

**Scott, Leach & Associates d/b/a Fire Systems, Inc.
and Road Sprinkler Fitters Local Union No.
669, U.A., AFL-CIO. Case 16-CA-16137**

DECISION AND ORDER

**BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH**

Upon a charge filed by Road Sprinkler Fitters Local Union No. 669, U.A., AFL-CIO (the Union), the General Counsel of the National Labor Relations Board issued a complaint against Scott, Leach & Associates d/b/a Fire Systems, 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 failed to file an answer.

On September 3, 1993, the General Counsel filed a Motion for Summary Judgment with the Board. On September 3, 1993, 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.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide 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. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letters dated August 6 and 12, 1993, notified the Respondent that unless an answer was received by August 11 and 17, 1993, respectively, a Motion for Summary Judgment would be filed. The undisputed allegations in the Motion for Summary Judgment also disclose that the Region faxed a copy of the August 12, 1993 letter to the Respondent and that the Respondent telephoned the Region acknowledging receipt of the August 12 letter.

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 Texas corporation, with an office in Dallas, Texas, was engaged in the building and construction industry installing fire protection systems. The National Fire Sprinkler Association (the Association), has been an organization composed of various

employers engaged in the building and construction industry, one purpose of which is to represent its employer-members in negotiating and administering collective-bargaining agreements with the Union. The LaDew Fire Protection Co. has been an employer-member of the Association authorizing the Association to represent it in negotiating and administering collective-bargaining agreements (Association Agreements) with labor organizations including the Union. During the 12-month period ending July 21, 1993, LaDew Fire Protection Co. derived gross revenues in excess of \$500,000 and purchased and received goods and materials valued in excess of \$50,000 directly from points located outside the State of Texas. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(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

The following employees of the Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All journeymen sprinkler fitters, apprentices, and pre-apprentices employed by the Employer.

EXCLUDED: All other employees, including office clerical employees, professional employees, guards and supervisors as defined in the Act.

Based on Section 9(a) of the Act, the Union has been recognized by the Respondent as the limited exclusive collective-bargaining representative of the unit employees. Such recognition has been embodied in a series of assent and interim agreements, which bound the Respondent to the Association Agreements, the most recent such agreement having an effective term from April 1, 1991, through March 31, 1994. Alternatively, about November 26, 1990, the Respondent, an employer engaged in the building and construction industry, granted recognition to the Charging Party as the limited exclusive collective-bargaining representative of the unit employees by executing an assent and interim agreement whereby it agreed to be bound to the terms of the Association Agreement without regard to whether the majority status of the Union had ever been established under the provisions of Section 9 of the Act.

Since April 19, 1993, the Union, by written requests dated April 19 and May 18, 1993, has requested that the Respondent furnish it with information relating to alter ego/single employer/joint employer status of the Respondent and nine other companies. The information is necessary for and relevant to the Union's performance of its duties as the limited exclusive collective-

bargaining representative of the unit employees. Since April 19, 1993, the Respondent has failed and refused to furnish the Union with the information requested.

CONCLUSION OF LAW

By its failure to furnish the Union with information necessary for and relevant to its performance of its duties as the limited exclusive collective-bargaining representative of unit employees, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, we shall order the Respondent to provide the Union with the information requested by written requests dated April 19 and May 18, 1993.

ORDER

The National Labor Relations Board orders that the Respondent, Scott, Leach & Associates d/b/a Fire Systems, Inc., Dallas, Texas, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to provide Road Sprinkler Fitters Local Union No. 669, U.A., AFL-CIO with information necessary for and relevant to its performance of its duties as the exclusive collective-bargaining representative of unit employees.

(b) 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) Upon request, provide the Union with the information it requested by letters of April 19 and May 18, 1993.

(b) Post at its facility in Dallas, Texas, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 16, 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

¹ 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."

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.

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

Dated, Washington, D.C. September 29, 1993

James M. Stephens, Chairman

Dennis M. Devaney, Member

John Neil Raudabaugh, Member

(SEAL) 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 fail and refuse to provide the Road Sprinkler Fitters Local Union No. 669, U.A., AFL-CIO, with information which is necessary for and relevant to its performance of its duties as the limited exclusive collective-bargaining representative of our employees in the following appropriate unit:

INCLUDED: All journeymen sprinkler fitters, apprentices, and pre-apprentices employed by us.

EXCLUDED: All other employees, including office clerical employees, professional employees, guards and supervisors as defined in the Act.

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, upon request, furnish the Union with the information it requested by letters of April 19 and May 18, 1993.

SCOTT, LEACH & ASSOCIATES D/B/A
FIRE SYSTEMS, INC.