

Jonko, Inc. d/b/a Sterling Nursing Home, LTC Consulting and Weber Management, Inc. and Local 815-S a/w Production Service and Sales District Council, H.E.R.E., AFL-CIO, CLC

Extended Care Facilities, Inc. d/b/a Rosewood Manor Nursing Center, LTC Consulting and Weber Management, Inc. and Local 815-S a/w Production Service and Sales District Council, H.E.R.E., AFL-CIO, CLC. Cases 4-CA-19824, 4-CA-19826, 4-CA-20897, and 4-CA-20898

February 22, 1995

DECISION AND ORDER

BY MEMBERS STEPHENS, COHEN, AND
TRUESDALE

On April 19, 1994, Administrative Law Judge Robert A. Giannasi issued the attached decision. The Respondents filed exceptions and a supporting brief, and the General Counsel filed an answering 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 briefs and has decided to affirm the judge's rulings, findings,¹ and conclusions² 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 Respondents, Jonko, Inc. d/b/a Sterling Nursing Home, Extended Care Facilities, Inc. d/b/a Rosewood Manor Nursing Center, LTC Consulting, and Weber Management, Inc., Philadelphia, Pennsylvania, their officers, agents, successors, and assigns, shall take the action set forth in the Order.

¹ The Respondents except only to the judge's finding that the complaint was not time-barred by Sec. 10(b) of the Act, and that the Regional Director for Region 4 could reinstate the previously withdrawn unfair labor practice charges.

Member Cohen notes that the Respondents have not raised any defense based on *Greenhoot, Inc.*, 205 NLRB 250 (1973).

²In his remedy, the judge provided that "Wages owed shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950)." Because the amounts due to the employees result from the Respondents' failure to apply the collective-bargaining agreements, and not from a termination of employment status, backpay should be calculated pursuant to *Ogle Protection Service*, 183 NLRB 682 (1970), rather than *F. W. Woolworth*, *supra*. The judge's remedy is modified accordingly.

Barbara A. O'Neill, Esq., for the General Counsel.
Stuart Bochmer, Esq. (Horowitz & Pollard), of South Orange, New Jersey, for the Respondent.
Bryce J. Cooper, Esq. (Dubliner, Haydon, Straci & Victor, PC), of New York, New York, for the Charging Party.

DECISION

STATEMENT OF THE CASE

ROBERT A. GIANNASI, Administrative Law Judge. This consolidated case was tried in Philadelphia, Pennsylvania, on February 22, 1994. The consolidated complaint, as amended at the hearing, alleges that Respondent (all respondents will be referred to in the singular unless otherwise indicated) violated Section 8(a)(5) and (1) of the Act by refusing to provide necessary information to the Charging Party Union (the Union) that represents its employees in separate units at the Sterling Nursing Home and at the Rosewood Manor Nursing Center. It also alleges that Respondent violated Section 8(a)(5) and (1) and Section 8(d) of the Act by repudiating collective-bargaining agreements with the Union at those facilities by failing to abide by certain specified terms in those agreements from December 7, 1990, until their expiration in March 1993. The Respondent has filed answers denying the essential allegations in the consolidated complaint. After the conclusion of the hearing, the parties filed briefs which I have read and considered.

Based on the entire record, including the testimony of the witnesses and my observation of their demeanor, I make the following

FINDINGS OF FACT

I. JURISDICTIONAL AND BACKGROUND MATTERS

It is admitted that Jonko, Inc. d/b/a Sterling Manor Nursing Home (Sterling) is a corporation engaged in operating a nursing home at 794 North Fork Landing Road, Maple Shade, New Jersey, and that Extended Care Facilities, Inc. d/b/a Rosewood Manor Nursing Center (Rosewood) is a corporation engaged in operating a nursing home located at Route 38 and Mill Road, Maple Shade, New Jersey. The parties have stipulated that, at all material times, Michael Konig has been president of Sterling and owns 51 percent of its stock, the remainder of which is owned by a relative of his, Jonathan Konig. The parties have also stipulated that, at all material times, Michael Konig has been president and sole shareholder of Rosewood. The stipulation continues as follows: At all material times, Michael Konig has been president and sole owner of LTC Consulting (LTC) which has a principal place of business at 1104 Teaneck Road, Teaneck, New Jersey. LTC is basically a management shell over all of the nursing homes owned by Michael Konig, including Sterling and Rosewood. LTC provides services to each of the nursing homes owned by Konig, including maintaining and generating payroll records. The parties further stipulated that Rosewood and LTC are single employers within the meaning of the Act, as are Sterling and LTC.

