

**Uniroyal Goodrich and United Rubber, Cork, Linoleum & Plastic Workers of America, AFL-CIO, CLC.** Case 10-CA-24411

September 28, 1990

DECISION AND ORDER

BY MEMBERS CRACRAFT, DEVANEY, AND OVIATT

On May 25, 1990, Administrative Law Judge Howard I. Grossman issued the attached decision. The Respondent filed exceptions and a supporting brief.

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

The Board has considered the decision and the record in light of the exceptions and brief and has decided to affirm the judge's rulings, findings,<sup>1</sup> and conclusions and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Uniroyal Goodrich, Thomaston, Georgia, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

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

In adopting the judge's credibility findings regarding the testimony of Supervisor Partridge, we do not rely on the inconsistency perceived by the judge in Partridge's testimony regarding the record of calls.

*Mary L. Bulls, Esq.*, for the General Counsel.  
*George Britton Smith, Esq.* and *Robert C. Lemert, Esq.* (*Constangy, Brooks & Smith*), of Atlanta, Georgia, for the Respondent.  
*J. Michael Walls, Esq.* (*Walls & Corlew*), of Atlanta, Georgia, for the Charging Party.

DECISION

STATEMENT OF THE CASE

HOWARD I. GROSSMAN, Administrative Law Judge. The original charge was filed on October 3, 1989,<sup>1</sup> and an amended charge on November 8 by United Rubber, Cork, Linoleum & Plastic Workers of America, AFL-CIO, CLC (the Union). Complaint issued on November 8 and alleges that Uniroyal Goodrich (Respondent or the Company) threatened its employees with discharge if they engaged in union activities, in violation of Section 8(A)(1) of the National Labor Relations Act (the Act). The complaint also alleges that Respondent discharged employees James Harper, Glenn Vaughn, and Ronald McDaniel on September 26 because of

<sup>1</sup>All dates are in 1989 unless otherwise stated.

their union activities, in violation of Section 8(a)(3) and (1) of the Act.

A hearing was held before me on these matters in Thomaston, Georgia, on January 30 and 31, 1990. On the entire record, including briefs filed by the General Counsel and Respondent, and on my observation of the demeanor of the witnesses, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent is a Delaware corporation with an office and place of business located at Thomaston, Georgia, where it is engaged in the manufacture of knitting yarn, industrial fabrics, and tire cord fabrics. During the calendar year preceding issuance of the complaint, a representative period, Respondent purchased and received at its Thomaston, Georgia facility goods valued in excess of \$50,000 directly from suppliers located outside the State of Georgia. Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act. The Union is a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Electricians and Electronic Technicians—Work Records*

James Harper was an electrician, while Glenn Vaughn and Ronald McDaniel were electronic technicians. There were separate electric and electronic shops. Respondent contends that Harper received a warning for being outside his assigned work area, and that he falsified work records in the electric shop in order to establish that he was in fact doing work in or near the area where he was seen. Harper was discharged for the latter alleged offense, falsification of records. According to Respondent, Vaughn and McDaniel falsified work records in the electronic shop in order to assist Harper, and were discharged for this reason.

Respondent's facility is separated into several buildings, in which are located a large number of machines. It is the job of the electricians and electronic technicians to go to the areas where these machines are located and to repair them when there is a malfunction. Electronic technicians are more highly trained than electricians, and perform more specialized work. There are less of them compared to electricians. Both classes of employees also repair defective parts in their respective shops.

Orders for repair work are called into the electric or electronic shops from supervisors, or other authorized individuals from the various departments, to the supervisors of the electric and electronic shops. The electricians and electronic technicians are then sent to the area where work is needed. In doing so, they take the most expeditious route, frequently taking them through other departments. Asked to describe his work area, Harper replied, "the entire plant." Vaughn, McDaniel, Electric Shop Foreman Jimmy Partridge, and Human Resources Manager Frank Varner gave similar testimony. Each employee has a pager, and frequently is directed by this means from one job to another without returning to the shop until a later time. Harper testified that he sometimes helps another electrician on the latter's job.

Each shop maintains its own type of work record (aside from payroll records). The electric shop has a document entitled "Record of Calls for Electricians" for each of its three shifts. The document has various columns calling for certain information.<sup>2</sup> Entries are made in these columns on various lines—thus, each line designates a different job. The "Record of Calls" is kept on a table in the middle of the electric shop for each shift. Thereafter, it is placed in a box placed within a cabinet behind the electric shop supervisor's desk. The purpose of this record, according to Harper, is to enable the electricians to ascertain the identity of "problem machines" requiring constant attention.

The identity of the electrician assigned to a job is established by the electrician's initials in the appropriate column. This is done after the foreman makes the job assignment. Inasmuch as some jobs are assigned by pager while the employee is in the plant, the initialing in those instances does not take place until he returns to the shop, according to Harper. On some occasions, the employee forgets to initial the record on return to the shop. This has no effect on his pay. Harper testified that Shop Foreman Partridge himself had forgotten on occasion to initial calls he had made, and made the entries the next day. Electrician Jerry Doggett gave similar testimony, and averred that the initialing was made "about any which way." The testimony of Electric Shop Foreman Partridge corroborates that of Harper and Doggett.

The electronics shop utilizes a work record entitled "Electronics Shop Order." This document provides for the description of two jobs on each page, with considerably more detail for each job than the electric shop call record,<sup>3</sup> including a space for the technician assigned. Electronic technicians Merrell Denham and alleged discriminatee Ronald McDaniel testified that these forms are normally filled out at the end of the day, but sometimes were not filled out at all because of the press of work. Electronics Shop Foreman Tony Murphy acknowledged that the forms were sometimes filled out at the end of the day. According to Denham and McDaniel, it had been longstanding practice to fill in the initials of all technicians on the same shift in the space indicating the assigned technician. There were three technicians on the second shift. However, in mid-September, Foreman Murphy instructed the technicians to put down only the initials of the employee doing the work. Murphy testified that the prior practice had existed "for a few months, maybe."

The electronics shop forms are kept in a binder on a workbench in the shop for about a month together with blank forms, and are then filed. According to Foreman Murphy, they are used as a "machinery maintenance record." McDaniel added that it was useful to look over prior forms to ascertain the work previously done on a particular machine.

