

The Union began its organizing campaign among the Company's employees on September 15, when organizer Keith Rohman visited the lobby of the building which housed the Company's facility, where he spoke to one employee. Rohman repeated his visit on September 17, 18, and 29. During the same week, Company employee Karen Allen, at Rohman's request, attempted to ascertain the extent of employee interest in a union.

On September 23, the Union held an initial meeting with a group of the Company's employees, who voiced complaints about their wages and conditions of employment. Rohman explained the Union's plan for an organizing campaign. He stressed the objective of obtaining sufficient signed authorization cards to support a demand for recognition and bargaining. At this meeting, Rohman obtained 19 signed authorization cards from the assembled employees.

Following the initial meeting, the Union took up its campaign. With employee assistance, the Union pursued its goal of obtaining signed authorization cards from a majority of the Company's employees. The Union held further meetings with Company employees on September 29 and October 2.

On October 10, Keith Rohman visited the Company's facility and, on the Union's behalf, sought recognition as the exclusive bargaining representative of the Company's employees. The Company rejected the Union's request and suggested that it take the matter up with the National Labor Relations Board.

On October 14, the Union filed the representation petition in Case 4-RC-14405 seeking certification as the exclusive bargaining representative of a unit of the Company's employees. That petition resulted in the Board-held election which is under scrutiny in these consolidated proceedings.

The issues presented in these cases are whether the evidence shows that the Company in opposing the Union's organizing campaign violated the Act by: (a) creating the impression of surveillance of its employees' union activities; (b) threatening employees with layoff and discharge if they supported the Union; (c) instituting a policy or rule prohibiting employees from receiving personal telephone calls and from having access to visitors without the Company's permission; (d) interrogating

employees concerning their attendance at a union meeting, their union activity, and their union sentiments; (e) threatening to close its Philadelphia facility if the employees selected the Union as their collective-bargaining representative; (f) offering to establish a grievance committee if the employees rejected the Union as their collective-bargaining representative; (g) threatening employees with layoff if they selected the Union as their collective-bargaining representative; (h) informing an employee that the Company rejected that employee for a job promotion because she supported the Union; (i) telling employees that selecting a collective-bargaining representative would be futile because the Company would never agree to a collective-bargaining agreement; (j) promising to improve its employees' terms and conditions of employment if the employees rejected the Union; (k) attempting to persuade employees to reject the Union by exhibiting the work production sheets of a known union supporter; (l) attempting to persuade employees to reject a union by soliciting their grievances; (m) threatening employees with more onerous work rules if they supported the Union; (n) discharging Rose Bud Fleming because of her union activity; (o) refusing to bargain with the Union as the exclusive collective-bargaining representative of the unit of its employees; (p) unilaterally implementing an increase in the employees' lunchbreak period on paydays; and (q) unilaterally implementing a new written warning and disciplinary system for its employees.

B. Interference, Restraint, and Coercion

1. Aaron Wishnoff's conduct

On October 10, union organizer Keith Rohman appeared at the Company's Philadelphia facility and together with a group of employees confronted Production Manager Harry Greenberg in his office. When two of the employees demanded that the Company recognize the Union, Greenberg directed them to take the matter up with either President Jack J. Roman or Company Secretary-Treasurer Aaron Wishnoff. At this juncture, Wishnoff came down the hall and confronted Rohman and the employees. When Rohman asserted that the Union had the support of a majority of the Company's employees and was demanding recognition as their collective-bargaining representative, Wishnoff rebuffed him. Wishnoff directed Rohman to leave the premises, added that he was not interested in what Rohman had to say, and suggested that he "go to the Labor Board." When the Union's organizer continued to press for recognition and bargaining, Wishnoff rejected the demand and repeated the suggestion that they "go to the Labor Board." Rohman turned to the employees and advised them that, in view of Wishnoff's attitude, they would have to seek recognition through a Board-run election. At this, Wishnoff declared: "[S]ure you can go to the government, you can win the election, you bargain one year, two years, three years, we're not going to agree to anything."⁵ I find that Wishnoff's quoted declaration was

⁴ My findings of fact regarding the Union's organizing campaign are based on undisputed testimony.

⁵ My findings regarding Wishnoff's remarks are based on testimony of union organizer Keith Rohman. Wishnoff did not specifically deny
Continued

nothing less than a warning that the employees' efforts to organize and select a collective-bargaining representative was an exercise in futility. I find that by Wishnoff's warning the Company attempted to restrain and coerce its employees so that they would abandon the Union, and thereby violated Section 8(a)(1) of the Act. *Holding Co.*, 231 NLRB 383, 388 (1977).

On November 25, the day before the election, Wishnoff came to employee Terry Parks and began discussing the Union's financial condition. Turning to a different topic, Wishnoff stated that, if the employees rejected the Union in the coming election, the Company was considering changing its policy by providing a health plan to employees who had been in its employ for less than 5 years.

In the same conversation, Wishnoff stated that, if the employees voted against the Union, the Company would provide a new book of rules. However, he went on, if the Union succeeded in its organizing effort, "A lot of people would lose their jobs, because we would have to go by the union rules."

I find that by Wishnoff's remarks conditioning the granting of improved health benefits and a new set of plant rules upon the employees' rejection of the Union and by threatening more onerous rules if the Union won the election,⁶ the Company unlawfully interfered with, coerced, and restrained its employees in the exercise of their right to choose a collective-bargaining representative and thereby violated Section 8(a)(1) of the Act.⁷ I find from Karen Allen's uncontradicted testimony that, on or about December 1, Wishnoff told Karen Allen and other employees that the Company wanted to grant the employees an hourly wage increase in excess of 35 cents, but that it had been advised not to do so, because of the pending representation proceedings and the possibility that such an increase might be viewed as bribery. Employees listening to these remarks were likely to conclude that the Company was punishing them because they were engaged in union activity. I therefore find that, by these remarks, the Company violated Section

making the quoted remarks. However, his version of the confrontation omitted any reference to it. Production Manager Greenberg, who was also involved in the incident, neither corroborated nor contradicted Rohman's testimony regarding the quoted language. Greenberg admitted that he might not have heard all that was said. However, the repeated manifestations of union animus by Wishnoff and other members of the Company's management as found elsewhere in my decision cause me to doubt that Wishnoff was as restrained as his testimony suggested when Rohman and the employees stood before him and demanded recognition on the Union's behalf. Rohman's version seemed more reasonable and he impressed me as a more candid witness than Wishnoff.

⁶ *Truss-Span Co.*, 236 NLRB 50, 59 (1978).

⁷ I base my findings regarding Wishnoff's unlawful remarks of November 25 on former employee Terry Parks' testimony. Wishnoff admitted that he sought out Parks "very late in the campaign" only to show a statement of the Union's financial condition to her. However, Wishnoff also testified in substance that, although Parks cornered him and insisted on further discussion regarding health insurance and company rules, he was not interested in holding a conversation with Parks and made no promises or threats. However, in light of the Company's active antiunion activity which included manifestation of union animus as found elsewhere in this Decision, it appears unlikely that Wishnoff would have avoided an opportunity to voice antiunion remarks to Parks, particularly on the eve of the representation election. For this reason, I seriously doubted the accuracy of Wishnoff's account of this exchange. Further, my impression that Parks was the more candid witness convinces me that her account of the conversation was reliable.

8(a)(1) of the Act. *Famous-Barr Co.*, 174 NLRB 770 (1969).

2. Jack J Roman's conduct

Company President Jack Roman also involved himself in the antiunion campaign. On the morning of November 26, the day of the election, Roman approached employee Jacqueline Rand at her work station, and asked her how she intended to vote. Rand replied that she could not tell him how she would vote. In response, Roman expressed the hope that she would vote "no."⁸

On November 25, President Roman held a meeting of employees, during which he delivered a speech discussing the possible effects of a union election victory. I find from employee Antoinette Gwaltney's testimony⁹ that, in the course of his remarks, Roman warned that if the Union "came in" and a camera breakdown befell an operator, the Company would send the operator home, "because that's the way the union works." At the time Roman spoke, the Company's current policy was to transfer a camera operator to preparatory work if his or her camera became inoperable. There was no showing that Roman supported his prediction by exhibiting a union contract or any other evidence that the Union insisted upon the practice of which he warned. Thus the thrust of Roman's remarks was that, if the employees selected the Union as their collective-bargaining representative, the Company would institute a harsher policy on its employees and would lay them off rather than transfer them from job to job.

