

Caamano Brothers, Inc. and Food, Industrial and Beverage Warehouse, Drivers & Clerical Employees Union Local 630, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO. Case 21-CA-26781

August 12, 1991

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

On February 19, 1991, Administrative Law Judge William L. Schmidt issued the attached decision. The Respondent filed exceptions and a supporting brief.¹

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,² 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, Caamano Brothers, Inc., Los Angeles, California, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

¹The General Counsel has moved to strike the Respondent's exceptions on the ground that they fail to meet the specificity requirements of Sec. 102.46(b) of the Board's Rules and Regulations. The Respondent has filed an opposition to the General Counsel's motion. Although the Respondent's exceptions do not conform in all particulars with Sec. 102.46, they are not so deficient as to warrant striking them. Further, the General Counsel has not shown prejudice as a result of the deficiency. Accordingly, the General Counsel's motion is denied.

²The 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), enf'd, 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

Salvador Sanders, Esq., for the General Counsel.
Charles J. Schufreider, Esq. (Barton, Klugman & Oetting),
of Los Angeles, California, for the Respondent.
Kenneth P. Young, Esq. (Wohlner, Kaplong, Phillips, Vogel,
Shelley & Young), of Encino, California, for the Charging
Party.

DECISION

STATEMENT OF THE CASE

WILLIAM L. SCHMIDT, Administrative Law Judge. Food, Industrial and Beverage Warehouse, Drivers & Clerical Employees Union Local 630, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO (Union) filed unfair labor practice charges

against Caamano Brothers, Inc. (Respondent or Employer) on May 1, 1989.¹ An amended charge was filed on June 1.

On June 15, the Regional Director for Region 21 of the National Labor Relations Board (NLRB or Board) issued a complaint alleging Respondent had engaged in unfair labor practices within the meaning of Section 8(a)(1) and (5) of the National Labor Relations Act (Act). A hearing on the complaint was scheduled before an administrative law judge.

Respondent answered the complaint on August 12 denying that it engaged in the unfair labor practices alleged.

I heard this matter on October 3 and 4, 1989, at Los Angeles, California. After carefully considering the record and posthearing briefs of all parties, I find that Respondent engaged in the unfair labor practices alleged based on the following

FINDINGS OF FACT

I. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The Pleadings*

The complaint alleges Respondent, at all material times, was a member of Associated Produce Dealers and Brokers of Los Angeles, Inc. (the Association), a multiemployer organization whose members are engaged in the wholesale purchase and sale of produce. The current Association-Union agreement applies to the following employee categories: All sales persons, freezer persons, receiving clerks, dispatchers, driver/forklift operators, receiver helpers, housemen, semi-drivers, double drivers, and loaders.

The complaint charges Respondent repudiated the current agreement by failing and refusing to: (1) answer grievances; (2) make pension fund contributions; (3) pay overtime rates, and vacation and holiday benefits; and (4) maintain time records reflecting hours of work. This conduct, the complaint asserts, occurred without the Union's consent or affording it an opportunity to bargain concerning them.

The complaint also alleges that Respondent failed to furnish the Union, as requested in February, with a seniority roster of its unit employees, information necessary and relevant to the Union's representation of unit employees.

Respondent denies violating the Act. Its brief asserts that it was never bound to the Association-Union agreement because it never authorized the Association to act on its behalf. Alternatively, Respondent denies liability under the Act by claiming that its conduct amounted only to a breach of agreement rather than repudiation as charged in the complaint.

B. *The Evidence*

1. Background

Respondent, a California corporation owned by Daniel and Bruno Caamano, is engaged in the wholesale purchase and sale of fresh produce at the Los Angeles, California produce market area.² At relevant times, Respondent operated two facilities, its principal location on Olympic Boulevard and a warehouse on South Central Avenue. Eight or nine employ-

¹ All dates refer to the 1989 calendar year unless shown otherwise.

² Respondent's direct inflow annually exceeds the nonretail, discretionary standard established by the Board for exercising its statutory jurisdiction. Accordingly, I find that it would effectuate the purposes of the Act for the Board to exercise its jurisdiction to resolve this labor dispute.

ees, its clerical force, two commission salesmen and corporate officials worked at Olympic Boulevard; four or five employees worked at the South Central warehouse.