#### *B. The Alleged Discriminatees' Employment Histories and Union Activities—Alleged Threat of Discharge*

Harper had been employed by the Company for more than 20 years, and, for the last 12, was rated as a first-class electrician. He was a high school graduate, had 4 years in a tech-

nical school, and some college experience. Electric Shop Foreman Partridge testified that Harper was a "good" employee. Although the Company had "problems" with him "here and there," it was "nothing serious."

Glenn Vaughn was an employee for about 14 years, first in the electric shop, and, more recently, in the electronics shop. His only record of discipline, for "horseplay," took place at about the beginning of his employment. Electronics Shop Foreman Murphy testified that Vaughn was a "very good technician."

Ronald McDaniel had been employed for about 10 years by the Company, most recently as an electronics technician and assistant shop foreman in the electronics shop.<sup>4</sup> Prior to his employment, he had 4 years of experience in aircraft weapons systems in the United States Navy, technical school training in industrial and digital electronics, and a federal license in that field. He designed the electronic circuitry for one of the pieces of equipment mentioned in this proceeding. Shop Foreman Murphy rated McDaniel as a "very good technician."

There was a union campaign in 1988, in which Harper and McDaniel played active roles. Respondent's plant engineer David Miller testified that he knew Harper was "very active" in the 1988 campaign. Electric Shop Foreman Partridge affirmed that Harper played a "very visible role" in the 1988 campaign and was in the newspaper. McDaniel testified that he was "one of the leaders" of the 1988 campaign. He obtained authorization card signatures, handbilled, talked to employees, and made house visits.

Both McDaniel and Harper were disciplined after the 1988 campaign. In November 1988, shortly after the campaign, McDaniel received a "write-up" for "16 points" of absences. He contended that company policy called for such action after 12 points, but that the Company's first action was taken after the campaign.

Harper was given a "verbal warning" in January 1989, for being in a Company truck with another employee,<sup>5</sup> and a written warning in March 1989 for being "out of his working area"—after working with McDaniel on a machine, he had gone to the "South Mill smoking area" instead of returning to the shop.<sup>6</sup>

Harper testified to a conversation in July 1989 with Carpenter Foreman Tom Clark,<sup>7</sup> whom Harper had known for over 20 years. A union committeeman had just been laid off. According to Harper, Clark said: "They got one of them, and they're going to get everyone of you on the committee, and you'll be the next." Clark denied making any such statement. Harper was a more believable witness than Clark, and I credit his testimony. The complaint alleges that this statement constituted a violation of the Act.

Harper and McDaniel began another union campaign in early September 1989, this time assisted by Vaughn. Harper obtained authorization cards from the union agent, and began distributing them on September 11 during break periods in the "high-rise" break area, together with Vaughn and

<sup>4</sup>There is no evidence, and none of the parties contends, that McDaniel was a supervisor.

<sup>5</sup>R. Exh. 3.

<sup>6</sup>R. Exh. 4. Harper testified that employees had two break periods in addition to a lunch break. However, if a machine is "down" during a scheduled break period, the electrician is supposed to repair it and defer his break until a later time.

<sup>7</sup>The pleadings establish that Clark was a supervisor within the meaning of the Act.

<sup>2</sup>The individual requesting the repair, the electrician dispatched, the machine number or location, the time of the call, and the time it was answered. G.C. Exh. 2.

<sup>3</sup>G.C. Exh. 2.

McDaniel. According to Harper's and McDaniel's uncontradicted testimonies, Supervisor Pete Pettis was in the break area at the time. After an expletive, he said, "I need to get out of here." Electronics Shop Foreman Murphy told McDaniel not to get caught doing something he was not supposed to be doing.

*C. Repair of the No. 22 Loom and the No. 28 Zinser Drawing Frame*

1. The events of September 11

The events on which Respondent predicated its discharge of the three alleged discriminatees took place on September 11 and 12, almost simultaneously with the beginning of the 1989 union campaign. They involved primarily a machine designated as the "No. 22 Loom,"<sup>8</sup> and, secondarily, another called the "No. 28 Zinser Drawing Frame." Respondent contends that the repair records of these machines were falsified.

The evidence is undisputed that the No. 22 loom was malfunctioning on September 11, and that Harper worked on it on that day on two occasions. Harper testified without contradiction that he twice replaced the motor on the loom, taking about 20 to 30 minutes for each call. On the first occasion he was assisted by employee Doug Hartman, and on the second by employee Herbert Sumner. The initials "J.H., D.H." and "J.H., H.S." appear on the electrician's call sheet for September 11, next to the No. 22 loom.<sup>9</sup> Harper was corroborated by loom technician Gary Self, a witness for Respondent who opposed the Union. According to Self, No. 22 loom failed to "take up" on September 11, i.e., roll up completed fabric, resulting in a roll partially soiled by grease. This happened twice, the second time at about noon. After the second replacement of a motor, Harper returned to pick up the old motor, and asked how the loom was running. Self replied that "it wasn't." Harper said that he had "no more motors," and asked Self to "try again." Self agreed to do so.

It is also undisputed that repair work was done on the No. 28 Zinser machine on September 11. Thus, Respondent introduced an electronics shop order for that date, showing work on the Zinser by "SK." Electronics Shop Foreman Murphy identified this individual as "Steve Kelly,"<sup>10</sup> but did not testify specifically that Kelly did the work. No witness by that name testified at the hearing. Card Room Manager Lawrence Lynch, in whose department the Zinser machine was located, agreed that it was "down" on September 11 and was worked on, but asserted that he did not know the identity of the repairman.

Electronics technician and alleged discriminatee Glenn Vaughn testified that *he* worked on the No. 28 Zinser on

September 11, together with Assistant Foreman McDaniel. According to Vaughn, the machine was "tripping out," i.e., stopping by itself. Vaughn and McDaniel "did some checks" and "changed some boards," but the problem was "still there on the 11th, when we left it."

Vaughn was not shown Respondent's Exhibit 9A, with the initials "SK," and, accordingly, did not discuss the document. He testified in a candid, truthful manner. I conclude that his testimony has greater probative weight than Respondent's Exhibit 9A, and I credit that testimony. Accordingly, I find, Vaughn worked on the No. 28 Zinser on September 11, and it had unresolved problems at the end of the second shift on which Vaughn worked.