The parties have also entered into this stipulation: Weber Management Inc., also d/b/a SSI (Weber or SSI), has a principal place of business at 461 Bedford Avenue, Brooklyn, New York. At all material times, Weber had contracts with both Sterling and Rosewood to provide employees to them. Copies of these contracts are in evidence.

In its July 9, 1993 answer, Respondent admitted that, in a representative 1-year period, Rosewood and Sterling received gross revenues in excess of \$100,000 and purchased and received materials and supplies valued in excess of \$5000 from outside the State of New Jersey. Respondent also

admitted that, during a similar period, Weber performed services valued in excess of \$50,000 in States other than New York. Accordingly, I find, as Respondent also admits, that Rosewood, Sterling, and Weber are employers engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that Rosewood and Sterling are health care institutions within the meaning of Section 2(14) of the Act.

The Union is a labor organization within the meaning of Section 2(5) of the Act.

II. PROCEDURAL HISTORY OF THE CASE

The original consolidated complaint—Cases 4-CA-19824 and 4-CA-19826—issued on August 31, 1991, based on charges filed on June 3, 1991. It alleged that two respondents, Rosewood and Sterling, violated Section 8(a)(5) and (1) of the Act by failing and refusing to provide information to the Union and by repudiating their collective-bargaining agreements with the Union by failing to abide by certain contractual requirements. The latter violations were alleged to have occurred from on or about December 3, 1990. An answer was filed to this complaint on September 25, 1991.

Thereafter, on January 30, 1992, because of an apparent private settlement, the Regional Director for Region 4 conditionally approved withdrawal by the Union of the charges that spawned the above-consolidated complaint. His letter, to all the parties, stated as follows:

This is to advise you that I have conditionally approved the withdrawal requests which the Charging Party has submitted in the above-referenced cases based upon a representation that a private settlement has been reached between the parties. This action is conditioned upon the performance of the undertakings in the private settlement between the parties. Upon application by the Charging Party, supported by evidence that those undertakings have not been complied with, the charges are subject to reinstatement for further processing. In these circumstances, the Consolidated Complaint previously issued in these matters is hereby dismissed and the Notice of Hearing is withdrawn.

In July 1992, the Union filed additional charges in Cases 4-CA-20897 and 4-CA-20898 alleging that other parties were affiliated with the original respondents as single or joint employers and that all participated in further and additional violations of the Act by repudiating and failing to abide by the same agreements involved in the original complaint. The Regional Director investigated the new charges and issued investigative subpoenas that were complied with only after institution of court enforcement proceedings.

On May 28, 1993, the General Counsel, through the Regional Director, issued a new consolidated complaint in Cases 4-CA-20897 and 4-CA-20898 against the original and new respondents with basically the same repudiation and failure to abide allegations involving the same agreements as set forth in the original complaint. In this complaint, however, violations were alleged from on or about January 13, 1992. In due course an answer to this complaint was filed.

Also on May 28, 1993, the Regional Director revoked his conditional approval of the withdrawal request in the original complaint. The Regional Director did so because, as he stated, he was presented evidence by the Charging Party show-

ing that Respondent had “failed to fulfill the terms of the private settlement” that led to the conditional approval of the withdrawal request. He therefore resuscitated the original complaint.

Subsequently, in June 1993, amended charges were filed in the original case and, on July 2, 1993, a new complaint in Cases 4-CA-19824 and 4-CA-19826 issued that included the same additional respondents as were alleged in the May 28, 1993 complaint. This complaint reflected the amended charges, and the initial date of contract violations was changed to December 7, 1990. This complaint was also consolidated with the May 28, 1993 complaint and another answer addressed to this complaint was filed on July 9, 1993.

III. ALLEGED UNFAIR LABOR PRACTICES

A. *The Facts*

The Union has represented employees at Sterling and Rosewood for over 10 years; the relationship of the parties has been embodied in successive collective-bargaining agreements. Michael Konig purchased the nursing homes in late 1987 or early 1988. Under his ownership, the Union continued to represent the employees in both homes and the relationship continued to be defined in separate collective-bargaining agreements, the latest of which material here, ran from March 1990, through 1993.¹

In each separate unit, the Sterling unit and the Rosewood unit, the Union represents all full-time and part-time employees excluding registered nurses, licensed practical nurses, office clerical, professional employees, and guards and supervisors as defined in the Act. The agreements include a number of provisions, including union security and dues check-off, health insurance, wages, life insurance, prescription and eyeglass benefits, reduction in benefits, pension, holidays, vacation and sick leave with pay, that were allegedly not applied to certain employees.