In two previous cases, the Board found Respondent unlawfully discharged employees for engaging in activities on behalf of the Union. See *Ethnic Produce*, 275 NLRB 205 (1985) (*Caamano I*); *Caamano Bros.*, 275 NLRB 823 (1985) (*Caamano II*). I officially notice these prior reported cases.³

In *Caamano II*, Administrative Law Judge Earledean V.S. Robbins found that the Union requested Respondent recognize it as the representative of its employees on March 14, 1983. After Respondent refused, the Union commenced picketing Respondent in the early hours of the following day. At approximately 10 a.m. the Union withdrew the pickets and sometime that afternoon Daniel Caamano “signed a collective bargaining agreement with the Union.” Judge Robbins made no detailed findings on this latter point.

The Association—never mentioned in the prior cases—is a multiemployer service organization which provides its member-employers with: (1) collective bargaining, grievance and other labor relations representation; (2) health care insurance; and (3) customer credit reports. No written Association authorizations are required; employers become Association members by verbally requesting its services.

Association members are charged \$10 per employee for each employee covered by the health care insurance program as Association dues. Consequently, each employer-member must participate in that insurance program by one means or another. Because the Association health care insurance program is incorporated in the Association-Union collective-bargaining agreement, the Association’s labor relations members are automatically covered. However, an employer is free to become an insurance-only member by requesting health care insurance coverage without labor relations representation; and, the labor relations members may revert to insurance-only members by timely written notice to the Association.

The Association negotiates and executes a single collective-bargaining agreement with the Union on behalf of its labor relations members; the Association never negotiates separate agreements with the Union on behalf of any member.

The Association-Union agreement in effect when this case arose was effective by its terms from February 1, 1987, to January 31, 1990. The predecessor agreement was effective from February 1, 1984, through January 31, 1987.

2. Respondent’s Association membership

a. *Facts*

The General Counsel claims Respondent is a labor relations member of the Association and, as such, is bound by the Association-Union agreement. Respondent claims it is, at best, only an insurance member and is not bound to the Association-Union agreement.

Bruno Caamano’s testimony establishes clearly that some form of relationship existed between Respondent and the Union, and some degree of Association involvement in that relationship. Specifically, Bruno:

1. Acknowledged that he used the Association’s services in dealing with the Union.

2. Agreed that Association Agent George Huizar “was representing us” during grievance meetings with union representatives concerning the 1988 grievance filed by Respondent’s driver, Alfredo Gonzales.

3. Frequently checked the progress of the Gonzales grievance with Huizar.

4. Prepared and submitted Respondent’s seniority roster—although incomplete—in compliance with the Union’s February 1989 request.

5. Met with and submitted some information to an agent of the contractual pension trust administrator conducting an audit under the Association-Union agreement.

6. Otherwise regularly met with Union Agents Abelardo (Lalo) Rodriguez and Alfred Hernandez about employee work problems.

7. Explained that he met with union representatives upon request “since I was Union.”

8. Bitterly asserted that “they forced the Union on us in 1985.”

According to Richard Mount, the Association vice president, Respondent became an Association labor relations member in 1983. Mount claims that Daniel Caamano, one of Respondent’s owners, was responsible for aligning Respondent with the Association in that fashion. Mount recalled that Daniel telephoned him at the time saying: “I want to talk to you now . . . the Union has hit us.” Mount promptly went to Daniel’s office. At that time Daniel told Mount that “the Union had him sign a paper saying that [Caamano Brothers] would be a part of the Teamsters.” Caamano further told Mount, “I might as well get into the Association and be one of the other companies in there.” From that time forward, the Association treated Respondent as one of its labor relations members. In particular, Mount said Respondent was mailed significant notices concerning Association collective-bargaining activities.

Association records establish that Respondent made dues payments to the Association for at least some of its employees through January 1989. Mount claims all of its members were represented for labor relations purposes when Respondent joined and that Daniel did not indicate any desire to do otherwise. On the contrary, the inference suggested by the timing of its affiliation with the Association—during or immediately after the Union’s strike for recognition—is that Respondent intended to become a labor relations member.

