

**Ravid Artistic Designs, Inc. and Leather Goods,
Plastics, Handbags & Novelty Workers Union,
Local 1, AFL-CIO. Case 2-CA-24203**

December 31, 1990

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
CRACRAFT AND OVIATT

Upon a charge filed by the Union on March 7, 1990,¹ and an amended charge filed on March 21, the General Counsel of the National Labor Relations Board issued a complaint on May 31 against Ravid Artistic Designs, Inc., the Respondent, alleging that it violated Section 8(a)(1) and (3) of the National Labor Relations Act. Although properly served with copies of the charge, the amended charge, and the complaint, the Respondent failed to file a timely answer.

On October 5 the General Counsel filed a Motion for Summary Judgment, with exhibits attached. On October 11 the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. On October 25 the Respondent filed an answer to the Notice to Show Cause and the Motion for Summary Judgment, with supporting affidavits and a proposed answer to the complaint, in which it opposed the General Counsel's Motion for Summary Judgment.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all of the allegations in the Complaint shall be deemed to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the General Counsel's Petition for Summary Judgment disclose that the counsel for the General Counsel, by letter dated September 14, notified the Respondent that although an answer to the complaint had been due on June 14, it had not been filed; that the Respondent would be allowed an additional opportunity to file an answer; and that unless an answer was received by September 21, a Motion for Summary Judgment would be filed. The letter further advised the Respondent that in the event a Motion for Summary Judgment were granted, the Respondent would lose its right to challenge the allegations set forth in the complaint, and a final order

would be issued against the Respondent. Finally, the letter informed the Respondent that if it had any questions regarding this matter, it should contact the counsel for the General Counsel at the Board's Regional Office, for which an address and telephone number were provided.

The Respondent failed to file either a timely answer to the complaint or a request for an extension of time in which to file an answer. The Respondent has now filed a proposed answer to the complaint, in conjunction with its October 25 response to the Motion for Summary Judgment and the Notice to Show Cause.

In defense of its failure to file a timely answer, the Respondent contends that its president, Avishy Ravid, attempted to handle the instant matter pro se until October 12, when he retained counsel to advise the Respondent in regard to a representation election being held on October 15.² The Respondent contends that Ravid is an Israeli immigrant who is neither an attorney nor familiar with the rules and procedures of the National Labor Relations Board, and who therefore simply did not realize that the Respondent was required to file an answer to the complaint. When the Respondent's subsequently retained counsel was provided with the papers concerning the representation election, he found interspersed among them the papers concerning the instant unfair labor practice proceeding. According to the Respondent, Ravid had, until then, thought that if he "won" the election, the unfair labor practice charges would be dismissed. On being advised by counsel that this understanding was incorrect, Ravid requested counsel to contest or settle the unfair labor practice charges.

On the basis of the foregoing, we find that the Respondent's failure to file a timely answer has not been supported by a showing of good cause.³ The complaint stated clearly that failure to file a timely answer would result in the complaint allegations being deemed to be admitted and being found to be true. The Respondent was subsequently warned in the September 14 letter from counsel for the General Counsel that summary judgment would be sought if the Respondent did not file an answer by September 21 and that if summary judgment were granted the Respondent would lose its right to challenge the complaint allegations and that a final order would be issued against the Respondent. Nevertheless, the Respondent still did not attempt to answer the complaint or request an extension of time in which to do so. This pattern of disregarding the Board's procedures and its warnings of the possible consequences is incompatible with a showing of good

² According to Ravid in his affidavit submitted with the Respondent's response to the Notice to Show Cause, he did not consult an attorney until shortly before the election because he did not feel that he could afford a lawyer.

³ Sec. 102.20 of the Board's Rules and Regulations provides that all allegations in the complaint shall be deemed to be admitted to be true if no answer is filed, unless good cause to the contrary is shown.

¹ All dates are in 1990.

cause. Nor does the failure of the Respondent to retain counsel until 4 months after the issuance of the complaint establish good cause for its failure to file a timely answer. See *Wheeler Mfg. Corp.*, 296 NLRB 6 (1989); *Printing Methods, Inc.*, 289 NLRB 1231 (1988); *Urban Laboratories*, 249 NLRB 867 (1980). See also *Odaly's Management Corp.*, 292 NLRB 1283 (1989).