I find that President Roman's questioning of employee Rand and his warning of a harsher company policy if the employees selected the Union as their collective-bargaining representative restrained and coerced employees in the exercise of their rights to support and vote for the Union. Accordingly, I find that the Company, by Roman's conduct, violated Section 8(a)(1) of the Act.

3. Maria Ayers' conduct

Maria Ayers became supervisor of the Company's preparation department, consisting of 20 to 22 employees, on March 20. In early September, Ayers heard about union activity among the Company's employees and began interrogating employees.

She questioned employees Karen Allen, Elizabeth Owens, Rose Bud Fleming, Terry Golden, and all 22 employees of her department. She asked each employee what she expected to obtain in the way of benefits from a union. This interrogation occurred in the course of an

⁸ I base my findings of fact regarding this incident on the testimony of employee Jacqueline Rand. Roman's denial was prompted by leading questions on direct examination. He appeared reluctant to do more than testify about "stari" of the conversation. Rand gave her version, much of which Roman corroborated, in a full and forthright manner.

⁹ President Roman testified that he did not deviate from the written text ("not a syllable"). However, Gwaltney was a company employee at the time she testified and thus more likely to be careful about her testimony. However, Roman, whose anxiety about the Company's defense surfaced in an argument with counsel for the General Counsel, at times, seemed to have lapses of memory about conversations with employees during the preelection period. Accordingly, Gwaltney impressed me as the more reliable witness of the two.

antiunion campaign in which Ayers and other members of management threatened economic reprisals in violation of Section 8(a)(1), and Fleming, a leading union advocate. I find against this background that Ayers' program of interrogation was coercive and, therefore, violative of Section 8(a)(1) of the Act.

In mid-September, a labor relations consultant retained by the Company gave Ayers a list of "do's and don'ts." Among the restrictions was one against interrogating employees. However, Ayers did not cease interrogating employees about their union activity or sentiments.¹⁰ I also find that the Company again violated Section 8(a)(1) of the Act on October 13, when Ayers asked employee Deborah DeShields how she felt about the Union, and when Ayers asked employee Sheila Dobson about the previous evening's union meeting.¹¹

However, at or about the same time, the Company's production manager, Harry Greenberg, enlisted Ayers in the Company's antiunion campaign. Greenberg's testimony shows that he instructed Ayers to answer questions raised by employees in her department. Greenberg also admitted that he told Ayers that:

[I]f the Union won the election, and if the Company and the Union could not bargain in good faith and could not come to an agreement, that the possibility was, considering our competition, that we would be hurt, and possibly would close; and for her to keep that in mind when she was talking to her people regarding the importance of not having a union.

Following her indoctrination by Greenberg and until after the November 26 election, Ayers told employees that Production Manager Greenberg had warned that, if the Union succeeded in the election, the Company would find it difficult to remain in business with the further results that the plant would cease operating and move elsewhere, and the employees would lose their jobs. She admitted voicing the warning to the 22 employees in her department and 4 other employees. Ayers did not present any financial data or cost comparisons to her listeners to demonstrate how selection of the Union would lead to these results. President Roman's assurance to employee Crystal Barker at a November 26 meeting of employees that the Company would not close its plant if the Union won the election was sufficient to mitigate Ayers' repeated warnings which continued after his assurance.¹²

¹⁰ Except as otherwise noted, I have credited Ayers' testimony on direct and cross-examination when she testified in a relaxed manner. However, I have not credited her testimony given on surrebuttal, when she seemed agitated and distressed. She attempted to blame some of her admissions on confusion and misunderstanding. However, at the time she made these admissions, she gave no evidence of confusion or lack of comprehension. I do not credit Ayers' assertion that she discontinued interrogating employees after mid-September. I reject this assertion because it appears that Ayers continued to be interested in employee sentiment and pursued her antiunion activity even after reviewing the "do's and don'ts" list in mid-September.

¹¹ I based my findings regarding these incidents on DeShields' and Dobson's testimony.

¹² In a company letter to employees distributed on or about October 10, President Jack J. Roman referred to "rumors of layoffs and close-downs." Roman went on to assert that such rumors were "just nonsense" and "propaganda." He invited the employees to explore such rumors with him and assured them he would "straighten the record out." How-

I find therefore, that by Ayers' repeated threats of plant closing, the Company violated Section 8(a)(1) of the Act. *Stride Rite Corporation*, 228 NLRB 224, 234 (1977).

From mid-September until almost the evening of the election, Ayers also warned the same employees that if the Union succeeded in achieving representative status, she and they would lose their jobs. Employees listening to these warnings were likely to perceive them as threats of reprisal for their support of the Union. I find that by these threats the Company violated Section 8(a)(1) of the Act.

I find from Deborah Edwards' testimony that, in a conversation on September 22, Ayers warned Edwards, Elizabeth Owens, and Rose Bud Fleming against participation in union activity as follows: "Harry [Greenberg] got word of a union being started and we better watch ourselves if we got involved in it."¹³ I find that this amounted to a threat of reprisal designed to deter the three employees from engaging in union activity. I find that by this threat the Company violated Section 8(a)(1) of the Act.

On or about September 25, employee Deborah Edwards asked Ayers if she intended to sign a pronoun petition which was then circulating among the Company's employees. Ayers did not sign the list. However, 5 days later, Ayers told Edwards not to sign the petition. I find that this interference with Edwards' right to support the Union violated Section 8(a)(1) of the Act.

In the middle of October, at the plant, Maria Ayers told employees Terry Golden and Karen Allen to remove their union buttons. When the two employees asked why they should remove the union buttons, Ayers replied that "Mr. Greenberg said that they were going to shut the plant down."¹⁴ I find that, by this warning of plant closure if the employees continued to demonstrate support for the Union, the Company violated Section 8(a)(1) of the Act.

On October 28, as they rode to work, employee Sheila Dobson and Supervisor Maria Ayers discussed the recent promotion of employee Geraldine Hardison. Ayers remarked that Hardison was junior to other employees and that the promotion should have gone to Dobson and one of the other senior employees. The two dropped the topic at this point. Later that same day in a conversation with Ayers, Dobson asked why she had not gotten the promotion. Ayers replied that Production Manager Greenberg had seen Dobson's name on a list which contained the names of employees who had joined the Union. I find that Ayers' response to Dobson was coercive and was likely to restrain and interfere with that employee in the exercise of her rights under Section 7 to support the Union. Accordingly, I find that, by Ayers' response, the Company violated Section 8(a)(1) of the Act.

ever, Ayers continued to spread threats of closure and layoff long after the letter had reached the employees. I find therefore that Roman's comments and assurances did not mitigate the coercive effect of those threats.

¹³ I base my findings of fact regarding this incident on Edwards' testimony.

¹⁴ My findings regarding this incident are based on Terry Golden's testimony.

During the week preceding the election, Ayers warned employees Karen Allen and Terry Staton that, if the Union won, the Company would no longer assign camera operators to other work when their cameras malfunctioned. Instead, the Company would lay them off. I find this warning of reprisal was violative of Section 8(a)(1) of the Act.

In addition to threats of economic reprisals and interference with union activity, Ayers' antiunion campaign included suggestions that the Company was maintaining surveillance over its employees to ferret out union activists. On September 22, Ayers told employees Rose Bud Fleming, Deborah Edwards, and Elizabeth Owens that Production Manager Greenberg had some "loyalty girls," and that he was willing to pay Ayers for any information about the Union by granting her "sick days and benefits."¹⁵

During the first half of September, Ayers warned employee Elizabeth Owens on four or five occasions that the Company was spying on union activity. On September 29, Ayers advised Fleming that she had heard that Production Manager Greenberg "knew that [Fleming] started a union." On September 30, and again on October 2, Ayers told employee Elizabeth Owens that Greenberg suspected that Fleming was responsible for starting a union. Finally, on October 15, after Sheila Dobson had refused to disclose what had occurred at the previous night's union meeting, Ayers replied that "Harry [Greenberg] had spies there anyway."¹⁶ I find that Ayers' remarks about "loyalty girls" and saying, and her warnings that Greenberg knew of Fleming's union activity, coerced and restrained employees. I find that, by this conduct, the Company violated Section 8(a)(1) of the Act.