Daniel Caamano did not testify in this proceeding nor was his absence in any way explained. In addition, no evidence was proffered to establish that Respondent maintained a separate collective-bargaining agreement with the Union at any time.

b. *Analysis and conclusions*

Where an employer expressly confers on a joint bargaining agent the power to bind it in future negotiations or, by its course of conduct, unequivocally manifests a desire to be bound in future collective bargaining by group rather than individual action, the Board deems the employer to be a member of the multiemployer group. *Greenhoot, Inc.*, 205 NLRB 250 (1973), and the cases cited therein at fn. 3. Once bound by group action, an employer may withdraw unilaterally from the multiemployer group by written notice given prior

³Pleading lack of knowledge, Respondent denied the Union was a labor organization within the meaning of Sec. 2(5) of the Act. Based on the findings and conclusions of law in the prior cases and the record here, I find the Union is a labor organization within the meaning of the Act.

to the contractually established date for modification of the current agreement or the date established to commence group negotiations. *Retail Associates*, 120 NLRB 388 (1958). Applying these principles here, I find that Respondent was bound to the 1987–1990 Association-Union agreement.

Mount's testimony that Respondent became a labor relations member in 1983 at the request of Daniel Caamano is plausible when considered in connection with the circumstances reported in *Caamano II*. The fact that Daniel Caamano did not appear to contradict Mount's assertion that Respondent was a full Association member, coupled with Bruno's concession that he was not aware of Daniel's commitment, strongly supports Mount's credibility on this question.

Bruno Caamano acknowledges some form of union recognition by Respondent. No corollary evidence exists to indicate this recognition took any form other than through the Association. Moreover, Respondent's reliance on George Huizar, an Association official, for representation in the Gonzales grievance processing strongly supports the conclusion that Respondent regarded itself to be a labor relations member and not merely an insurance member as argued here.

Respondent argues the evidence fails to establish that the scope of Respondent's authorization to the Association included collective bargaining. Instead, Respondent claims, "[t]he Company was merely advised that the Association would assist in insurance matters, credit reporting and grievances." This argument lacks merit.

Respondent supports its argument from a portion of Mount's testimony concerning his meeting with Daniel Caamano during or following the Union's 1983 recognition strike. When asked if he explained the services the Association would provide for Respondent, Mount testified that he explained Respondent could "have the insurance program . . . credit reporting services . . . and that we would represent him if he had any problems with the union grievances or anything."

I am satisfied that Mount was merely outlining examples of the services available from the Association on this occasion and that Respondent's effort to read a limitation on the Association's scope of authority based on this testimony is unwarranted. Historically, the Association has not represented employers in labor relations matters outside the context of the multiemployer collective-bargaining agreement. Hence, the only plausible explanation for Mount's offer of Association grievance representation lies in the fact that the two men understood that the Association agreement would be applied to Respondent's employees.

But more importantly, following the foregoing testimony, Mount recalled Daniel Caamano's charter to the Association contained in the following words: "I might as well get into the Association and be one of the other companies in there." Fairly read, these words clearly reflect the requisite intent on Daniel's part to be bound by group action. Absent this conclusion, the record is void of any explanation for Respondent's conduct vis-a-vis the Union as outlined by Bruno.

Based on the foregoing, I find Respondent became a labor relations member of the Association by virtue of Daniel's actions in 1983. As no evidence shows Respondent ever timely withdrew its authorization to the Association to act on its behalf in collective bargaining, I find Respondent was bound to the 1987–1990 Association-Union agreement.

3. The information request

a. *Facts*

On September 26, 1988, employee Adolfo Gonzales filed a grievance claiming that he had not received proper vacation pay, that he was not being paid for overtime work and that he had been laid off for a week out of seniority. On October 12, 1988, Union Agent Alfred Hernandez filed a grievance claiming that Respondent was discouraging new employees from registering with the Union. This latter grievance also requested a list of employees who had been paid the contractual bonus so the Union could investigate employee complaints concerning the failure to receive the bonus.

A grievance meeting was held at Respondent's premises on January 12 whereat both grievances were discussed. Respondent was represented by Bruno Caamano and Association Representative Huizar. The Union was represented by Agents Rodriguez and Hernandez. Grievant Gonzalez was present at the request of Caamano.

During the meeting Rodriguez requested a seniority roster of employees. Apparently questioning the need, Caamano asserted that there were only five or six employees. Rodriguez asserted that union agents had observed 15 or 16 employees working at Respondent's facilities and that the Union wanted the roster to determine who was in the bargaining unit.⁴ The exchange then was diverted to a discussion concerning the Union's willingness to make concessions about the number of employees covered by the contract and no clear resolution concerning Rodriguez' information request was reached.

Following the January 12 meeting, Hernandez made at least three unsuccessful efforts to speak with Bruno Caamano by telephone and filed another grievance on February 3 greatly expanding the claims of noncompliance with the labor agreement. This latter grievance requested a response within 10 days. The only known response Hernandez received throughout the period following the January 12 meeting, save that discussed immediately below, was advice from Huizar to pursue other avenues of action because the Association too had difficulty securing Respondent's cooperation.