We are not persuaded by the Respondent's belated assertion that it thought the unfair labor practice charges would simply be dismissed if it "won" the upcoming representation election. The Respondent was expressly advised twice that it was necessary for it to file an answer and was encouraged to contact the Regional Office if it had any questions. Under these circumstances, we find that the Respondent has not shown good cause for its failure to file a timely answer, and we, therefore, decline to accept the untimely proposed answer that the Respondent submitted with its October 25 response to the Notice to Show Cause.⁴

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a domestic corporation with an office and place of business in New York, New York, is engaged in the manufacturing of leather goods at its New York facility where it annually sells and ships goods, products, and materials valued in excess of \$50,000 directly to points outside the State of New York. We find that Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that Leather Goods, Plastics, Handbags & Novelty Workers Union, Local 1, AFL-CIO (the Union) is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

About February 12, the Respondent, acting through its supervisor, Eric Otter Deodatt, threatened its employees that it would file for bankruptcy, close and relocate its operations, and discharge its employees if the employees signed union authorization cards. About February 13, the Respondent, acting through its president, Avishy Ravid, created an impression among its employees that their union activities were under surveillance by the Respondent. About January 31 and February 23, the Respondent, acting through Ravid, interrogated employees regarding their union membership, activities, and sympathies. We find that the Re-

spondent violated Section 8(a)(1) of the Act by this conduct.

About March 5, the Respondent discharged its employees Vilma Farmer and Kay Waldai Singh because they joined, supported, or assisted the Union and engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and in order to discourage employees from engaging in these activities or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Accordingly, we find that the Respondent violated Section 8(a)(3) and (1) of the Act by this treatment of Farmer and Singh.

CONCLUSIONS OF LAW

1. By interrogating employees regarding their own or other employees' union activities, sympathies, or desires; by threatening to file for bankruptcy, to close or relocate, and to discharge employees because of their union activities, sympathies, or desires; and by creating the impression that the union activities of its employees were under surveillance, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

2. By discharging Vilma Farmer and Kay Waldai Singh because they joined, supported, or assisted the Union, and engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(3) and (1) and Section 2(6) and (7) of the Act.

REMEDY

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

Having found that the Respondent unlawfully discharged employees Vilma Farmer and Kay Waldai Singh, we shall order it to offer them immediate and full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and to make them whole for any loss of earnings and other benefits they may have suffered as a result of the Respondent's unlawful conduct. Backpay shall be computed in the manner prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

⁴We therefore do not reach the Respondent's contention that it has meritorious defenses to the complaint allegations.

ORDER

The National Labor Relations Board orders that the Respondent, Ravid Artistic Designs, Inc., New York, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Interrogating employees regarding their own or other employees' union activities, sympathies, or desires.

(b) Threatening to file for bankruptcy, to close or relocate operations, or to discharge employees because of their union activities, sympathies, or desires.

(c) Creating an impression among its employees that their union activities are under surveillance.

(d) Discharging employees because they join, support, or assist labor organizations or engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to discourage employees from engaging in any such concerted protected activities.

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

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

(a) Offer Vilma Farmer and Kay Waldai Singh immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of this decision.

(b) Remove from its files any reference to the unlawful discrimination against Vilma Farmer and Kay Waldai Singh and notify them in writing that this has been done and that this unlawful action will not be used against them in any way.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its facility in New York, New York, copies of the attached notice marked "Appendix."⁵ Copies of the notice, on forms provided by the Regional Director for Region 2, after being signed by the Re-

spondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

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

APPENDIX

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

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT interrogate you about your union activities, sympathies, or desires.

WE WILL NOT threaten you that we will file for bankruptcy, close or relocate operations, or discharge you because of your union sympathies, activities, or desires.

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

WE WILL NOT discharge you because you join, support, or assist labor organizations or engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to discourage you from engaging in any such concerted protected activities.

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

WE WILL offer Vilma Farmer and Kay Waldai Singh immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and WE WILL make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them.

WE WILL remove from our files any reference to the unlawful discrimination against Vilma Farmer and Kay Waldai Singh and notify them in writing that this has been done and that this unlawful action will not be used against them in any way.

RAVID ARTISTIC DESIGNS, INC.

⁵If 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."