On five or six occasions from mid-September until after the election, Ayers told company employees to compile their grievances and take them to President Roman. This suggestion was not accompanied by any hint that Roman would do anything in response to employee complaints. However, such solicitation of grievances carried the rebuttable inference that Ayers was suggesting that president Roman would do something to satisfy the employees' complaints. *Lake Development Management Co.*, 259 NLRB 791 (1981). Here, the Company provided no evidence to rebut that inference. On the contrary, Ayers provided the inference with added vitality. Thus, on November 18 and again on November 25, Ayers told an employee that the Company intended to set up a grievance committee. On the earlier date, she advised employee Sheila Dobson to join the committee. I find therefore that by telling employees to compile their grievances and give them to president Roman the Company implicitly promised to correct them and thus violated Section 8(a)(1) of the Act. *Cutting Inc.*, 255 NLRB 534 (1981)

¹⁵ My findings regarding Ayers' remarks to Fleming, Edwards, and Owens are based on Fleming's version of the four participants in this conversation. Fleming seemed to have the most complete recollection.

¹⁶ My findings regarding this incident are based on Dobson's testimony.

C. Discrimination

1. Rose Bud Fleming

a. *The facts*¹⁷

The Company hired Rose Bud Fleming into its preparation department in May 1976, where she remained employed until September 1976. Her work consisted of preparing hospital report sheets for microfilming. In September 1976, the Company transferred Fleming to its X-ray department where she worked as a camera operator microfilming hospital X-rays until her discharge on October 3, 1980.

Fleming became interested in the Union when employee Karen Allen approached her at work on September 19. Allen questioned Fleming about her union sentiments and whether she wished to become involved in the campaign. When Fleming gave an affirmative response, Allen asked her to put her name and telephone number on a list which Allen was then circulating among the Company's employees.

On September 23, Fleming attended the Union's first meeting with the Company's employees. During this meeting, Fleming signed a union authorization card. In total, Fleming attended four union meetings between September 23 and October 2, both dates inclusive.

On September 24, Fleming began soliciting signatures on authorization cards for the Union among her fellow employees. Fleming conducted solicitation and distributed union flyers during work breaks in the lobby of the building which housed the Company's facility.

On September 27, Fleming extended her pronoun campaign by visiting two employees at their respective homes and telling them about the Union. She also conducted telephone solicitation on the Union's behalf. On October 1 or 2, Fleming telephoned her immediate supervisor, Ruth Milner, inquired as to her sentiments toward the Union, and then asked "did she want to get involved."

As found above, on September 29, Supervisor Maria Ayers advised Fleming that Production Manager Harry Greenberg "knew that [Fleming] started a union." On September 29 and on October 2, Ayers told employee Owens that Greenberg knew that Fleming was responsible for starting the union campaign. In her testimony, Ayers admitted that, by late September, she knew that Fleming was actively soliciting employees' signatures on authorization cards on the Union's behalf, and that Fleming had asked her to sign a card during that period.

At the close of the workday, on Friday, October 3, Fleming was unable to find her timecard. Further effort to locate it brought Fleming to Production Manager Greenberg's office. When Fleming asked Greenberg about her timecard, he announced that he was about to discharge her. Her request for an explanation brought Greenberg's assertions that the lettering on her work was incorrect, that the hospital to which it was directed had so advised the Company, and that it was returning the

¹⁷ Except as specifically noted below, I base my findings regarding Fleming's employment history with the Company and her union activity on her testimony. No issues of credibility were raised as to those matters.

work. Greenberg also asserted that "it would cost a fortune to have [Fleming's] work redone." When Fleming protested that he had not previously complained about her work, he reminded her that in April he had complained about her numbers.¹⁸

b. *Analysis and conclusions*

There is ample factual support for the contention that Rose Bud Fleming's discharge on October 3 was in reprisal for her leading role in the Union's organizing campaign. During late September, while the Company was engaged in unlawful efforts to discourage its employees from supporting a union, Fleming was openly engaged in soliciting support among the same employees. During this same period, while the Company was seeking the identity of union activists among its employees, Fleming solicited the signatures of two supervisors, including a management informant on such matters, Maria Ayers.

By the end of September, Production Manager Greenberg considered Fleming to be a leading union activist. This was reflected on September 29, when Ayers warned Fleming that Greenberg suspected her of starting the Union. Ayers made a similar assertion to employee Elizabeth Owens on the next day and again on October 2, 1 day prior to Fleming's discharge.

The Company's hostility toward union activity surfaced during the latter half of September. Company management attempted to eradicate prounion sentiment among its employees by creating the impression of surveillance of their union activity, interrogating them as to their union sympathies and activities, interfering with their right to support a union, and threatening them with economic reprisal, including loss of employment if they selected the Union as their collective-bargaining representative. Several of these unfair labor practices were directed at Fleming. In sum, during September, the Company demonstrated its willingness to engage in unlawful conduct in furtherance of its pressing desire to prevent the Union from organizing its employees.

The Company's unlawful motive is also suggested by the timing of Fleming's discharge. Fleming began her efforts on the Union's behalf on September 24. Production Manager Greenberg became aware of Fleming's union activity by September 29. Four days later, Greenberg discharged Fleming. "It stretches credulity too far to believe that there was only a coincidental connection between" Greenberg's learning of Rose Bud Fleming's role in the union campaign and her discharge. *Angwell Cur-tain Co. v. NLRB*, 192 F.2d 899, 903 (7th Cir. 1951). Wishnoff and Greenberg worked in close proximity to one another and had opportunity to discuss Fleming before her discharge. Thus, I find that Wishnoff, who testified that on October 3 he decided to suggest Fleming's discharge, was apprised of Fleming's union activity

by the time he made his decision. In sum, the Company's union animus and the timing of Fleming's discharge in relation to Production Manager Greenberg's first perception of her as a leading union activist strongly suggest that the Company discharged her because of her union activity.

The Company asserted in its brief that it discharged Fleming because of poor workmanship. Specifically, the Company called attention to Aaron Wishnoff's discovery, on October 3, that Fleming had committed 200 errors in a roll of 1,050 pictures. Aaron Wishnoff testified about two earlier instances, one in April and the second in July, as evidence of Fleming's faulty performance. However, the Company in its brief, conceded that neither of the earlier incidents was serious enough to warrant discharge. Nor was there any showing that the Company had at any time warned Fleming that further errors would result in her discharge.

According to Wishnoff and the Company's brief, the errors discovered on October 3 were intolerable and justified the discharge.

Infirmities in Greenberg's testimony cast serious doubt on the Company's defense. When Greenberg discharged Fleming on the afternoon of October 3, he told her that she was about to be discharged because her "lettering was off," he also complained to her "that the hospital was sending [her] work back" and that "it would cost a fortune" to redo her work. However, Greenberg's version of his remarks was as follows:

I told her she was being fired for improper work, that she had been late and missed some time, and my personal opinion is that she was rushing.

Absent from Greenberg's account was any reference to the hospital or the cost to the Company. Further, at the hearing, the Company made no effort to show from its records that Fleming "had been late and missed some time" or to correlate her attendance record with her production. My suspicion that the Company's defense was a hasty contrivance increased when Greenberg conceded on cross-examination that his assertion that she was going too fast was only speculation.

A further blemish on the Company's defense surfaced with comparison of Greenberg's remarks to Fleming on October 3 with his testimony and that of Wishnoff at the hearing. Thus, on October 3, Greenberg grossly overstated the seriousness of Fleming's error when he discharged her. For contrary to his remarks to Fleming, Greenberg testified that Fleming's work never reached the hospital. Finally, in contrast to Greenberg's claim that "it would cost a fortune" to redo her work, Wishnoff testified that only "about an hour was required."

In light of the strong evidence showing the likelihood that the Company discharged Fleming because of her leading role in the Union's organizing campaign, I have rejected the Company's unconvincing explanation. I find instead that, on October 3, Wishnoff and Greenberg seized on Fleming's error as a pretext for ridding the Company of a leading union activist and to discourage other employees from supporting the Union. According-

¹⁸ As Fleming impressed me as being the more candid witness, I have credited her version of Greenberg's remarks to her on October 3. Greenberg was glib as he testified about "problems" he had with Fleming's performance. Thus, on direct examination, he agreed that she committed one type of error "all the time" and later "[m]any times many times" and, finally, "Five or six times a year." On cross-examination, Greenberg's hostility suggested that he was reluctant to answer regarding Fleming's work. In sum, Greenberg impressed me as being a reluctant witness.

ly, I find that, by discharging Fleming, the Company violated Section 8(a)(3) and (1) of the Act.