2. The events of September 12

a. *Summary of the evidence*

(1) The No. 22 loom

Respondent's "Production Report" for the first shift on September 12 shows that the No. 22 loom had "downtime," i.e., was not functioning, for 5.7 hours on that shift.<sup>11</sup> A "Warp Out Report" for September 12 shows No. 22 loom in that condition beginning at 2:25 a.m. on the first shift and ending at 8:35 a.m. on the second shift.<sup>12</sup> Tire Cord inspector Martha Barrow testified that a "warp out" occurs when all the yarn has run off the bobbin, and that the loom cannot operate during that period. Loom technician Gary Self, interpreting a "Loom Stop Report" for the second shift which he prepared,<sup>13</sup> testified that the loom was "warped out" for about 1 hour when Self arrived at 8 a.m., the beginning of the second shift. However, the loom stop report is ambiguous on the reason for the downtime. Thus, the third entry on the report indicates that the loom was down for "1.0" hours" for reason No. 2, "Warp Out," but the last entry states that the same loom was down for "1.0" hours for reason No. 3, "Fixer Repairs."<sup>14</sup>

Self testified that the No. 22 loom failed to "take-up" again at about noon on September 12, resulting in another soiled roll. Another call to the electric shop was made, and electrician Hugh Fleming arrived. After discussing the problem with Self, Fleming went to the electronics shop, returned, and installed a switch. According to Self, Fleming's total elapsed time on this job was 40 to 45 minutes. Neither Self nor Tire Cord Inspector Martha Barrow, who worked in the area, saw Harper.

Fleming testified that the electric shop received a call on No. 22 loom and that, after placing his initials on the Call Sheet for September 12, he went to the loom at about 11:50 a.m. Harper testified that he saw Fleming's initials on the Call Sheet, and went to the loom at about 12 noon to inform Fleming of what had been done the previous day. Fleming averred that Harper was at the loom for about a minute. Because of the trouble with the loom, Fleming went to the electronics shop to discuss the problem with Electronics Assistant Foreman McDaniel. The latter suggested a new switch, because the motor had already been changed (by Harper the previous day). McDaniel corroborated Fleming about this

<sup>8</sup>The numeral "22" indicates the number rather than style or model of the machine—in this instance the loom was one of 54 such machines in a particular area.

<sup>9</sup>G.C. Exh. 2, R. Exh. 8. Harper's initials also appear next to other jobs on the September 11 call sheet.

<sup>10</sup>R. Exh. 9A. The exhibit describes work on two machines by "SK." The first record pertains to the No. 28 Zinser. The "Service Requested" section reads: "motor protection circuit on mother board tripping on start." The "Action Taken" section of the record reads: "Disconnected bottom clearer coil and reconnected same problem went away." The record indicates that 4 "M.H.," or man-hours, were utilized on this call. The second record on this sheet, also with the initials "SK," pertains to another machine.

<sup>11</sup>R. Exh. 11.

<sup>12</sup>R. Exh. 14.

<sup>13</sup>R. Exh. 17B.

<sup>14</sup>Ibid.

conversation. Fleming returned to the loom, obtained a switch in the area, and replaced the old switch. Harper was not there at the time. The latter testified that he went to “the smoking booth,” saw Fleming replacing the switch, then returned to the shop and placed his initials in the call sheet after Fleming’s, next to the No. 22 loom job.

Harper affirmed that he happened to be in the same work area as McDaniel in midafternoon on September 12, and discussed the problems with the No. 22 loom. McDaniel testified that Harper was “frustrated by working on the loom for two days.” It had “intermittent” problems. Harper wanted to change the electronic controls. McDaniel felt that the switch—which he had designed—was the trouble, despite the fact that it had already been replaced earlier the same day by Fleming, perhaps with a defective switch according to McDaniel. However, McDaniel agreed to change the electronic controls, and, with Harper, went to No. 22 loom at about 4 p.m. They “changed the entire electronic control package.” Harper then left to get another switch, while McDaniel returned the old electronic control package back to the electronics shop. Harper returned to the electric Shop just before 4 p.m.—the quitting time for the second shift—obtained another switch, and returned to the loom. McDaniel realized that he needed to give McDaniel additional instructions about the switch, and also returned to the loom. Harper installed the switch, and McDaniel went back to the electronics shop to do “paperwork.”

McDaniel testified that he prepared an electronics shop order on No. 22 loom between 3:30 and 4 p.m. on September 12, just before going to the loom to meet Harper. This report states that the “drive pak” was stopping “intermittently,” that the motor had already been replaced, and that a “minpak drive” was installed. “Problem may reoccur,” the order reads.<sup>15</sup> Respondent’s “Production Reports” show 2 hours of “downtime” on No. 22 loom for the second shift on September 12, and none for the third shift.<sup>16</sup>

Tire Cord Inspector Martha Barrow “patrolled” an area containing 54 looms including the No. 22 loom. The looms were arranged in two parallel rows, and Barrow walked up and down the alley between the rows. She inspected the rolls for grease, and, if something was wrong, reported it to Gary Self. On direct examination, Barrow testified that Harper worked on No. 22 loom on September 11. However, she denied seeing any such work by Harper on September 12. Barrow’s cross-examination reads in part as follows:

Q. But you weren’t looking for him that day, either, were you? I mean you were only asked about it after it came up later and they asked you to remember back and say, “Hey, did you see James Harper that day?” Isn’t that the way it happened?

A. No. The way it happened is: I had seen this person for years and I asked Gary Self who he was because I didn’t know his name. I knew it wasn’t the one that had come out there the day before. And I do know James Harper. . . .

<sup>15</sup>G.C. Exh. 2, R. Exh. 9B. McDaniel’s order is the first of two on one order sheet. The second order pertains to the No. 28 Zinser on September 12, as detailed hereinafter, and it was this apparently chance occurrence that led to the dispute over that machine.

<sup>16</sup>R. Exhs. 11 C–E.

Gary Self contended that the No. 22 loom “worked fine” after Fleming replaced a switch at about noon on September 12. He denied that either Harper or McDaniel worked on it that day. However, Self agreed that he has other jobs that require his attention, that he goes on an afternoon break, and that he does not know what is happening to every loom at all times. Self admitted that Harper and McDaniel changed the No. 22 loom control box, at about 3:20 p.m., but contended that this action took place on September 11 rather than September 12. Thereafter—on September 1—Self had no further problems with the loom on the second shift, according to his testimony.

