

**Townsend Printers Lithographers, Inc. and Kansas  
City Graphic Communications Union No. 16-C.  
Case 17-CA-15489**

February 27, 1992

**DECISION AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND OVIATT

Upon a charge filed by the Union on March 5, 1991 (amended on April 24, 1991), the General Counsel of the National Labor Relations Board issued an "Order Revoking Approval of, Vacating, and Setting Aside Settlement Agreement and Complaint and Notice of Hearing"<sup>1</sup> on December 6, 1991, against Townsend Printers Lithographers, Inc., the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file an answer.

On January 21, 1992, the General Counsel filed a Motion for Summary Judgment. On January 24, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

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

**Ruling on Motion for Summary Judgment**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all the allegations in the complaint shall be considered to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that counsel for the General Counsel, by letter dated January 2, 1992, notified the Respondent that unless an answer was received by January 10, 1992, a Motion for Summary Judgment would be filed. To date, no answer has been filed.<sup>2</sup>

<sup>1</sup> On May 15, 1991, the Regional Director for Region 17 approved an informal settlement agreement executed by the Respondent and the Union on May 8 and 14, 1991, respectively. Following the Respondent's failure to comply, the Regional Director, after issuing an "Order to Show Cause Why Approval of Settlement Agreement Should Not be Withdrawn and Complaint Issued," to which no response was received, revoked approval of the settlement agreement and issued the complaint in this case.

<sup>2</sup> The only communication received was a letter from the Respondent's attorney, Joel B. Laner, dated January 9, 1992, advising the Region that

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

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

The Respondent, a corporation with an office and place of business in Kansas City, Missouri, has been engaged in business as a printer. During the 12-month period ending March 31, 1991, a representative period, the Respondent, in the course and conduct of its business operations, purchased and received at its Kansas City, Missouri facility products, goods, and materials valued in excess of \$50,000 directly from points and places outside the State of Missouri, and during the same period, provided services valued in excess of \$50,000 at locations outside the State of Missouri. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

Since about 1987, the Respondent has been an employer-member of the Union Employers Section Printing Industries Association of Kansas City (the Association), a multiemployer organization comprised of various employers in the printing industry, whose purpose it is to, inter alia, represent its employer-members in negotiating and administering collective-bargaining agreements with the Union. The Association and the Respondent have, since 1971 and 1987 respectively, recognized the Union as the exclusive collective-bargaining representative of employees in the bargaining unit described below, and have embodied such recognition in successive collective-bargaining agreements, the most recent of which is effective from May 1, 1988, to April 30, 1992. The bargaining unit consists of:

All employees employed by members of the Association and of the employers who have authorized the Association to bargain on their behalf, including Respondent, who perform work on all printing presses, including, but not limited to gravure, offset, and letterpress printing presses and associated devices, and all

the Respondent had ceased "the ordinary conduct of its business and vacated its former premises" and that it was "insolvent." We find that this letter is insufficient to constitute an answer to the complaint under Sec. 102.20 of the Board's Rules and Regulations because it does not specifically admit, deny, or explain each of the complaint allegations. See *O.P. Held, Inc.*, 286 NLRB 676 (1987).

work in connection with offset platemaking including camera operations, all darkroom work, stripping and layout subsequent to the copy camera, opaquing and platemaking, but excluding office clerical employees, guards, and supervisors as defined in the Act.

On or about September 5, 1990, the Respondent, without the consent or approval of the Union, failed and refused to comply with all terms and conditions of its collective-bargaining agreement including, failing and refusing to make pension fund contributions and refusing to pay unit employees their contractual wages. In or about late January or early February 1991, the Respondent withdrew its recognition of the Union as the exclusive bargaining representative of the unit employees and further failed and refused to comply with the terms of its agreement by terminating the unit employees' health insurance carrier and coverage and instituting a different health insurance plan and benefits, increasing the number of hours needed before employees could earn overtime and refusing to pay doubletime, and by changing the contractual method used for computing employee vacations. On or about March 12, 1991, the Respondent failed and refused to give unit employees contractual notice of a layoff and, on or about March 13, 1991, it assigned unit work to nonunit employees. By engaging in the above conduct, we find that the Respondent has violated Section 8(a)(5) and (1) and Section 8(d) of the Act.

On or about January 27, 1991, the Respondent's owner, Lanny Ross, told employees they would no longer receive their contractual benefits and, in late January or early February 1991, its manager, Genelle Ross, told employees the Respondent would no longer recognize the Union as their bargaining representative and that they would not be receiving their contractual benefits. Genelle Ross' statements were adopted by Lanny Ross sometime in late January or early February 1991. We find that the above conduct by Lanny and Genelle Ross constitute further violations of Section 8(a)(1) of the Act.<sup>3</sup>

#### CONCLUSIONS OF LAW

1. By telling employees that it would no longer recognize the Union as their collective-bargaining representative and that they would no longer receive their contractual benefits, the Respondent has violated Section 8(a)(1) of the Act.

2. By withdrawing its recognition of the Union, and by failing and refusing, without the Union's

<sup>3</sup> Lanny and Genelle Ross are supervisors and agents of the Respondent within the meaning of Sec. 2(11) and (13) of the Act.

consent or approval, to comply with and adhere to the terms of its collective-bargaining agreement, including failing and refusing to make pension fund contributions, refusing to pay employees their contractual wages, terminating the employees' health insurance carrier and benefits and instituting a different health insurance plan and benefits, increasing the number of hours needed for employees to earn overtime, refusing to pay doubletime, changing the contractual method used for computing employee vacations, failing to give employees notice of a layoff, and assigning unit work to nonunit employees, the Respondent has violated Section 8(a)(1) and (5) and Section 8(d) of the Act.