2. The restraints on telephone calls and visitors

a. *The facts*¹⁹

On September 15, union organizer Keith Rohman first visited the Company's employees in the lobby of the seventh floor in the building housing the Company's facility. He again visited the same location on September 17, 18, and 19. At some point in September, Production Manager Greenberg asked Supervisor Ayers about a "union person," who was visiting twice a week. Ayers responded that she had heard a rumor to that effect.

On an undisclosed date in September 1980, the Company posted a notice to its employees stating:

1. THERE ARE TO BE NO MORE PHONE CALLS OTHER THAN EMERGENCY CALLS WHICH WILL BE GIVEN TO MR. GREENBERG.

2. NO VISITOR IS ALLOWED TO WAIT FOR AN EMPLOYEE IN THE FRONT OFFICE, EITHER AT LUNCH PERIOD OR 5PM.

3. NO VISITOR WILL BE ALLOWED TO WAIT IN THE HALLS OR ON THE SEVENTH FLOOR.

4. NO EMPLOYEE WILL BE CALLED OFF THE JOB FOR A VISITOR EXCEPT IN AN EXTREME EMERGENCY.

Prior to the appearance of this rule, the front office staff would routinely notify employees of their telephone messages by attaching notices on their timecards. If a call involved an emergency, the front office would notify Greenberg, who would personally contact the employee.

Under prior policy, the Company permitted visitors to wait for employees in the hall on the seventh floor at lunchtime. The Company also called employees from their work stations to meet their visitors.

b. *Analysis and conclusions*

The General Counsel contends that the quoted notice was in reprisal for the employees' union activity and therefore violated Section 8(a)(3) and (1) of the Act. The Company challenges that contention, urging that good order and discipline required these revisions. However, as the General Counsel has not established a *prima facie* case, I shall recommend dismissal of the allegation.

The General Counsel did not establish that the Company posted this notice after it became aware of the Union's organizing effort or of union activity among the employees. All that is shown in the record is that the Company published the new rules on an unspecified date in September. The absence of this element of proof precluded me from finding that the notice ran afoul of the Act. Accordingly, I shall recommend dismissal of that portion of the complaint which alleges that the quoted notice was violative of Section 8(a)(3) and (1) of the Act.

¹⁹ My findings regarding this allegation are based on the testimony of Jeannie Murphy, who, as a secretary, had daily contact with company policy. She impressed me as a knowledgeable and candid witness.

D. *The Refusal To Recognize the Union*

On October 10, the Company rejected the Union's request for recognition as the collective-bargaining representative of the following undisputed unit, which I find to be appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All regular full-time and regular part-time employees employed by Atlas Microfilming, Division of Sertafilm, Inc., at its 401 North Broad Street, Philadelphia, Pennsylvania facility, excluding all salesmen, confidential employees, casual employees, guards and supervisors as defined in the Act.

The Company contends that it properly rejected the Union's request on the ground that the Union did not represent an uncoerced majority of the employees in the appropriate unit.

The parties agreed that 90 employees whose names appear in "Appendix A," attached to this Decision, were included in the appropriate unit at the time of the Union's request for recognition. The parties disputed the unit placement of Rose Bud Fleming, Charisse Myles, Todd Yow, Alan Mezey, and Sarah Wishnoff. The evidence pertaining to these unit placement issues is set out and evaluated below.

Rose Bud Fleming

The Company contends that Rose Bud Fleming should be excluded on the ground that she was not a unit employee on October 10. I have found above that the Company discharged full-time camera operator Fleming in violation of Section 8(a)(3) and (1) of the Act, thereby entitling her to reinstatement. As a full-time employee, Fleming would have been in the unit as of October 10, absent the discrimination against her. Under Board policy, on October 10, Fleming's status as a discriminatee entitled her to participate in the selection of a collective-bargaining representative for the unit described above. *Commodore Watch Case Co.*, 114 NLRB 1590, 1599 (1955). Accordingly, I shall include Rose Bud Fleming in the unit.

Charisse Myles

The Company conceded that, as of October 8, Charisse Myles was a member of the bargaining unit, and I so find. However, the Company contends that Myles should not be included in the unit as of October 10 on the ground that her last actual day of work was on October 8. However, I find from the Company's records and the testimony of Company witnesses Greenberg and Murphy that, despite her absence after that date, the Company considered her to be an employee until she quit on October 16.

From these facts, I find that Charisse Myles was a bargaining unit employee on October 10. Accordingly, I shall include Myles in the unit as of that day. *Delta Pine Plywood Co.*, 192 NLRB 1272, fn. 1 (1971).

Todd Yow

The Company urges that employee Todd Yow should be excluded from the unit on the ground that he was a casual employee during the school year which included October 10. However, I agree with the General Counsel and the Charging Party that Yow was a regular part-time employee entitled to inclusion.

The Company employed Yow, a high school student, to do odd jobs at its facility under the supervision of its warehouse supervisor, John Heely. Heely also supervised other undisputed unit employees. During the school year, Yow worked an average of 6 hours a week. On occasion, he worked as much as 10 or 11 hours per week. His hours of employment varied in accordance with school requirements, such as examinations, studying, and discipline. According to Production Manager Greenberg, "a good many" of the student-employees such as Yow have remained as full-time employees after graduation. In view of the regularity and extent of Yow's employment, and his enjoyment of common supervision with undisputed unit employees, I shall include him in the unit for purposes of determining the Union's majority status as of October 10. *Femco Machinery Co.*, 238 NLRB 816, 826 (1978); *Waterloo Surgical & Medical Group*, 213 NLRB 321, 322 (1974).

Sarah Wishnoff and Alan Mezey

Contrary to the Company, the General Counsel and the Charging Party insist that employees Sarah Wishnoff and Alan Mezey should be excluded from the unit because of their relationship with management. Sarah Wishnoff is employed in the Company's jacketing department. She is the daughter of Secretary-Treasurer Aaron Wishnoff, a one-third owner of the Company. Sarah Wishnoff resides in Aaron Wishnoff's home and drives to work with him daily. Aaron Wishnoff pays her insurance premiums.

Alan Mezey is employed in the Company's laboratory. He lives with his father, Vice President Robert Mezey, a one-third owner of the Company. Vice President Mezey pays Alan Mezey's insurance premium.

Both Sarah Wishnoff and Alan Mezey have enjoyed conditions of employment different from those of undisputed unit employees. In the summer of 1980, the Company required its employees to take a 1-week vacation during the last week of July. Sarah Wishnoff worked that week and allowed her to take a day off every Monday, from late July until late August, in lieu of the 1-week vacation.

The Company permitted Alan Mezey to leave work early every Tuesday from September 1980 until the end of that year to attend Temple University. No other employee has enjoyed that privilege.

In sum, both Sarah Wishnoff and Alan Mezey have daily access to a parent who possesses a significant ownership interest in the Company and plays a major role in its management. In addition, both Sarah Wishnoff and Alan Mezey are at least partially dependent on their respective parents. These factors give Sarah Wishnoff and Alan Mezey a status and an area of interest distinct from that of other employees. *Pandick Press Midwest*, 251

NLRB 473 (1980). I conclude therefore that, as children of members of the Company's upper management, neither Sarah Wishnoff nor Alan Mezey shares a sufficient community of interest with the agreed unit employees to permit their inclusion. I therefore exclude both Sarah Wishnoff and Alan Mezey from the unit. *NLRB v. H. M. Patterson & Son*, 636 F.2d 1014, 1017 (5th Cir. 1981); *Pandick Press Midwest*, 251 NLRB at 474.

In sum, I find that, as of October 10, the unit consisted of the 90 employees listed in "Appendix A" plus Rose Bud Fleming, Charisse Myles, and Todd Yow. Thus, the unit consisted of 93 employees as of October 10.

At the hearing, the General Counsel offered 58 signed authorization cards in support of the Union's claim that, on October 10, it enjoyed majority support in the bargaining unit. Names of the unit employees whose cards were received in evidence are set out in "Appendix B."

Among the 58 cards was that of Terry Station, which was offered by the General Counsel as Exhibit 46, without objection by the Company. However, I inadvertently neglected to receive Staton's card in evidence. Accordingly, I now grant counsel for the General Counsel's renewed motion for receipt of Staton's card, and now receive General Counsel's Exhibit 46 in evidence.

The Company raised issues as to 23 of the 58 authorization cards which were signed by unit employees on or before October 10. The evidence pertaining to the validity of these disputed cards is set out and evaluated below.