#### (2) The No. 28 Zinser drawing frame

Card Room Manager Lynch testified that he had no problems with the Zinser machine on September 12. He based this assertion on the Company’s production report for that date, which showed that the No. 28 machine was operating,<sup>17</sup> and on an asserted report from his second-shift supervisor, Leon Harmon. The latter did not testify.

Electronics technician Vaughn testified that he did further work on the No. 28 Zinser throughout the day on September 12, “just further in depth on the machine, trying to find the problem.” The machine was running while Vaughn worked on it. Company official Varner testified that the Zinser drawing frame “needed to be running” in order to repair the “stop motions” in the machine.

Vaughn prepared an electronics shop order for work on the No. 28 Zinser on September 12. In accordance with practice at the time, he placed the initials of the three second-shift electronics technicians<sup>18</sup> on the order. The “Service Requested” section of the document reads: “Motor protection circuit on mother board tripping out on start up or job.” The “Action Taken” section reads: “Replaced board, checked wiring, resistors and suction motor and fuses. Problem still their [sic]. Turned over to #3 shift.”<sup>19</sup> Card Room Manager Lynch agreed that this describes work different from that listed in the September 11 “SK” report.<sup>20</sup>

#### b. Factual analysis

##### (1) The No. 22 loom

I credit Harper’s testimony, corroborated by Fleming, that Harper was at the location of the No. 22 loom at about noon on September 12, although only for a brief time. As Harper credibly testified, he wanted to explain to Fleming what he had done on the machine the prior day. Self’s and Barrow’s testimonies denying that they saw Harper at this time are not persuasive because of the brevity of Harper’s visit and the other duties of the loom attendants.

Harper’s and McDaniel’s descriptions of their further work on No. 22 loom on the afternoon of September 12 are mutually corroborative and were given in great detail. Barrow’s testimony on cross-examination is ambiguous, but suggests that there was somebody she did not know, other than Fleming or Harper (perhaps McDaniel), working on the loom on September 12.

<sup>17</sup>R. Exh. 15B.

<sup>18</sup>McDaniel, Denham, and Vaughn.

<sup>19</sup>G.C. Exh. 2, R. Exh. 9B.

<sup>20</sup>R. Exh. 9A.

Self's denial that he saw Harper or McDaniel on the afternoon of September 12 is vitiated by his admission that he did not know what was going on with the looms at all times. Although Self admitted that Harper and McDaniel replaced the control box in the afternoon, his contention that this took place on September 11 is implicitly contradicted by Respondent's records. Thus, it is unlikely that Respondent would have had the admitted troubles with the machine on September 12 first and second shifts, if Harper and McDaniel had finally repaired it on the 11th. The machine was "down" for over 5 hours on the morning of the 12th, and Respondent's records are ambiguous on whether it was being repaired or was merely out of yarn. The long period of "downtime" suggests that it was being repaired. The machine admittedly again failed to "take-up" at about noon on the 12th. The Company's production report showing 2 hours of downtime during the second shift on September 12 is inexplicable on Respondent's hypothesis. The only September 12 work which the Company admits is that performed by Fleming at about noon—but this took only 40 to 45 minutes according to Self. Even if the last 35 minutes of the long downtime which started earlier on the first shift from 2:25 a.m. to 8:35 a.m. are added to the second shift which started at 8 a.m., the total second-shift downtime does not equal the 2 hours downtime for that shift specified on Respondent's production report. This suggests that the machine was "down" again on September 12.

I credit Harper's and McDaniel's testimonies, and find that they worked on the No. 22 loom on the afternoon of September 12.

As indicated, McDaniel's electronics shop order on No. 22 loom tends to confirm this conclusion. The second order on that sheet concerns the No. 28 Zinser, and is also dated September 12. If correct, this order corroborates the General Counsel's evidence on the No. 22 loom.

## 2. The No. 28 Zinser drawing frame

Respondent offered a variety of explanations about the No. 28 Zinser. In ambiguous testimony, Human Resources Manager Varner seemed to say that the September 11 order had disappeared, and that the September 12 order had been substituted for it. He testified that the order "for the 11th had been removed [and] we have yet to find the original of the 11th; or find even a copy of the one on the 11th." The problem with this testimony is the fact that Respondent introduced an electronics shop order dated September 11, purportedly initialed by "SK."<sup>21</sup>

Electronics Shop Foreman Murphy agreed with Varner's thesis—he searched for a September 11 order and could not find it. Murphy also provided an alternate theory—after identifying the September 11 shop order, he contended that it and the order for September 12 were "out of sequence according to the work that was done," and had been substituted. However, Murphy also testified that he did not ask anybody whether work had been done on the Zinser on September 12.

Murphy and Varner emphasized that the order prepared by Vaughn, purportedly on the 12th, stated that the 28 Zinser problem was unsolved, and had been turned over to the third shift.

According to Respondent, this constituted an automatic order for the third shift to continue work on the machine, and the absence of such a third-shift order supported Respondent's substitution hypothesis. On the issue of the probable existence of a third-shift order, Foreman Murphy's testimony on cross-examination reads as follows:

Q. And the fact that whether they did or not, there must be a work order? I mean, with a certainty, would there always be a work order if they worked on the machine?

A. If he worked on the machine, it would be a work order, yes.

Q. Even though you had problems having to remind them to do the work orders? Continuing problems?

A. There should have been a work order and there was a work order filled out on that particular machine.

Q. On the third shift, three?

A. Yes.

Q. There was one filled out?

A. Yes.

Accordingly, Murphy's testimony does not support Respondent's alternate hypothesis regarding the No. 28 Zinser order.

Card Room Manager Lynch's testimony that he had no trouble with the Zinser on September 12 is not supported by credible evidence. To the extent that his opinion was based on production records showing that the machine was operating, it is contradicted by Vaughn's testimony that the Zinser was running when he worked on it, and by Company official Varner's corroboration that the Zinser had to be running in order to eliminate the "stop motions." Lynch's assertion that his second-shift supervisor reported no trouble with the machine is simply hearsay.

I credit Vaughn's testimony that he continued to work on the No. 28 Zinser on September 12. His order showing such work is accurately dated. The record does not disclose whether he prepared an order for his work on the Zinser on September 11, because he was never asked this question, nor was he ever shown "SK's" purported order of that date introduced by Respondent.