On February 7 Hernandez dispatched a letter to Bruno Caamano requesting within 5 days a "seniority roster of all employees who should be covered under the current labor agreement." This request was prompted by his personal observations and employee reports that several individuals who did not appear in the union records were performing bargaining unit work.

In response, Hernandez received a handwritten list dated February 9 bearing seven names. The hiring dates for three listed individuals is incomplete. Thus, the hiring date for Gonzales, the employee who had a pending grievance alleging Respondent failed to apply seniority for his layoff, is listed solely as 1985. The year of hire is not listed for two other employees.⁵

⁴Art. V, sec. 1 of the Association agreement provides that a union and Association agent may "inspect time or employment records dealing with the interpretation of this Agreement" provided the employer's business operations are not interfered with or interrupted.

⁵During the hearing and in the briefs these two individuals were alluded to as relatives of the Caamano owners. Art. IV, sec. 3 of the Association agreement excludes certain relatives of the owners for limited purposes, but the record is insufficient to determine the scope of this exclusion or its applicability to these two employees.

On March 15 former Union Counsel James Ball wrote to Bruno Caamano concerning, inter alia, the employee roster. Ball asserted that Caamano had failed to return two telephone calls during the previous week and threatened to file NLRB charges in the event he did not receive “a direct communication from you or your representative concerning these matters.” Although there is no evidence as to whether or not Caamano attempted to contact Ball, Hernandez filed an NLRB charge against Respondent on March 29.⁶

Bruno Caamano conceded on cross-examination that Respondent employed at least 13 employees through this period. However, he claimed that over the years he had verbal understandings with Rodriguez and other union agents concerning which employees would be required to join the Union, an assertion which implied an agreement by the Union that Respondent could employ others who would be of no concern to the Union.

b. Analysis and conclusions

An employer is obliged to furnish the employee representative with information necessary and relevant “in carrying out its statutory duties and responsibilities.” *NLRB v. Acme Industrial Co.*, 385 U.S. 432, 437 (1967). As the information sought is specifically related to the grievance filed by Gonzales and the bonus payment information sought in the Union’s grievance is directly related to a contractual benefit, I find both requests to be presumptively relevant. *Curtiss-Wright Corp. v. NLRB*, 347 F.2d 61, 69 (3d Cir. 1965); *Viewlex, Inc.*, 204 NLRB 1080 (1973).

The record here strongly supports the inference which I have made that the information furnished by Respondent on February 9 is incomplete. I do not credit Bruno Caamano’s claim that some type of members-only arrangement existed with the Union which might justify the incomplete information submitted on February 9. Accordingly, I find, as alleged, that Respondent violated Section 8(a)(5) of the Act by failing to furnish the Union with a complete seniority roster when requested.

4. Contract repudiation

a. Facts

Respondent made no serious attempt to dispute the General Counsel’s evidence concerning Respondent’s failure to apply the current Association agreement; indeed, Bruno Caamano admitted substantially all such matters the General Counsel sought to prove through employee witnesses.

During the term of the most recent agreement Respondent has consistently failed to pay the following contractual wages, benefits, and contributions: (1) specific hourly rates for regular time hours; (2) overtime premium rates for time worked in excess of 40 hours per week, 8 hours per day, and all hours worked on Saturday; (3) the yearly employee bonus; (4) all required holiday pay; (5) vacation pay at all in some instances and in improper lower amounts in other instances; (6) pension fund contributions for any employee; and (7) health benefit contributions for any employee after February 1989 and for a limited number of employees (5) prior thereto. In addition, Respondent acknowledges that it

failed to keep any record of time worked by employees contrary to the applicable contract and Bruno Caamano admitted that he did not notify the Union of new hires and terminations nor postpromotion opportunities for bid by unit employees as required by the agreement.

In essence, Respondent paid its unit employees a weekly salary; warehousemen received \$500 per week and its drivers received \$450 per week. Warehousemen who worked on Saturdays were paid \$50 cash from a petty cash fund. Association records disclose that contributions for health benefits were made on behalf of at most 5 of Respondent’s 13 to 15 unit employees. A pension trust fund representative testified that there is no record of any contribution by Respondent and that Bruno Caamano frustrated several attempts by the fund administrator to audit records in accord with the collective-bargaining agreement and trust documents.

b. Analysis and conclusions

Section 8(a)(5) of the Act provides that it is an unfair labor practice for an employer to refuse to bargain collectively with the representative of its employees. Section 8(d) defines the duty to bargain collectively to include the obligation to maintain a collective-bargaining agreement in effect absent specific notice requirements not applicable here.