Rose Bud Fleming, Charisse Myles, and Todd Yow

Rose Bud Fleming signed a union authorization card on September 23. On October 3, as found above, the Company unlawfully terminated her because of her union activity. As I have already found that Rose Bud Fleming's status as a discriminatee entitled her to inclusion in the unit on October 10, I shall count her authorization card in determining whether the Union had achieved majority status on that day.

The Company urged rejection of Charisse Myles' authorization card, which she signed on September 23, on the ground that she quit her employment prior to October 10. However, I have found that she was an employee in the bargaining unit on that date. Accordingly, I shall count her card.

The Company argued that, as Todd Yow was never a member of the unit, his authorization card, signed on October 6, should not be counted. However, I have found that Todd Yow was a member of the collective-bargaining unit when he signed his authorization card and when the Union made its demand on October 10. Accordingly, I shall count his card in determining whether the Union represented a majority of the bargaining unit on October 10.

Myrtle Anderson, Elnora Chambers, Doris Churchill, Lois Clark Brockman, and Irene Stuart

On the morning of October 6, as employee Myrtle Anderson approached the building housing the Company's facility, three or four employees approached her and solicited her signature on a union authorization card. The employees told Anderson that signing the card would

help Rose Bud Fleming obtain reinstatement. At the time of this solicitation, up to 20 employees were in the area urging other employees to sign authorization cards. Anderson signed the card without reading the content which was as follows:

I hereby authorize the United Labor Union (ULU) to represent me for the purpose of collective bargaining with my employer, and to negotiate and conclude all agreements respecting wages, hours, and conditions of employment. I understand that this card can be used by the union to obtain recognition from my employer without an election.

The Company urged rejection of Anderson's card because she signed it without considering its content and only to help Fleming, and further because she was coerced. In light of Board policy, I find no merit in these contentions.

Under the Board's doctrine in *Cumberland Shoe Corp.*, 144 NLRB 1268, 1269 (1963), where as here, the authorization cards unambiguously recited that the signer authorized the specified union to represent the employee for purposes of collective bargaining and made no mention of an election, that card would be counted in favor of the specified union unless it was shown that the solicitor told the employee that the sole purpose of the card was to obtain a Board-held election. The Supreme Court has expressed its approval of the Board's policy as follows:

In resolving the conflict among the circuits in favor of approving the Board's *Cumberland* rule, we think it sufficient to point out that employees should be bound by the clear language of what they sign unless that language is deliberately and clearly canceled by a union adherent with words calculated to direct the signer to disregard and forget the language above his signature. [*NLRB v. Gissel Packing Co.*, 395 U.S. 575, 606-607 (1969).]

Applying the Board's *Cumberland* doctrine, I find that Anderson's failure to read her card before signing it did not invalidate it as evidence of support for the Union.

Further, the Company has not established that any threat of physical harm or any other reprisal accompanied the solicitation of Anderson's signature on October 6. I therefore find no support for the Company's contention that Anderson was coerced into signing the authorization card. *Maxwell's Plum*, 198 NLRB 14, 24 (1972).

I have rejected the Company's similar contention regarding the authorization card signed by Elnora Chambers on October 6. Her testimony on cross-examination that she signed it "to help the girl get her job back," after being solicited by approximately 12 employees on the morning of October 6, did not invalidate her card. Here again, there was no showing of threats of physical harm or reprisals against Chambers. Nor was there any evidence that the solicitation ran afoul of the Board's *Cumberland* doctrine. Accordingly, I find Chambers' authorization card was valid.

Without reading its contents, employee Doris Churchill signed an authorization card on October 6, as she

neared the Company's facility. There is no evidence that the solicitation ran afoul of the Board's *Cumberland* doctrine. Nor is there any evidence that any threat accompanied the solicitation of Churchill's signature. I find that Churchill's card was valid and shall count it.

Lois Clark Brockman signed an authorization card on October 6,²⁰ after 3 employees in a group of 10 to 20 employees approached Brockman and solicited her signature. The solicitors told her that the purpose of the authorization card was "to get a union at the job, to try to get some benefits and different things." The Company would invalidate Brockman's card on the ground that it was signed under coercive circumstances. However, there is no evidence of any threats made to Brockman to induce her to sign the authorization card, nor was there any showing of other circumstances that might be deemed coercive at the time Brockman signed her card.

Employee Irene Stuart signed an authorization card on the morning of October 6, between 8:15 and 8:30, as she entered the building which houses the Company's facility. Stuart's account of the circumstances leading up to her signature was as follows:

I had only been employed only a couple of days, and they asked me if I wanted to join the Union, and there was a crowd in front of the door, so, to keep from being late for work, I just signed it and went upstairs.

The circumstances leading up to Brockman's and Stuart's signatures provided no ground for invalidating their cards. The solicitation of their signatures contained neither references to an election nor any threat of reprisal or coercion. Accordingly, I find that Brockman's and Stuart's cards were valid. *Cumberland Shoe Corp.*, *supra*, 144 NLRB at 1269; *American Beauty Baking Co.*, 198 NLRB at 328-329; *Maxwell's Plum*, *supra*, 198 NLRB at 24.

Mona Killebrew

The Company would exclude Mona Killebrew's authorization card on the grounds that she planned to quit her employment with the Company 2 weeks after she signed it, and that she was coerced into signing it. I find no merit in these contentions.

Employee Mona Killebrew was a unit employee both on October 6, when she signed a union authorization card, and on October 10, the day of the Union's demand for recognition. That she planned to quit "in approximately two weeks" at the time she signed did not invalidate her card. There is no showing that the two employees who solicited her signature on the card advised her that contrary to the card's language that it would be used only for an election. Although she felt "kind of pressed," there was no showing that any coercion or threats caused Killebrew to sign the card. I find that Killebrew's authorization card was valid and should be counted.

²⁰ At the time Brockman signed the card, her surname was Clark.

Marie Dubuc

The Company urges rejection of employee Marie Dubuc's card on the grounds that "she has trouble with English," she signed the card without reading it, and she was coerced. I disagree with the Company's position.

On the morning of October 6, employee Terry Holden obtained Dubuc's signature on a union authorization card as Dubuc walked toward the Company's facility. Dubuc testified, in substance, that she can read and understand "a little" English. Yet, she testified fully, without an interpreter, and showed full understanding of the questions posed to her at the hearing.

I do not credit Dubuc's testimony that she did not know she had signed a union authorization card on October 6. Nor do I believe her testimony that, before she signed the card, the solicitor and other employees told her only that the card "was about the work and I have to write it, I have to sign this for the work." Nor am I convinced by Dubuc's testimony that she signed the authorization card without reading it, but that she knew "it was about my work." It follows that I have not credited Dubuc's testimony that, in January 1981, she learned for the first time that the authorization card that she had signed was in support of a union seeking to represent the employees.

Instead, the record persuades me that, when she signed, Dubuc understood the purpose of the card. The decisive factor here was Dubuc's admission that, on October 6, she filled out the authorization card without any assistance. This task provided her with opportunity to scan the card for at least a few seconds, and learn the essence of its contents. Thus, I find that, contrary to her testimony, Dubuc signed the card with the understanding that she was supporting the Union.

I find no other ground remaining for invalidating Dubuc's card. For there is no evidence that those who solicited her signature told her that the authorization card would be used only for a Board-held election. Nor was there any showing that the solicitation was accompanied by any coercion or threat to Dubuc if she did not sign the card. In sum, therefore, I find that Dubuc's card was valid for the purpose of showing the Union's majority status on October 10.

James Spann

On the morning of October 6, employee Velvia A. Gilchrist obtained James Spann's signature on a union authorization card on the street near the building housing the Company's facility. There was no showing that her solicitation included any threat of economic reprisal or other harm to Spann if he refused to sign the card. Nor was there any showing that Gilchrist or any of the other employees in the vicinity of the solicitation attempted to coerce Spann. In sum, the Company has failed to establish its contention that Spann was coerced into signing his authorization card. I therefore find Spann's card valid.

Valerie John

On the morning of October 10, prior to his confrontation with the Company's management, Keith Rohman

obtained Valerie John's signature on an authorization card. I find from John's detailed and straightforward testimony that Keith Rohman told her in substance to disregard the language of the authorization card as it would be used only to obtain an election.²¹ I find therefore, that under the *Cumberland* doctrine, John's card was invalid.

Ivy Davies, a unit employee, signed an authorization card sometime before 8:30 a.m., on October 10. There was no showing that the soliciting employee, Deborah Jean Edwards, made any remarks about a representation election or that Davies was one of the last to sign a card. Instead, I find that employee Edwards obtained the signature after determining from Davies' remarks that she was interested in union representation. Accordingly, I find that Davies' card was valid.