## D. The Company Investigates and Warns Harper

Harper testified that he finished putting the second switch into the No. 22 loom sometime after the second-shift quitting time of 4 p.m. on September 12, and then returned to the electric shop. His path took him through the "Unit A Card Room," and he paused to speak with employee Ronnie Heath for 10 to 15 seconds. Third-shift Card Room Supervisor James Prater testified that he saw Harper talking to Heath and another employee for 5 to 10 minutes at about 4:20 p.m. Prater claimed that Heath's work had been interrupted. Heath "saw" Prater, and then he and the other employee "vanished." Prater's employees were not disciplined. Card Department Manager Lynch testified that there was no rule prohibiting "brief" comments from an electrician to another employee while passing through the department, but that Lynch would question "lingering an excessive time." McDaniel testified that there was no rule against employee conversations in the plant.

Supervisor Prater informed Lynch of Harper's conversation with other employees, and asked the reason for Harper's

<sup>21</sup> R. Exh. 9A.

presence. Lynch placed telephone calls to his superior, Jimmy Rogers, to Manager of Human Resources Frank Varner, and to Plant Engineer David Miller. The latter called the electric shop and spoke to Marvin Riggins, who was in charge of the third shift in the absence of Foreman Partridge. Miller asked Riggins whether Harper was “on the payroll,” by which he meant that it was past the normal second-shift quitting time of 4 p.m. Riggins said that he did not know what Harper was doing, and was informed by Miller that Harper could not be “in the plant on the payroll” without specific permission. Harper returned to the electric shop at about 4:30 p.m., just before Miller called Riggins, and overheard the latter’s part of the conversation. When it ended, Riggins told Harper that Miller had informed him there was a “new policy” that employees were not to remain beyond the ending time of their shift, and that Harper was to go home. Harper washed his tools, and left at about 5 p.m.

Harper testified that he was “shocked by the fact . . . that they had made up a new company rule. I was told to get out of that plant right then, so that’s what I proceeded to do. The last thing on my mind was logging a report.” Accordingly, Harper made no entry on the record of calls of his work on the No. 22 loom on the afternoon of September 12. As indicated, he had previously initialed his assistance to Fleming in the middle of the day.

Plant Engineer Miller testified that maintenance employees were permitted to work after the end of their shifts, but that this policy had been “discontinued unless it was really necessary.” Miller admitted that although there had been a “managerial discussion” about the new policy a few weeks before, employees in general and Harper in particular had not been informed.

Electric Shop Foreman Partridge returned to work the following day, September 13. Miller called, and asked Partridge to examine the Record of Calls to determine whether Harper had done any “meaningful” work during the afternoon and evening of September 12. Partridge testified that he examined the record for the prior day in the presence of assistant shop Foreman William Coogler. “I asked him how many calls did he see on that sheet, and he said three.” Partridge stated that he wrote these calls on a piece of paper. “I just wrote down the two—the three calls that was on it . . . (and) threw it away.” The Call Record shows Harper’s initials for work on a “No. 281 Loom Fire” at 9:40 a.m., the previously discussed assistance to Fleming on the No. 22 loom at about 11:45 a.m., and work on the No. 47 “Card Hopper” at about 2:45 p.m.<sup>22</sup> Partridge did not review the log with Harper, although he knew that the latter had been previously warned for being outside his work area, and that Plant Engineer Miller’s inquiry concerned a possible similar offense. According to Miller, Partridge reported that he “didn’t find much” work by Harper on the afternoon of the 12th, and nothing in the “card room.”

Harper was called to Miller’s office on the afternoon of September 14. Miller referred to prior warnings issued to Harper, and then read from a new “employee check-up report” which alleged that Harper was not in his “assigned work area” on September 12.<sup>23</sup> Although Miller agreed that

Harper “insisted” he was working on a loom, Miller asserted that “there was nothing in the log and nobody could tell (him) anything that he (Harper) had done.” Harper testified and Miller admitted that the latter never asked Harper what work he had performed.

Miller, Partridge, and another supervisor signed the “Check-up Report,” but Harper refused to do so. He requested a copy and an opportunity to consult with an attorney. After initially refusing to give him a copy, Miller did so.

Respondent submitted evidence of other employees who had received warnings for being away from their work stations.<sup>24</sup> However, all of these employees had stationary work stations, unlike Harper’s duties which carried him throughout the plant.

Harper and Foreman Partridge had a conversation after the warning. According to Harper, after a discussion of whether Harper “enjoyed” the warning, Harper told Partridge that nobody had yet asked him what he was doing (on the afternoon of the 12th). Partridge then asked: “What was you doing?” Harper replied that he had been working on the No. 22 loom. Partridge replied, “Oh, hell, I looked at the call sheet, and it wasn’t on it.” Partridge admitted having this conversation with Harper, but denied that the latter told him he had been working on the No. 22 loom, or that he, Partridge, told Harper that this fact was not on the call sheet. Harper was the more believable witness, and I credit his testimony.

#### *E. Harper’s Response to the Warning*

Harper testified that he discussed the warning the following morning, September 15, with electrician Herbert Sumner. Harper told Sumner that the electronics shop had worked on the No. 22 loom with him, and that the fact would be recorded on an electronics order. Sumner agreed to obtain and make copies of the September 12 electronics orders and the electric shop call sheet.<sup>25</sup> Sumner actually obtained the September 11 through 13 electric shop call sheets, and the September 12 electronics order sheet showing work on the No. 22 loom by McDaniel and on the No. 28 Zinser by Vaughn—made copies, and gave them to Harper. The latter prepared a three-page document outlining the events described above and asserting that they constituted harassment which began after the 1988 union campaign.<sup>26</sup> Harper affixed all these documents to a copy of the warning, made numerous copies of all documents, and asked Foreman Partridge to accompany him while he delivered copies to a large number of management personnel, including Varner and Miller.

not on call in either area. James had a verbal warning on 1-25-89 and on 3-20-89 about being out of his assigned work area. I am instructing him once again that he must not wander around the plant and converse with other employees who are at work. A recurrence of this problem will lead to strong disciplinary action.”

The warning asserts that Harper contended he came through the card room “coming from a call” back to the electric Shop, and spoke with an employee for 15 seconds. (G.C. Exh. 2.)

<sup>24</sup> R. Exh. 6.