Respondent’s breach of contract defense is fashioned from the fundamental jurisdictional distribution in the Act. Although Congress empowered the Board to remedy unfair labor practices defined in the statute, every breach of a collective-bargaining agreement is not per se an unfair labor practice. *Papercraft Corp.*, 212 NLRB 240 (1974). Disputes limited to the application and interpretation of the collectively bargained instrument lie with the jurisdiction of the courts under Section 301 of the Act and to the parties’ own dispute resolution mechanism. *United Telephone*, 112 NLRB 779 (1955). In overlapping areas, it has been Board policy for nearly 20 years to defer to the parties’ method of resolution provided certain standards are met. See generally *Collyer Insulated Wire*, 192 NLRB 837 (1971).

In *Oak Cliff-Golman Baking Co.*, 207 NLRB 1063 (1973), the Board specifically addressed and rejected the claim that a unilateral, across-the-board wage reduction amounted to only a breach of agreement and, therefore, not cognizable by the Board under the duty to bargain provisions of the Act. There the Board reasoned:

It cannot be gainsaid that an employer’s decision in midterm of a contract to pay its employees for the remainder of the contract’s terms at wage rates below those provided in the collective-bargaining agreement affects what is perhaps the most important element of the many in the employment relationship which Congress remitted to the mandatory process of collective bargaining under the Act. Because so substantial a portion of the remaining aspects of a bargaining contract are dependent upon the wage rate provision, it seems obvious that a clear repudiation of the contract’s wage provision is not just a mere breach of the contract, but amounts, as a practical matter, to the striking of a death blow to the contract as a whole, and is thus, in reality, a basic repudiation of the bargaining relationship. We believe the jurisdiction granted us under the Act clearly encompasses not only the authority but the

⁶That charge, which also alleges Respondent violated Sec. 8(a)(5) of the Act, was withdrawn a month later.

obligation to protect the statutory process of collective bargaining against conduct so centrally disruptive to one of its principal functions—the establishment and maintenance of a viable agreement on wages. [207 NLRB at 1064.]

Applying the standard articulated in the foregoing statement, I find that Respondent has effectively repudiated the Association agreement by failing to apply wage and benefit provisions to the covered employees. The evidence summarized above establishes conclusively that Respondent, at the time of the hearing, applied none of the agreement's economic benefits to any of its unit employees. Respondent's only justification lies in its contention—previously rejected—that it is not bound by the Association agreement at all.

Moreover, Respondent's breach of contract contention is belied by other conduct. Its failure to maintain accurate time records and to disclose information related to hires and terminations, employee seniority, and the pension fund audit is indicative of an attempt to conceal data essential to assure compliance with the agreement. And even though Respondent's brief faults the Union for not pursuing its contractual remedies more vigorously, Respondent's repeated failure to respond to union communications following the January 12 meeting strongly suggests that it intended to stonewall the dispute resolution mechanism.

Absent from this case is any colorable justification for Respondent's failure to apply very straightforward provisions of the agreement. This fact alone distinguishes the present circumstances from those normally found where *Collyer* and its progeny are applied and, for this reason, I reject Respondent's assertion that those cases control this outcome.

In sum, the evidence here shows that Respondent failed to adhere to the economic, disclosure, and dispute resolution provisions of the collective agreement to which it was bound. Such wholesale disregard for the agreement goes well beyond the bounds of an ordinary contract dispute. Instead, I find Respondent's conduct is tantamount to repudiation of the Association agreement, and, in so doing, Respondent has violated Section 8(a)(5) as alleged.

II. THE EFFECT OF THE UNFAIR LABOR PRACTICES ON COMMERCE

The activities of the Respondent set forth above, occurring in connection with Respondent's business operations, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.
2. The Union is a labor organization within the meaning of Section 2(5) of the Act.
3. The Union is the exclusive representative of an appropriate unit of employees (as described supra) within the meaning of Section 9(a) of the Act.
4. By effectively repudiating the Association agreement binding upon it and by refusing to furnish the Union with a complete seniority roster of unit employees, Respondent

engaged in unfair labor practices within the meaning of Section 8(a)(1) and (5) of the Act.