The agreements also contain clauses that exclude from coverage so-called “temporary or per diem workers” whom the Respondent is permitted to hire. A temporary or per diem employee is “one who has been hired for a stated or limited period of time usually not to exceed ninety (90) days.”

Historically, Respondent—and its predecessors—utilized temporary workers under the applicable collective-bargaining agreements. At some point, however, Respondent also began utilizing, on a more permanent basis, SSI or Weber employees to perform unit work alongside existing unit employees. To the extent that these Weber workers were more than temporary workers—and it was not always easy to distinguish, at least from the Union’s perspective, they were, of course, covered under the bargaining agreements.

The first contracts between Respondent and Weber for the SSI or Weber employees are dated January 1, 1990. Weber agreed to provide employees to both nursing homes for a per hour fee for each employee provided. Weber was to “[a]dvise and monitor the facilities where appropriate on Union/Management activities and provide consultation to management accordingly” and “assist the facilities in policy

¹ The Sterling agreement ran from March 17, 1990, through March 16, 1993; the Rosewood agreement ran from March 9, 1990, through March 8, 1993. Upon the expiration of those agreements the parties entered into new agreements which are not the subject of this case.

development, i.e. . . . discipline and grievance procedures.’’ There is no record evidence that the Union was notified by Respondent of the existence of such contracts.

The Weber employees were hired by Respondent at each of the facilities. They performed the same work as non-Weber unit employees at Rosewood and Sterling and they were supervised by the same people. However, the Weber employees received no contractual benefits such as vacations, sick leave, holidays, health or life insurance, or pension coverage. They may have received slightly more in wages than the regular employees, although they did not receive the contractually mandated wage increases that other employees received. The Weber employees were not given an opportunity to join the Union, as provided in the bargaining agreements. One employee testified that when she was hired in 1990 she was not told of the existence of the Union or of a union-security and dues-checkoff clause in the bargaining agreements, or even of the existence of contract benefits. Other employees signed membership and dues-checkoff authorizations in March 1991, which were ignored by Respondent. Some employees waited for 6 months or more after their authorizations were submitted before their dues were deducted. The above evidence of noncompliance with the bargaining agreements is supported by Respondent’s own records and the uncontradicted testimony of employees.

Based on the above evidence, I find that the Weber employees were unit employees of Respondent who were entitled to full coverage under the applicable collective-bargaining agreements. I also find that Respondent failed to apply those agreements, particularly the 1990 to 1993 bargaining agreements, to the Weber employees.

Shortly after Konig took over the nursing homes, Union Business Representative Joseph Lovell heard “rumblings” about employees working at the facilities without belonging to the Union or being paid contractual benefits. During the next few years, including during negotiations leading to the 1990–1993 bargaining agreements and during the term of those agreements, Lovell and Union President Peter Faucella had many meetings with Michael Konig and other representatives of Respondent. Some of those meetings were canceled by Konig, but, at those he attended, Konig repeatedly told the union agents that he would “take care of” or “straighten out” the problem of coverage of the Weber employees under the bargaining agreements.

In March and April 1991, the Union wrote letters to Rosewood and Sterling notifying Respondent of employees who had signed union and dues authorization cards and asking that their dues be processed and that they be covered under the applicable agreements. Because Lovell had reason to believe that employees were “working outside the unit,” he also made verbal requests to the administrators of both nursing homes for lists of bargaining unit employees. He received no response and thereafter, on April 16, 1991, made written requests for the names, addresses, and job classifications of employees at those nursing homes. The Union received no response to those letters.

As indicated above, at this point, in June 1991, the Union filed charges with the Board’s Regional Office alleging violations with respect to the failure to abide by the collective-bargaining agreements and the refusal to provide the information it had requested to ascertain the extent of noncompliance with its agreements. After an investigation, a complaint

issued, but before the case came to trial, the Union and Respondent reached an accommodation that resulted in the Union’s requested withdrawal of the charges and the Regional Director’s January 1992 conditional approval of the withdrawal request and dismissal of the complaint based on the charges. The substance of the accommodation was a private settlement agreement between the Union and Michael Konig on behalf of Respondent. Konig agreed to abide by the collective-bargaining agreements insofar as the Weber employees were concerned.²

Documentary evidence also indicates that, even after the private agreement that led to the dismissal of the original complaint, Respondent failed to fully apply the collective-bargaining agreements to the Weber employees. Nor were fringe and other benefits paid on their behalf. Respondent does not dispute this continued failure to apply the agreements to the Weber employees up to the point that new collective-bargaining agreements were reached in early 1993.