<sup>25</sup> According to Harper, Sumner said that he had already been laid off.

<sup>26</sup> G.C. Exh. 2. Harper’s document also attacks the bona fides of his two warnings after the 1988 union campaign.

<sup>22</sup> G.C. Exh. 2.

<sup>23</sup> The report reads: “On 9-12-89, James (Harper) was seen in South Mill Weaving at approximately 3:20 p.m. conversing with another employee. At 4:30 p.m., he was seen in Unit A Carding doing the same thing. James was

*F. The Company's Further Investigation of and Discharges of Harper, McDaniel, and Vaughn*

1. Investigation of Harper

Human Resources Manager Varner testified that he was "surprised" at Harper's response, and wondered how he had obtained the company records. Plant Engineer Miller surmised that it was possible to take work orders out of the log-book, and contemplated a sequential numbering system to prevent repetition of the problem. McDaniel testified that Foreman Murphy said to him: "Dave Miller is one upset son-of-a-bitch. He told me he didn't know how in the hell Harper got his hands on that damn work order . . . ."

Varner called Electric Shop Foreman Partridge, reminded him that he had previously reviewed the records for the 12th, and asked him to examine the Call Record attached to Harper's response. As indicated, this record shows three calls attributed to Harper—the No. 281 loom fire, the No. 22 loom, and the No. 47 card hopper. As noted, Partridge originally testified that, upon examining the record on September 13, he noted three calls attributed to Harper and wrote them down on a piece of paper which he threw away. However, Partridge later testified that he did not see the No. 22 loom or No. 47 card hopper calls when he examined the record on September 13. Varner testified that Partridge reported that there had been "a couple of alterations" between Partridge's first and second examinations of the document, in that Harper's initials had been inserted next to the No. 22 loom and No. 47 card hopper calls, on which other employees had also worked. Varner himself did not see the September 12 call sheet until he received a copy of it attached to Harper's response. He did not see the piece of paper on which Partridge, on September 13, allegedly wrote three calls for Harper for September 12, and Partridge did not inform Varner of the existence of this asserted document.

Partridge's testimony is contradictory. Thus, if he saw three calls initialed by Harper for September 12, when he originally examined the call sheet, this necessarily would have included the No. 22 loom and No. 47 card hopper calls—without these, Partridge could not have seen three calls. Accordingly, his later denial that he saw these two calls is inconsistent with his former testimony. Because of this inconsistency, and because Partridge was not a believable witness, I do not credit his testimony pertaining to the September 12 call sheet.

Varner testified that he spoke with Hugh Fleming on September 25, and asked him whether Harper had accompanied him when Fleming replaced the loom switch in the middle of the day on September 12. Varner acknowledged that Fleming replied that Harper had been with him.

2. Investigation of the electronics shop orders

Several days after Harper's warning, Card Room Manager Lynch forwarded copies of various production reports to Varner. At about the same time, Electronics Shop Foreman Murphy gave Varner copies of the September 11 and 12 electronics shop orders. As indicated, he testified that he told Varner that they were "out of sequence," but did not discuss falsification of documents. Murphy's and Varner's various statements about these reports are set forth above.

3. The discharges

Human Resources Manager Varner gave his version of the evidence. Thus, he acknowledged problems with No. 22 loom on September 11, what he called a "warp out" on September 12 (actually, over 5 hours of downtime), and a defective switch in the middle of the day on September 12. Other than that, "the records" indicated that the loom ran for "the rest of the shift." "Employees" did not recall seeing Harper working on the switch in the middle of the day. Although an electronics order showed work on the loom on the 12th, according to Varner "we ran into the same type problem—we found that the problems we were having with that Zinser draw frame was on the 11th rather than the 12th." Varner asserted that he reached this conclusion from the production reports showing that the Zinser was operating on the 12th. Accordingly, Varner maintained, he decided that the electronics order for the 11th had been "removed" and "disposed of," and that the order dated the 12th had been rewritten and "substituted" for it.<sup>27</sup> Varner therefore decided that further investigation was required.

Varner had a meeting with Harper on September 25, and asked him whether he had initialed "the entry on . . . loom number 22 on September 12th" (the change of the switch with Fleming at about noon). Harper replied that he had initialed it. Varner asked him whether he went there at "1:50 p.m.," and Harper replied he went to the loom at 11:50 a.m. Varner then told Harper that he was suspended pending an investigation, and Harper was escorted out of the plant.

Varner next spoke with Vaughn.<sup>28</sup> He asked whether Vaughn had completed the electronics report showing work on the No. 28 Zinser on September 12, and whether he had done the work on that date. Vaughn replied affirmatively, and Varner told him that he was suspended pending investigation. Varner did not ask Vaughn whether he had altered a date or substituted any records.

Vaughn was escorted out of the plant by Foreman Murphy. When they were alone, Vaughn testified, Murphy told him that he had checked a "form" stating that he would rehire Vaughn. He asked Vaughn whether the latter would come back to work after "all this blew over." Murphy testified that he did not recall stating on a form that he would rehire Vaughn. The latter was the more reliable witness, and I credit his testimony that Murphy said this to him.

Varner next spoke with McDaniel, and asked him whether he prepared the electronics order showing work on the No. 22 loom on September 12, and whether he did the work on that date. Upon receiving McDaniel's affirmative response, Varner told him that he was suspended pending an investigation. He did not ask McDaniel whether the latter had substituted any records or altered a date. Master mechanic Don Carpenter escorted McDaniel out of the plant, and told him that he, Carpenter, had nothing to do with it. McDaniel said that he thought it had something to do with the warning to Harper, and asserted that nobody had told him he was the employee talking with Harper. "Well, yes, you was, among others," Carpenter replied.

<sup>27</sup> As indicated, Respondent introduced an electronics order dated September 11, R. Exh. 9A, and the General Counsel introduced a separate order dated September 12, G.C. Exh. 2.

<sup>28</sup> Varner contended that he spoke with McDaniel before Vaughn. However, McDaniel credibly related seeing Vaughn go for his interview, and testified that Vaughn told him "I'm gone," after the interview.