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

REMEDY

Having found that Respondent has engaged in certain unfair labor practices, the recommended Order (Order) requires Respondent to cease and desist therefrom and to take the following affirmative action designed to effectuate the policies of the Act.

The Order requires Respondent promptly furnish to the Union a complete seniority roster listing all employees performing bargaining unit work and their appropriate seniority dates. Additionally, the Order requires Respondent to abide by the terms of the Association agreement, and any successor thereto, until it timely withdraws from the Association. Respondent's duty to apply the terms of the agreement is made retroactive to November 1, 1988, a date which precedes the filing of the charge herein by 6 months. *Ellis Tacke Co.*, 229 NLRB 1296 (1977).

The extent of Respondent's failure to apply the terms of the applicable agreement and its liability arising therefrom is left to the compliance stage of the proceeding. However, the Order requires that Respondent make whole all unit employees and trust funds established under the agreement for their benefit, and reimburse the Union for any dues it may have failed to withhold and remit all by reason of its failure to apply the agreement on or after November 1, 1988. Backpay and dues reimbursement, if any, is to be controlled and computed in accord with *Ogle Protection Service*, 183 NLRB 682, 683 (1970). The appropriate method of determining interest on any backpay due is specified in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). Contributions to all benefit trust funds is to be computed in accord with *Merryweather Optical Co.*, 240 NLRB 1213, 1216 fn. 7 (1979).

Although the General Counsel advances no supporting argument, his suggested order contains a provision providing for a broad order enjoining any other interference with employee rights by this Respondent. In view of Respondent's two prior violations, the widespread and egregious nature of this violation, and the lack of any substantial justification for its present conduct, a broad order enjoining further interference is granted. *Hickmott Foods*, 242 NLRB 1357 (1979).

Finally, Respondent must post the attached notice to inform employees of their rights and the outcome of this matter.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁷

ORDER

The Respondent, Caamano Brothers, Inc., Los Angeles, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

- (a) Failing and refusing to bargain collectively in good faith with Food, Industrial and Beverage Warehouse, Drivers

⁷If 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.

& Clerical Employees Union Local 630, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO (Union) as the exclusive collective-bargaining representative of the employees in the appropriate unit specified infra.

(b) In any other manner interfering with, restraining, or coercing employees because they exercise rights guaranteed by Section 7 of the Act.

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

(a) Apply the terms of the 1987-1990 agreement between the Associated Produce Dealers and Brokers of Los Angeles, Inc. (Association) and the Union, and any successor thereto binding on it, to all employees employed in the unit specified in paragraph 1(a), above.

(b) Provide the Union promptly with a complete seniority roster for employees employed in the unit specified in paragraph 1(a), above.

(c) Make whole its employees' trust funds established for their benefit and the Union for all losses in pay, benefits, and dues incurred by them as a consequence of its failure to apply the terms of the Association-Union agreement in the manner specified by the remedy section of this decision.

(d) 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 determine the backpay, trust fund reimbursements and dues reimbursements due under the terms of this Order.

(e) Post at its Los Angeles, California facilities copies of the attached notice marked "Appendix."⁸ Copies of the notice, on forms provided by the Regional Director for Region 21, after being signed by the Respondent'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.

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

⁸If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES 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 representatives of their own choice

To act together for other mutual aid or protection

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

WE WILL NOT refuse to bargain collectively in good faith with Food, Industrial and Beverage Warehouse, Drivers & Clerical Employees Union Local 630, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO (Union) as the exclusive representative of the employees in the following appropriate unit:

All sales persons, freezer persons, receiving clerks, dispatchers, driver/forklift operators, receiver helpers, housemen, semi-drivers, double drivers and loaders employed by the employer-members of the Associated Produce Dealers and Brokers of Los Angeles, Inc. (Association); excluding all other employees, professional employees, guards and supervisors as defined in the Act.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees because they exercise rights protected by the National Labor Relations Act.

WE WILL abide by and apply the terms of any agreement between the Association and Union to which we are bound to all employees employed in the above unit.

WE WILL promptly provide the Union with a seniority roster of all employees performing work in the above unit.

WE WILL make employees and trust funds established for their benefit whole for all losses suffered by them because we failed to apply the terms of the Association-Union agreement retroactive November 1, 1988, together with interest as provided by law.

WE WILL reimburse the Union for any dues we failed to withhold and remit pursuant to the terms of the Association-Union agreement.

CAAMANO BROTHERS, INC.