Barbara Williams

I credit Keith Rohman's uncontradicted testimony that he obtained employee Barbara Williams' signature on an authorization card on the morning of October 10 before the Union made its demand for recognition. There was no showing that Rohman or any one else told Williams that the authorization card would be used only to obtain a Board-held representation election. Nor was there any showing that the solicitation was accompanied by any coercion or any threats of economic or other reprisals against Barbara Williams if she elected to refrain from signing the card. I find therefore that Barbara Williams' card was valid.

Valerie Henry, Christine Mason, and Jacqueline Rand

Unit employees Valerie Henry, Christine Mason, and Jacqueline Rand signed union authorization cards. There was no contention regarding the authenticity of their signatures or the circumstances under which they signed their respective cards. However, the absence of a date on each of the cards cast doubt on their timeliness in regard to the Union's demand for recognition on October 10. Under Board law, the absence of a date on a signed authorization card does not deprive it of validity where other evidence is available to show when the card was signed. *Worldwide Press*, 242 NLRB 346, 364 (1979). Here, I find from Virginia Henry's testimony that she signed her authorization card on September 29. I find from Jacqueline Rand's testimony that she signed her authorization card after Rose Bud Fleming's discharge, which occurred on October 3, but before October 10. Finally, I find from Christine Mason's testimony that she signed her card in September. I find, therefore, that the three authorization cards were valid for purposes of de-

²¹ Keith Rohman testified that he told John that the card would be used "to help us get a union in Atlas Micro Filming." However, when pressed for details of this incident, he could not remember and asserted: "It was a busy day." John seemed to have a clearer recollection of their meeting. Further, given the pressure under which Rohman was operating on the morning of October 10, as he contemplated a confrontation with the Company and pressed for majority support, it is likely that he was distracted and that his recollection was less reliable than that of John.

termining whether the Union enjoyed majority support on October 10.

Dorcas Jones

The Company objected to receipt of a card signed by Dorcas Jones on the ground that the date next to Dorcas Jones' signature was ambiguous. It appears that whoever wrote the date began with a capital "O" and then overwrote, "SEPT." The General Counsel contended that evidence showed that Jones' card was dated September 30. I find the evidence supports the General Counsel's position.

Employee Deborah Edwards, who solicited the card, credibly testified that Dorcas Jones signed the card on September 30, 1980. I also noted that the reverse side of Jones' card has a stamp of the National Labor Relations Board, Region 4, with the date October 14. This stamp suggested that the card was signed prior to October 30 and tended to corroborate Edwards' uncontradicted testimony. I find, therefore, that Dorcas Jones' card, which was signed on September 30, was a valid authorization card.

Paul Johnson and Zenobia Marshall

At the hearing, I rejected the proffered authorization cards bearing the names of employees Paula Johnson and Zenobia Marshall on the ground that the General Counsel was unable to authenticate the signatures on those cards. However, the General Counsel offered in evidence two company payroll checks, one bearing the signature of Paula Johnson and a second that of Zenobia Marshall. Examination of the two canceled checks persuaded me that the card bearing the name of Paula Johnson, dated "9-25-80," and designated "GC-72," carried the same signature as appeared on the canceled check issued to Paula Johnson. A similar comparison made between a signed authorization card dated "10/6/80," and designated as "GC-74" and the Marshall clerk persuaded me that the signature on the card was made by the person who endorsed the payroll check issued by the Company to Zenobia Marshall on October 15, 1980. Accordingly, I hereby receive in evidence (G.C. Exh. 72) an authorization card signed by Paul Johnson on September 25, and (G.C. Exh. 74) an authorization card signed by Zenobia Marshall on October 6 in evidence.

The Company challenged the validity of Zenobia Marshall's authorization card on the additional ground that she signed it under coercive conditions on October 6. However, there was no showing that any threat or other coercion was directed at Zenobia Marshall to induce her to sign the authorization card. I therefore find that the authorization cards signed by Zenobia Marshall and Paula Johnson were valid. *J. P. Stevens & Co.*, 179 NLRB 254, 277-278 (1969).

Paulette Wilson

On September 23, employee Karen Allen asked Paulette Wilson to sign an authorization card for the Union. Wilson complied by signing, "Paulette." Wilson credibly testified that she intended "Paulette" to be her signature. Contrary to the Company's contention, I find that

Wilson sufficiently evidenced her intention to support the Union by signing her given name. I therefore find that Paulette Wilson's card was valid.

Barbara Nowlin and Anna Stolar

At the hearing, employee Anna Stolar said she could not remember signing the authorization card identified as General Counsel's Exhibit 47 and denied that the signature found at the bottom of that card was hers. The General Counsel sought to rebut Stolar's denial by comparison of her endorsement on a canceled payroll check drawn to her order. Stolar acknowledged that the signature on the canceled check was hers. I compared the two signatures and found similarities between the "nna" group in "Anna" and the "sto" group in "Stolar" on the card and the check which persuaded me that Stolar signed both. My findings in this regard were corroborated by the credited testimony of Rose Bud Fleming that she solicited Stolar's signature on the disputed authorization card on October 6. I find therefore that the General Counsel has authenticated General Counsel's Exhibit 47, as an authorization card signed by Anna Stolar on October 6. *J. P. Stevens Co.*, 179 NLRB at 277-278.

As there was no showing that Fleming's solicitation was marred by any coercion or misrepresentation, I find that Stolar's card was valid. Accordingly, I rescind my previous ruling at the hearing and received Anna Stolar's authorization card in evidence, as General Counsel's Exhibit 47.

Contrary to the Company's contention, the General Counsel has established that Barbara Nowlin signed an authorization card which I received in evidence as General Counsel's Exhibit 73. Keith Rohman's uncontradicted testimony showed that he saw her signing the authorization card, which was dated October 6. Nor was there any evidentiary support for the Company's suggestion that coercion tainted Barbara Nowlin's card. I find that Barbara Nowlin's card was valid.

For the reason set forth above, I find that Respondent has failed to demonstrate the invalidity of 57 of the Union's 58 authorization cards. Thus, I find that at the time the Union made its unsuccessful request for recognition and bargaining on October 10 it had the support of a majority of the 93 unit employees. See "Appendix B."

In *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969), the Court approved the use of authorization cards to indicate employee sentiment, and also approved use of such cards as a basis for issuing a bargaining order where there is "a showing that at one point the union had a majority" and the employer engaged in unfair labor practices which "have the tendency to undermine majority strength and impede the election process." 395 U.S. 614. For the reasons stated below, I find that in agreement with the General Counsel and the Charging Party that the Company's unfair labor practices, as found above, warranted issuance of a bargaining order under the *Gissel* doctrine.

The Company's unfair labor practices were serious and extensive. From mid-September until the election, in late November, Supervisor Maria Ayers repeatedly warned employees that their union activities were under surveil-

lance and that the Company would lay them off, close the facility, move it elsewhere, and terminate them if they selected the Union as their collective-bargaining representative. Ayers warned employees against wearing union buttons and supporting the Union. She advised an employee that the Company had passed over her for a promotion because she believed that she supported the Union. In addition, Ayers coercively interrogated employees regarding their union sentiment and repeatedly solicited employee grievances in an effort to undermine the Union's organizing campaign. Ayers' unfair labor practices had a direct impact on no less than 26 of the 93 employees in the voting unit. It is reasonable to assume that word of her repeated threats reached well beyond that group, and that their coercive effect persists among the employees.

The Company's top management also engaged in a variety of unfair labor practices in October, November, and December which have added to the coercive atmosphere. Thus, on October 10, Secretary-Treasurer Wishnoff warned a group of employees that the Company would never reach agreement with the Union, thus driving home the idea that their selection of a collective-bargaining representative was futile.

On the very eve of the election, Wishnoff approached an employee and held out promises of improved health benefits and suggested the resolution of employee grievances if the Union were defeated in the next day's election. On the same date, Wishnoff warned employee Parks that, if the Union succeeded in the following day's election, the Company would impose harsher work rules which would result in job loss among the voting unit employees. Further, on the same day, Wishnoff seized upon the work of a union supporter and suggested that her job was in jeopardy by criticizing her production record aloud to her fellow employees. Finally, in December, Wishnoff told a group of employees that Respondent was limiting a pending wage increase to 35 cents per hour because of the pendency of the union representation petition.