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

#### REMEDY

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

The Respondent shall be ordered to recognize the Union as the exclusive collective-bargaining representative of the unit employees, and to comply with all the terms and conditions of its collective-bargaining agreement with the Union. The Respondent shall be required to make whole all unit employees who incurred a loss of wages or benefits as a result of the Respondent's refusal to comply with the terms of its agreement, such amounts to be computed in accordance with the Board's decision in *Ogle Protection Service*, 183 NLRB 682, 683 (1970), with interest thereon to be computed in the manner described in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). Further, the Respondent shall make unit employees whole by making all the pension fund contributions it has unlawfully withheld since September 5, 1990, and by reimbursing employees for any expenses they may have incurred as a result of its failure and refusal to make the pension fund contributions, as set forth in *Kraft Plumbing & Heating*, 252 NLRB 891 fn. 2 (1980), enfd. mem. 661 F.2d 940 (9th Cir. 1981),<sup>4</sup> with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, supra.

Further, on request, the Respondent shall be required to rescind its cancellation of the health insurance carrier and benefits enjoyed by the unit

<sup>4</sup> Because the provisions of employee benefit fund agreements are variable and complex, we leave to the compliance stage the question whether the Respondent must pay any additional amounts into the pension fund in order to satisfy our "make whole" remedy. *Merryweather Optical Co.*, 240 NLRB 1213 (1979).

employees before such coverage was terminated by the Respondent. Finally, in view of the Respondent's assertion that it is insolvent and no longer doing business at its "former premises," we shall order that copies of the Board's notice be mailed to the Union and to all unit employees.

#### ORDER

The National Labor Relations Board orders that the Respondent, Townsend Printers Lithographers, Inc., Kansas City, Missouri, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Telling unit employees that it would no longer recognize Kansas City Graphic Communications Union No. 16-C as their exclusive collective-bargaining representative and that they would no longer receive their contractual benefits.

(b) Withdrawing recognition from the Union and refusing to comply with and adhere to the terms of its collective-bargaining agreement with the Union by failing and refusing to make pension fund contributions, refusing to pay unit employees their contractual wages, increasing the number of hours needed to earn overtime, refusing to pay double-time, changing the contractual method used to compute employee vacations, failing and refusing to give unit employees notice of a layoff, and assigning unit work to nonunit employees.

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

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

(a) Recognize the Union as the exclusive collective-bargaining representative of the unit employees, and abide by and adhere to all the terms and conditions of its collective-bargaining agreement with the Union. The appropriate unit consists of:

All employees employed by members of the Association and of the employers who have authorized the Association to bargain on their behalf, including Respondent, who perform work on all printing presses, including, but not limited to gravure, offset, and letterpress printing presses and associated devices, and all work in connection with offset platemaking including camera operations, all darkroom work, stripping and layout subsequent to the copy camera, opaquing and platemaking, but excluding office clerical employees, guards, and supervisors as defined in the Act.

(b) Remit the pension fund contributions that have been withheld since on or about September 5, 1990, and make unit employees whole for any ex-

penses they may have incurred as a result of the Respondent's refusal to make the pension fund contributions, and for any loss of earnings or benefits suffered as a result of the Respondent's failure to comply with the terms of the agreement, as set forth in the remedy section of this decision.

(c) On request, reinstate the health insurance carrier and benefits enjoyed by unit employees before the Respondent unlawfully eliminated said insurance carrier and benefits.

(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 analyze the amounts due under the terms of this Order.

(e) Mail copies of the attached notice marked "Appendix"<sup>5</sup> to the Union, and to all unit employees who were employed at the Respondent's Kansas City, Missouri facility at the time it stopped doing business and vacated the premises. Copies of the notice, on forms provided by the Regional Director for Region 17, after being signed by the Respondent's authorized representative, shall be mailed to the Union and to all unit employees by the Respondent immediately upon receipt thereof.

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

<sup>5</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."

#### APPENDIX

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

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

WE WILL NOT refuse to recognize Kansas City Graphic Communications Union No. 16-C as the exclusive collective-bargaining representative of the unit employees, and WE WILL NOT fail and refuse to abide by the terms of our collective-bargaining agreement by refusing to make pension fund contributions, refusing to pay unit employees their contractual wages, increasing the number of hours needed to earn overtime, refusing to pay doubletime, changing the contractual method used

to compute employee vacations, failing and refusing to give unit employees notice of layoff, and assigning unit work to nonunit employees.

WE WILL NOT tell unit employees that we are no longer recognizing the Union as their collective-bargaining representative, and that they will no longer receive their contractual benefits.

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

WE WILL recognize the Union as the exclusive collective-bargaining representative of our employees in an appropriate unit, and WE WILL comply with and adhere to all terms of our collective-bargaining agreement. The appropriate unit is:

All employees employed by members of the Association and of the employers who have authorized the Association to bargain on their behalf, including Respondent, who perform work on all printing presses, including, but not limited to gravure, offset, and letterpress printing presses and associated devices, and all

work in connection with offset platemaking including camera operations, all darkroom work, stripping and layout subsequent to the copy camera, opaguing and platemaking, but excluding office clerical employees, guards, and supervisors as defined in the Act.

WE WILL make whole our employees by remitting the pension fund contributions that have not been paid since September 5, 1990, and for any expenses they may have incurred as a result of our failure to make such contributions, and for any loss of earnings or benefits they may have sustained, with interest, resulting from our failure to comply with the terms of the collective-bargaining agreement.

WE WILL, on request, rescind our cancellation of the health insurance carrier and benefits enjoyed by the unit employees before we terminated said insurance carrier and benefits.

TOWNSEND PRINTERS LITHOGRAPHERS, INC.