Varner consulted with his superior, Jim Landreth, and asserted that, based on the “circumstances,” they concluded that the three employees had falsified documents. Varner surmised that Harper, in order to avoid the record of a warning for being outside his place of work, had enlisted the support of McDaniel and Vaughn. All three employees were discharged the next day, September 26, for “falsifying” Company records. None of the three was told which records had been falsified, although Harper and McDaniel asked this question. Harper and McDaniel were discharged by telephone. Vaughn returned to the plant to get his tools and was told that he had to see Varner. The latter told Vaughn that he had been terminated for falsifying company documents. Vaughn asked what documents Varner was talking about, and the latter replied that he could not discuss the matter. The separation notices for Harper and McDaniel merely state that they had been terminated for “violation of Company rules.”<sup>29</sup>

#### G. Additional Alleged Unlawful Coercion

Wayne Avery, the Company’s head tire cord shipping clerk and an employee for 31 years, testified that he had a conversation with Electronics Shop Foreman Murphy<sup>30</sup> on September 26, the day of the discharges. According to Avery, he told Murphy that the latter had been “right”—“you warned these guys if they kept on with their Union activity that they would be fired.” Murphy agreed with Avery, and said, “Now they’re gone.” Avery added to this testimony on cross-examination. Thus, he affirmed that Murphy had previously said: “If you fellows don’t quit this Union stuff, you’re going to get your dong stepped on,” and “something tragic is going to happen to you,” and “you are going to be sorry.” Murphy agreed that he had a conversation with Avery on September 26, and that Avery made the statements about which the latter had testified. However, Murphy contended, his response was that the three employees had been discharged for violation of company rules. Murphy denied some of the additional statements attributed to him by Avery.

Avery further testified that, on about October 2, Carpenter Supervisor Clark walked up to him and said: “Well, are you still here. You are supposed to be next. They are going to get all you Union guys. We just got three of them.” Clark denied making these statements.

Avery was a long-time employee of Respondent at the time of his testimony. The Board has concluded in similar circumstances that such testimony is entitled to considerable weight since it is unlikely to be false when it is adverse to an employee’s pecuniary interest, such as preservation of a job.<sup>31</sup> For these reasons, and because Avery was a believable witness, I credit his testimony concerning the statements made by Murphy and Clark.

<sup>29</sup>G.C. Exhs. 3, 4.

<sup>30</sup>The pleadings establish that Murphy was a supervisor and an agent of Respondent within the meaning of the Act.

<sup>31</sup>*Bohemia, Inc.*, 266 NLRB 761, 764 fn. 13 (1983); *Southern Paint & Waterproofing Co.*, 230 NLRB 429, 431 fn. 11 (1977).

#### H. Factual Summary and Legal Conclusions

##### 1. The alleged violations of Section 8(a)(1)

The General Counsel has established that company supervisors made statements to employees which were coercive under established Board precedent. Thus, after the layoff of a union committeeman in July, a supervisor told Harper that “they got one of them, and they’re going to get everyone of you on the committee, and you’ll be next.” On the day of the discharges of the alleged discriminatees (September 26), a supervisor agreed with another employee’s assertion that the supervisor had previously said employees who continued to engage in union activity would be fired. On October 2, just after the three discharges, a supervisor told an employee that the latter was “supposed to be next,” that the Company was going to “get all of you Union guys,” and that it “just got three of them.” All of these statements constituted unlawful threats violative of Section 8(a)(1), and I so find.

##### 2. The alleged violations of Section 8(a)(3)

The General Counsel has the burden of establishing a prima facie case that is sufficient to support an inference that protected conduct was a motivating factor in Respondent’s decision to discipline an employee. Once this is established, the burden shifts to Respondent to demonstrate that the discipline would have been administered even in the absence of the protected conduct.<sup>32</sup>

The evidence shows that Harper and McDaniel played active roles in a union campaign in 1988. Company supervisors admitted knowledge of Harper’s role, while McDaniel was “one of the leaders” of the campaign. These two employees, assisted by Vaughn, began distributing union authorization cards on September 11, 1989, in a break room. An individual described without contradiction by Harper and McDaniel as a supervisor was in the break area at the time, uttered an expletive, and said that he had to get out of there. I conclude that Respondent’s unlawful threats described above manifest antiunion animus by Respondent, that it had knowledge of the alleged discriminatees’ 1989 union activity, and that the General Counsel has established a prima facie case that that activity was a motivating factor in Respondent’s discharges of them.

All three alleged discriminatees had excellent work records—according to their supervisors, Harper was a “good” employee, while Vaughn and McDaniel were “very good technicians.” McDaniel’s qualifications were particularly outstanding.<sup>33</sup> Vaughn and McDaniel constituted two-thirds of Respondent’s electronics technician work force on the second shift.

Almost immediately after the beginning of the 1989 campaign, Respondent began an investigation of Harper’s work activities. This included ordering him out of the plant after the end of his shift on September 12 pursuant to a new rule

<sup>32</sup>*Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989, approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983).

<sup>33</sup>I accord little or no probative weight to the warnings issued to Harper and McDaniel after the 1988 union campaign, because they are contradicted by the testimonies of supervisors.

which had not been announced to any employee; contradictory testimony by Harper's supervisor concerning the supervisor's examination of a work record for that day; the supervisor's failure to tell his superior that he had made a notation of his first examination of the work record; discarding the alleged notation; and the supervisor's failure to ask Harper what he had been doing on September 12.

The plant engineer then warned Harper for being out of his work area, relying entirely on verbal reports from other employees, including Harper's supervisor, as to the supposed absence of any work in the area where Harper was seen. The plant engineer did not then examine the actual work record for the 12th, and did not ask Harper what work he had been doing. The evidence shows that the work records are unreliable indicators of work activity.

When Harper supplied documentary evidence corroborating his claim of work on the afternoon of September 12, Respondent began another investigation of those documents and the employees who prepared them, McDaniel and Vaughn. Its asserted conclusions regarding those documents, outlined above, are based entirely on "the circumstances" without any meaningful inquiry directed to the employees involved. They were asked only whether they had done the work indicated on their reports on the specified date, and were suspended upon giving an affirmative reply. None of the employees was made aware of Respondent's purported belief that the employee's answer was false, and none was given an opportunity to respond to Respondent's asserted view of the circumstances.

Respondent's stated conclusions are contradicted by its own documentary evidence, and it could not reasonably have believed that they were true. The Company in fact ignored an employee's report that Harper had performed work as to which, Respondent contended, Harper had falsified the record. The three employees were discharged for asserted "violation of company rules," or "falsification of documents," without any explanation of the details of the alleged offenses, and with a specific refusal to supply such details. Vaughn was asked by his supervisor whether he could come back when "all of this (blows) over."