President Jack Roman, on the eve of the election, called a meeting of all employees where he threatened that, if the Union succeeded in the pending representation election, the Company would institute a policy change which would result in layoffs. He also coercively interrogated one employee on the day of the Board-held election.

The impact of the Company's unfair labor practices which began in mid-September and extended to December was strongly reinforced by the termination of a leading and well-known union advocate, Rose Bud Fleming, on October 3, at a time when she was openly engaged in the solicitation of authorization cards. The Board has recognized that:

The discharge of employees because of union activity is one of the most flagrant means by which an employee can hope to dissuade employees from selecting a bargaining representative, because no event can have more crippling consequences to the exercise of Section 7 rights than the loss of work. [*Apple Tree Chevrolet*, 237 NLRB 867 (1978).]

In sum, I find that the Company's unfair labor practices were sufficient in their pervasiveness and coercive effect to make a fair election impossible on November 26, the day that the Board held a representation election among the Company's employees.

The Company's top management, including Roman, Wishnoff, and Greenberg, who remain demonstrated strong union animus. It was Greenberg who guided Ayers in her persistent and extensive campaign of unfair labor practices leading up to the election of November 26. Greenberg, along with Wishnoff, also participated in the unlawful discharge of union activist Fleming. Further, both Roman and Wishnoff engaged in repeated unlawful acts of interference, restraint, and coercion on the eve of the election. Thus did these three company officers clearly demonstrate a readiness to suppress the Section 7 rights of their employees to organize and select a labor organization as their exclusive bargaining representative.

Their continuation in office suggests the likelihood that a second election would be met with a new wave of unfair labor practices designed to interfere with, restrain, and coerce the Company's employees and cause them to turn away from the Union, and abandon any hope of obtaining a collective-bargaining representative. Thus, I find that a bargaining order is warranted in this case to remedy the Company's unfair labor practices. *NLRB v. Gissel Packing Co. supra*, 395 U.S. at 614. I conclude therefore, that the Company violated Section 8(a)(5) and (1) of the Act by refusing to recognize and bargain with the Union on and after October 10, as the exclusive representative of its regular and part-time employees. *Town & Country Supermarkets*, 244 NLRB 303, 315 (1979), *enfd.* 666 F.2d 1294 (8th Cir. 1981).

E. Unilateral Changes

On Wednesday, December 3, a payday, Production Manager Greenberg announced that, on that date, the lunch period would extend until 12:45 p.m., thus, the employees would have an additional 15 minutes. Since that date, the employees have continued to enjoy this improvement which enables them to enjoy lunch and do their banking. The Company instituted this improvement in its employees' lunchbreak, unilaterally, 47 days after the Union's demand for recognition and bargaining. Prior to this change, the Company permitted employees to take extra time during their lunch hours on Wednesdays to cash checks, but only with express permission from Greenberg.

Production Manager Greenberg also admitted that on or about January 1, 1981, the Company implemented a new disciplinary warning system. Theretofore, the Company had an informal procedure of advising employees of their errors. Under the new system, the Company provided written forms containing space for the employee's name, the date of the infraction, and other data regarding the error and comments. The form also contained spaces for signatures of the supervisor, Production Manager Greenberg, and the employee. The new policy also provided for a first warning, a second warning, and a final warning before discharge. Prior to January 1, 1981, the

Company did not have a formal recordkeeping system to keep track of the errors and warnings given to employees.

I find that by adding 15 minutes to the employees' lunch period and inaugurating a formal written warning system for its employees, the Company made substantial changes in the employees' conditions of employment. However, in both instances, the Company made the changes at a time when it had an obligation to bargain collectively with the Union as the exclusive representative of the regular and part-time employees. By failing to accord the Union an opportunity to bargain on these two conditions of employment, the Company violated Section 8(a)(5) and (1) of the Act. *NLRB v. Williamsburg Steel Products*, 369 U.S. 736, 743, 747 (1962).

CONCLUSIONS OF LAW

1. The Respondent, Atlas Microfilming Division of Sertafilm, Inc., is an employer within the meaning of Section 2(2) of the Act, engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union, United Labor Unions, Local 862, is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent interfered with, coerced, and restrained its employees in the exercise of rights guaranteed in Section 7 of the Act, and thus committed unfair labor practices prohibited by Section 8(a)(1) of the Act by:

a. Creating the impression of surveillance of the union activities of its employees.

b. Threatening employees with discharge if they showed support for the Union.

c. Interrogating employees concerning their union activities.

d. Threatening employees that Respondent would close its Philadelphia facility if the employees selected the Union as their exclusive collective-bargaining representative.

e. Telling employees that it would establish a grievance committee if the employees rejected the Union as their collective-bargaining representative.

f. Soliciting grievances from employees, and implying that such grievances would be solved, for the purpose of discouraging employees from supporting the Union.

g. Promising employees that it would improve medical benefits, and increase the number of sick days with pay, for the purpose of persuading the employees to abandon the Union.

h. Exhibiting the work production sheet of an employee who supported the Union thereby showing Respondent's hostile attitude toward employees who support the Union.

i. Threatening employees with layoff if the employees selected the Union as their collective-bargaining representative.

j. Threatening employees with harsher work rules and discharge if the employees selected the Union as their collective-bargaining representative.

k. Asking an employee how she intended to vote in a Board-held representation election.

l. Telling an employee that the Respondent did not select her for promotion because of her union activity.

4. By discharging Rose Bud Fleming because of her known or suspected union activity, or support for the Union, Respondent violated Section 8(a)(3) and (1) of the Act.

5. By refusing to bargain with the Union on and after October 10, 1980, when the Union represented a majority of the regular full-time and regular part-time employees employed by Respondent at its Philadelphia, Pennsylvania, facility, in an appropriate unit, as described above, Respondent engaged in, and continues to engage in, unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

6. By unilaterally granting its employees a 15-minute increase in their lunchbreak period on Wednesdays, and by implementing a written warning system for its employees without bargaining with the Union in accordance with Section 8(d) of the Act, the Company has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

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

8. Respondent has not violated Section 8(3) and (1) of the Act by maintaining in effect a policy or rule prohibiting personal telephone calls and access to visitors at its Philadelphia facility without the Company's permission.

REPORT ON OBJECTIONS AFFECTING THE RESULTS OF THE ELECTION IN CASE 4-RC-14405

Having found that during the critical period between the filing of the representation petition on October 14 and the date of the election, November 26 (*Ideal Electric Co.*, 134 NLRB 1275, 1278 (1961)), Respondent violated Section 8(a)(1) of the Act as set forth earlier in this Decision, it follows that the election must be set aside, and I so recommend. *Dal-Tex Optical Co.*, 137 NLRB 1782, 1786-87 (1962); *Leas & McVitty, Inc.*, 155 NLRB 389, 390-391 (1965). Accordingly, I shall recommend that the election held on November 26, in Case 4-RC-14405, be set aside and that the petition be dismissed.

THE REMEDY

Having found that Respondent has engaged in and is engaging in unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom and take certain affirmative action necessary to effectuate the purposes of the Act. I shall also recommend that Respondent be ordered to offer Rose Bud Fleming immediate and full reinstatement to her former position or, if that position is not available, to a substantially equivalent position without prejudice to her seniority or other benefits and privileges. I shall also recommend that Respondent expunge from its file any reference to Rose Bud Fleming's discharge on October 3, 1980, and notify her in writing that this has been done and that evidence of this unlawful discharge will not be used as the basis for future personnel actions against her. I shall also recommend that Respondent be ordered to make Rose Bud Fleming whole for any loss of wages she may have suffered by payment to her of the sum she would have earned but for the discrimination against her, with interest thereon, to be computed in the manner described in *F. W. Wool-*

worth Co., 90 NLRB 289 (1950), and *Florida Steel Corp.*, 231 NLRB 117 (1977).²² I shall further recommend that Respondent be required to preserve and make available to Board agents, upon request, all pertinent records and data necessary to analyze and determine whatever back-pay may be due Rose Bud Fleming.