B. Discussion and Analysis

1. The single employer and joint employer issues

In its brief, Respondent does not dispute the allegations that Rosewood and Sterling are themselves single employers and that Weber is a joint employer with them, within the meaning of the Act. The parties stipulated that Sterling and Rosewood were commonly owned. Both operated through LTC which handled their payroll and accounting matters. Their labor policies were commonly administered. Both utilized Weber to provide additional employees and labor relations advice and help. Both were represented by Michael Konig, their owner, in dealing with the Union over coverage of the Weber employees under the Rosewood and Sterling collective-bargaining agreements. There is also uncontradicted testimony that there were transfers of employees between the two homes which were located in the same town or city in New Jersey. In these circumstances, I find that Sterling and Rosewood are single employers with each other, and, in accordance with the stipulation of the parties, Sterling, Rosewood, and LTC also constitute a single employer within the meaning of the Act. See *Goodman Investment Co.*, 292 NLRB 340, 346–347 (1989).

Nor, in its brief, does Respondent dispute that Weber, which was represented at the hearing by the same attorney

²Although Respondent apparently disputes this finding and there was no written settlement agreement, it is clear, from the uncontradicted testimony of Faucella and Lovell and the context of the Union’s withdrawal request and the Regional Director’s conditional approval of it, that there was a verbal agreement to cover the Weber employees. Respondent’s suggestion that the parties had no such private agreement is not only contrary to the thrust of Faucella’s testimony but implausible. Faucella’s testimony about Konig’s agreement to abide by the collective-bargaining agreements withstood cross-examination, despite counsel for Respondent’s attempt to get him to say there was no such agreement. My view of Faucella’s testimony was that he meant to say there was no written settlement agreement, which was true, not that there was no oral agreement to abide by the collective-bargaining agreements. Faucella repeatedly testified that Konig did orally agree to abide by the collective-bargaining agreements at the time the Union requested withdrawal of the original charges. This is the only plausible explanation for the requested withdrawal and the Regional Director’s conditional approval of the request.

who appeared for the other respondents, is a joint employer with them. The evidence set forth in the factual exposition, including the payroll and other records, the testimony of employees and the contracts between Weber and the nursing homes, clearly shows that the Weber employees worked side by side with the Rosewood and Sterling employees, and were supervised by the same people. The evidence also shows that Weber not only provided employees for the homes but exercised joint administration and control over important labor relations aspects of their employment. This evidence is sufficient to establish joint employer status. See *NLRB v. Browning-Ferris Industries*, 691 F.2d 1117, 1122–1123 (3d Cir. 1982); and *Whitewood Oriental Maintenance Co.*, 292 NLRB 1159 (1989).

2. The bargaining violations

Respondent does not dispute that it failed to provide the Union with the names, addresses, and job classifications of unit employees requested by it in 1991. The Union sought this information in order to determine the extent to which Weber employees were being used at Rosewood and Sterling and whether they were being used in contravention of the collective-bargaining agreements in effect at those locations. Such information must be produced if relevant to a union's bargaining needs under a "broad discovery-type standard." *NLRB v. Acme Industrial Co.*, 385 U.S. 432, 437 (1967). Indeed, such information is presumptively relevant and thus Respondent's failure to provide it to the Union in the circumstances of this case was violative of Section 8(a)(5) and (1) of the Act. See *Circuit-Wise, Inc.*, 308 NLRB 1091, 1097 (1992); and *Illinois-American Water Co.*, 296 NLRB 715, 722–725 (1989), *enfd.* 933 F.2d 1368 (7th Cir. 1991).

Respondent also concedes, in its brief to me, that, at least for the period of the 1990–1993 collective-bargaining agreements, the Weber employees "were not afforded the medical, pension and other fringe benefits under the collective bargaining agreement[s]." (Br. 6.) As I have mentioned above in the factual statement, the evidence submitted by the General Counsel supports the finding, which I make, that, during this period, Respondent, at both nursing homes, failed to apply to the Weber employees, a discrete group of unit employees, the contractual terms and provisions set forth in the applicable collective-bargaining agreements. Such failure to apply significant provisions of a collective-bargaining agreement to unit employees amounts to a refusal to bargain in violation of Section 8(a)(5) and (1) and Section 8(d) of the Act. See *General Equipment Co.*, 297 NLRB 430 (1989); *Moeller Bros. Body Shop*, 306 NLRB 191, 193 (1992); *Logan County Airport Contractors*, 305 NLRB 854 (1991); *Stevens & Associates Construction Co.*, 307 NLRB 1403 (1992); *Parkview Furniture Mfg. Co.*, 284 NLRB 947, 972–973 (1987).