Rather than rebutting the General Counsel's prima facie case, this evidence offers further support for it. The timing of the discharges of three long-term employees with excellent work records,<sup>34</sup> soon after the advent of the union campaign,<sup>35</sup> constitutes evidence of discriminatory motivation. The fact that the employees were not warned about their alleged infractions<sup>36</sup> and were given no opportunity to respond to the allegations against them<sup>37</sup> constitutes additional evidence. This conclusion is buttressed by the fact that Respondent failed to give an explicit reason for the discharges, and refused to do so on request.<sup>38</sup> Further support for these inferences is found in the explicit warnings of supervisors to employees, including alleged discriminatee Harper, that

union supporters would be discharged.<sup>39</sup> These factors, together with the inconsistent and contradictory evidence advanced by Respondent, show that the asserted reasons for the discharges were a fabrication of pretexts put together by Respondent to justify its termination of three union adherents.

I therefore conclude that Respondent discharged Harper, McDaniel, and Vaughn on September 26 because of their protected union activity, in violation of Section 8(a)(3) and (1) of the Act.

In accordance with my findings above, I make the following

#### CONCLUSIONS OF LAW

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

2. United Rubber, Cork, Linoleum & Plastic Workers of America, AFL-CIO, CLC, is a labor organization within the meaning of Section 2(5) of the Act.

3. By threatening employees that they would be discharged if they engaged in union activities, Respondent thereby committed unfair labor practices within the meaning of Section 8(a)(1) of the Act.

4. By discharging James Harper, Glenn Vaughn, and Ronald McDaniel on September 26, 1989, because of their union activities, Respondent thereby committed unfair labor practices within the meaning of Section 8(a)(3) and (1) of the Act.

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

#### THE REMEDY

It having been found that Respondent has engaged in certain unfair labor practices, it is recommended that it be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the purposes of the Act.

It having been found that Respondent unlawfully discharged James Harper, Glenn Vaughn, and Ronald McDaniel on September 26, 1989, it is recommended that Respondent be ordered to offer each of them immediate reinstatement to his former position, or, if such position no longer exists, to a substantially equivalent position, dismissing if necessary any employee hired to fill the position, and to make him whole for any loss of earnings he may have suffered by reason of Respondent's unlawful conduct, by paying him a sum of money equal to the amount he would have earned from the date of his unlawful discharge to the date of an offer of reinstatement, less net earnings during such period, to be computed on a quarterly basis in the manner established by the Board in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).<sup>40</sup> In addition, the posting of notices and an expunction order are warranted.

<sup>34</sup> *Wells Dairy*, 287 NLRB 827 (1987), enfd. as modified 865 F.2d 175 (8th Cir. 1989); *Gurley Refining Co.*, 285 NLRB 38 (1987).

<sup>35</sup> *NLRB v. S.E. Nichols, Inc.*, 862 F.2d 952 (2d Cir. 1988), enfg. as modified 284 NLRB 556 (1987); *Abbey's Transportation Services v. NLRB*, 837 F.2d 575 (2d Cir. 1988), enfg. 284 NLRB 698 (1987).

<sup>36</sup> *Holiday Inn East*, 281 NLRB 573 (1986). Although McDaniel and Harper had received prior warnings, none had been for the alleged offense for which they were discharged.

<sup>37</sup> *Ibid.*

<sup>38</sup> *A. J. Ross Logistics*, 283 NLRB 410 (1987).

<sup>39</sup> *Redd-I Inc.*, 290 NLRB 1115 (1988).

<sup>40</sup> Under *New Horizons*, interest is computed at the "short term Federal rate" for the underpayment of taxes as set out in the 1986 amendment to 26 U.S.C. Sec. 6621. Interest accrued before January 1, 1987 (the effective date of the amendment) shall be computed as in *Florida Steel Corp.*, 231 NLRB 651 (1977).

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended<sup>41</sup>

#### ORDER

The Respondent, Uniroyal Goodrich, Thomaston, Georgia, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Discouraging membership in United Rubber, Cork, Linoleum & Plastic Workers of America, AFL-CIO, CLC, or any other labor organization, by discharging employees because of their union activity, or by discriminating against them in any other manner with regard to their hire, tenure of employment, or terms and conditions of employment.

(b) Threatening employees with discharge if they engage in union or other protected, concerted activity.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights under Section 7 of the Act.

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

(a) Offer James Harper, Glenn Vaughn, and Ronald McDaniel reinstatement to their former positions or, if any such position no longer exists, to a substantially equivalent position, without prejudice to their seniority or other rights and privileges, and make each of them whole for any loss of earnings he may have suffered by reason of Respondent's unlawful discrimination against him, in the manner described in the remedy section of this decision.

(b) Expunge from its personnel records or other files any references to its discharges of James Harper, Glenn Vaughn, and Ronald McDaniel on September 26, 1989, and notify each of them in writing that this action has been taken and that evidence of such discharge will not be used as a basis for future personnel actions against him.

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

(d) Post at its Thomaston, Georgia plant copies of the attached notice marked "Appendix."<sup>42</sup> Copies of said notice, on forms provided by the Regional Director for Region 10, after being signed by Respondent's authorized representative,

<sup>41</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

<sup>42</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

shall be posted 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 said 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.

Section 7 of the Act gives employees these rights.

To organize

To form, join, or assist any union

To bargain collectively through a representative of their own choice

To choose not to engage in any of these protected concerted activities.

WE WILL NOT discourage membership in United Rubber, Cork, Linoleum & Plastic Workers of America, AFL-CIO, CLC, or any other labor organization, by discharging employees because of their union activities, or by otherwise discriminating against them.

WE WILL NOT threaten employees with discharge because of their union activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights under Section 7 of the Act.

WE WILL offer James Harper, Glenn Vaughn, and Ronald McDaniel full reinstatement to their former jobs, without loss of any rights or privileges, and WE WILL make them whole for any loss of earnings they have suffered because of our unlawful discharges of them, with interest.

WE WILL expunge from our records all references to our unlawful discharges of the foregoing employees, and notify each of them in writing that this has been done, and that such discipline will not be used as the basis for future personnel actions against him.

UNIROYAL GOODRICH