Having found that by October 10, 1980, a majority of Respondent's employees in an appropriate bargaining unit had authorized the Union to represent them in collective bargaining with Respondent, and having found that Respondent committed serious unfair labor practices designed to prevent its employees from exercising their rights to select a collective-bargaining representative, so that it now seems unlikely, if not impossible, that a fair election under Board auspices could be held, I shall recommend that Respondent be required to recognize and bargain with the Union as the representative of these employees effective October 10, 1980. *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969); *NLRB v. Easton Packing Co.*, 437 F.2d 811, 814-815 (3d Cir. 1971). I shall also recommend that Respondent be required to cease and desist from unilaterally instituting and imposing a system of written warning notices and discipline for its employees without notification to and bargaining with the Union. I shall further recommend that Respondent be required to cease and desist from unilaterally promulgating or implementing further extensions of the bargaining unit employees' lunch periods, or other changes in their terms and conditions of employment without notification to and bargaining with the Union. However, nothing herein shall be construed to require Respondent to rescind the 15-minute extension of its employees' lunch periods on Wednesdays, previously granted to the bargaining unit employees, but which I have found to be in violation of the Act.

Upon the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER²³

The Respondent, Atlas Microfilming, Division of Ser-tafilm, Inc., Philadelphia, Pennsylvania, its officers, agents, successors, and assigns, shall:

I. Cease and desist from:

(a) Discouraging membership in and support for or activities on behalf of the Union, United Labor Unions, Local 862, or any other labor organization, by discharging or discriminating in any other manner against any of its employees in regard to their hire and tenure of employment, or any term or condition of employment, because of their union membership, sympathies, or activity.

(b) Coercively interrogating employees about their union membership, activities, or sentiments toward the Union.

²² See, generally, *Isis Plumbing Co.*, 138 NLRB 716 (1962).

²³ 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.

(c) Threatening discharge, loss of employment, layoff, plant closure, or other economic reprisals because its employees engaged in union activity or expressed pronoun sentiment.

(d) Creating the impression that the union activities of its employees are under surveillance.

(e) Soliciting employee grievances regarding conditions of employment, suggesting to employees that their grievances would receive favorable action, or that they would receive improved medical benefits and compensated sick leave and other improvements in their wages, hours, or conditions of employment if they withhold or withdraw their support from the Union or any other labor organization.

(f) Telling employees that Respondent would never reach an agreement with the Union, or any other labor organization, or otherwise informing employees that it would be futile for them to select the Union, or any other labor organization as their exclusive collective-bargaining representative.

(g) Exhibiting work production sheets of employees who support the Union or any other labor organization, to other employees in order to discourage employees from supporting the Union, or any other labor organization.

(h) Announcing that employees did not earn promotions or other improvements in their wages, hours, or conditions of employment because they supported the Union, or any other labor organization.

(i) Refusing to recongize or bargain collectively with the Union, as the exclusive bargaining representative of the employees of the following appropriate bargaining unit:

All regular full-time and regular part-time employees employed by Respondent at its 401 North Broad Street, Philadelphia, Pennsylvania, facility, excluding all salesmen, confidential employees, casual employees, guards, and supervisors as defined in the Act.

(j) Refusing to bargain collectively in violation of Section 8(a)(5) and (1) of the Act with the Union, as the exclusive representative of its employees in the unit described above, by unilaterally initiating and imposing a written warning and disciplinary procedure.

(k) Unilaterally changing wages, hours, or conditions of employment of the employees in the above-described bargaining unit without notification to and bargaining with the Union.

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

2. Take the following affirmative action which is deemed necessary to effectuate the policies of the Act:

(a) Offer to Rose Bud Fleming immediate and full reinstatement to her former position at Respondent's Philadelphia facility and, if her former position does not exist, to a substantially equivalent position without prejudice to her seniority or other rights and privileges, and make her whole for any loss of pay she may have suffered as a

result of her discriminatory discharge in the manner set forth above in the section entitled "The Remedy."

(b) Expunge from its files, any reference to the discharge of Rose Bud Fleming, on October 3, 1980, and notify her in writing that this has been done, and that evidence of this unlawful discharge will not be used as the basis for future personnel actions against her.

(c) On request, bargain with the Union as the exclusive representative of the employees in the appropriate unit, described above, with respect to rates of pay, wages, hours of employment, and other conditions of employment and, if an understanding is reached, embody such understanding in a signed agreement.

(d) Bargain on request about a written warning and disciplinary procedure and, if an agreement is reached, embody such agreement in a written document.

(e) Preserve and, upon reasonable request, make available to the Board and its agents, for examination and copying, all payroll records and reports, and all other material required to ascertain the amount of any backpay due under the terms of this recommended Order.

(f) Post at Respondent's Philadelphia, Pennsylvania, facility copies of the attached notice marked "Appendix C."²⁴ Copies of said notice, on forms provided by the Regional Director for Region 4, after being duly signed by an authorized representative of Respondent, shall be posted by Respondent immediately upon receipt thereof, for 60 consecutive days in conspicuous places at its Philadelphia, Pennsylvania, facility, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notice is not altered, defaced, or covered by any other material.

(g) Notify the Regional Director for Region 4, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith.

IT IS FURTHER RECOMMENDED that the unfair labor practices alleged in the complaint, but not specifically found herein, are hereby dismissed.

IT IS FURTHER RECOMMENDED that the election conducted on November 26, 1980, in Case 4-RC-14405 be set aside and that the petition in that case be, and it hereby is, dismissed.

²⁴ 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 A

Allen, Karen	Johnston, Geneva
Anderson, Myrtle	Johnson, Paula
Ballow, Juanita	Johnson, Wendy
Barker, Crystal	Jones, Dorcas
Bennett, Vermell	Jones, Toni
Burnett, Marquette	Killebrew, Mona
Campbell, Anthony	Keitt, Deborah
Carroll, Veronica	Lee, Dorothy
Chambers, Elnora	McKinnon, Pamela

Churchill, Doris	McNeill, Pamela
Brockman (Clark) Lois	McQueen, Sandra
Clymer, James	Mason, Christine
Combs, Frances	Marshall, Zenobia
Cornell, Vince	Moore, Lois
Davies, Ivy	Moore, Sandra
DeShields, Deborah	Nowlin, Barbara
Dobson, Sheila	Nowlin, Frances
Dubuc, Marie	Nowling, Zelma
Edwards, Deborah	Oliver, Renee
Fagan, Paulette	Owens, Elizabeth
Fitch, Charles	Pagano, Betty
Forman, Earl	Papazian, Astrid
Forman, Tanya	Parks, Terry
Gilchrist, Velvia	Pierce, Victoria
Golden, Terry	Pitts, Berlinda
Grimes, Loretta	Pitts, Elise
Gimes, Valerie	Quarles, Tessie
Gwaltney, Antoinette	Rand, Jacqueline
Halton, Gwendalyne	Ross, Sharon
Hardison, Geraldine	Shockley, Regina
Hardison, Noretta	Shorts, Beverly
Healy, John	Smart, Winnie
Henry, Virginia	Smith, Wendelin
Hess, Barbara	Spann, James
Hicks, Lorraine	Staton, Terry
Hughes, Ed	Stewart, Irene
Hurt, Lori	Stolar, Anna
Ingerson, Roland	Tanskley, Dale
Ingram, Willisteen	Terry, Marcia
Jefferson, Laverne	Thomas, Zelda
Jenkins, Rosette	Weaver, Linda
John, Valerie	White, Hattie
Joyce, Joseph	William, Helen
Johnson, Darlene	Williams, Barbara
	Williams, Rhonda
	Wilson, Paulette

APPENDIX B

Tanksley, Dale	Thomas, Zelda Jay
Dobson, Sheila	Ingram, Willisteen
Hicks, Lorraine	Williams, Helen
Shorts, Beverly R.	Alen, Karen
Halton, Gwendalyne	Gilchrist, Velvia
Johnson, Wendy M.	Wilson, Paulette
Hart, Lori O.	Myles, Charisse
Golden, Terry	Edwards, Deborah
Fleming, Rose Bud	Smith, Wendellin
Owens, Elizabeth	Forman, Tanya
Nowlin, Zelma	Nowlin, Frances
Yow, Todd	Oliver, Renee
Fagan, Paulette	Parks, Terry
Forman, Earl	Campbell, Anthony
Grimes, Valerie	Davies, Ivy
Gwaltney, Antoinette	Williams, Rhonda
Combs, Frances	Stewart, Irene
Clark, Lois	Carroll, Veronica
Spann, James	Barker, Crystal

DeShields, Deborah
Jones, Joni
Staton, Terry
Lee, Dorothy
Henry, Virginia

Churchill, Doris
White, Hattie
Williams, Barbara
Nowlin, Barbara
Rand, Jacqueline

Jones, Dorcas
Chambers, Elnora
Stolar, Anna
Dubuc, Marie
Marshall, Zenobia

Anderson, Myrtle
Killebrew, Mona
Mason, Christine
Johnson, Paula