Respondent's defense, as set forth in its brief, is two-pronged. First, it alleges that the complaint is barred by the statute of limitations in Section 10(b) of the Act, which requires that a charge be filed within 6 months of the events alleged to be unlawful. Secondly, it asserts that the previously dismissed complaint should not have been revived by the Regional Director. Neither of these contentions has merit.

The cases cited by Respondent in support of its position on the applicability of Section 10(b) are distinguishable on their facts. Those cases involve repudiations of entire agree-

ments, of significant contract provisions, or of an already expired agreement in circumstances where it could be inferred that, at some point outside the 6-month limitations period, the union had a "clear and unequivocal notice" of a repudiation or a completed violation, an issue as to which the Respondent has the burden of proof. See *NLRB v. Jerry Durham Drywall*, 974 F.2d 1000, 1004–1005 (8th Cir. 1992), the case chiefly relied on by Respondent. Here, on the other hand, the initial charge was filed within the term of the existing agreements that were allegedly being applied to some but not all of the unit employees, and in circumstances that could hardly be viewed as presenting the Union with clear and unequivocal evidence of a repudiation or a completed violation of the Act. Although the Union knew that some employees were working outside the bargaining agreements and mentioned this alleged noncompliance to the Respondent, the Respondent repeatedly promised to remedy the matter. Indeed, the Respondent refused since 1991 to provide information that would have given the Union a clearer picture of the alleged noncompliance, and, indeed, Respondent promised once again to remedy the matter after Board proceedings were initiated, leading to a dismissal of the original complaint. At no time before the Union filed its original charges in June 1991 did the Respondent change its position that it was going to resolve the problem of coverage of the Weber employees and demonstrate by clear and unequivocal notice to the Union that it was not going to resolve the matter. The Union thus had no reason to believe that a completed violation had occurred. In these circumstances, I reject Respondent's 10(b) defense to the complaint allegations in this case.³

Likewise without merit is the Respondent's contention that the Regional Director should have left well enough alone—from its perspective—and dropped the case, never to reopen it after having determined that the private settlement of the parties had not held. It is well settled that where a settlement agreement includes the withdrawal of a charge and where it is shown that a respondent entered into the settlement that prompted the withdrawal with "no intent to comply" with it, the charge may be reinstated despite the expiration of the Section 10(b) limitations period. *Norris Concrete Materials*, 282 NLRB 289, 291 (1986).

In this case, uncontradicted testimony establishes that the Union withdrew its original charges on the promise that Respondent would apply the bargaining agreements to the

³ Respondent argues that when the Union's health and pension fund sent its periodic reports for the payment of fringe benefits, the fund never "billed" Respondent for coverage for the Weber employees. This does not amount to clear and unequivocal notice that Respondent was not abiding by its promise to cover those employees. Neither the fund nor the Union could know how many Weber employees worked at the homes. Only Respondent would know this. Significantly, the fringe benefit report forms contain language in them asking that employers update their lists of covered employees, a direction with which Respondent never fully and accurately complied. Indeed, when the Union tried to obtain information on unit employees, the Respondent refused to provide the information. In short, it was not the Union's obligation to bill Respondent for unit employees it had no way of knowing were being used by Respondent in contravention of its bargaining agreements. It is Respondent's burden in this proceeding to show that the Union had clear and unequivocal notice that the Respondent's promises to resolve the matter of coverage of the Weber employees were rescinded. This is understandably a heavy burden, not met on this record.

Weber employees. This was the basis for the Regional Director's conditional acceptance of the withdrawal and his dismissal of the original complaint. It turned out that Respondent did not keep its promise. New charges were filed and an investigation that necessitated court enforcement of an investigatory subpoena led to new complaints and a determination by the Regional Director to withdraw his previous conditional approval of the Union's withdrawal request. Respondent's postwithdrawal conduct showed no change from its prewithdrawal conduct, as it concedes in its brief. Thus, not only has it exhibited a lack of good faith in terms of living up to its promise to comply fully with the bargaining agreements, but it has offered no other grounds for the Board to stay its hand. Its unfair labor practices were never remedied by agreement, compliance or in any other manner. The Regional Director thus acted well within his discretion and in the public interest when he decided to proceed with the litigation of this case.⁴

CONCLUSIONS OF LAW

1. By failing to provide the Union with the names, addresses, and job classifications of Rosewood and Sterling unit employees, the Respondent violated Section 8(a)(5) and (1) of the Act.

2. By failing to apply to the Weber or SSI employees the terms of the 1990-1993 Rosewood and Sterling collective-bargaining agreements from December 7, 1990, through the expiration of those agreements, Respondent violated Section 8(a)(5) and (1) and Section 8(d) of the Act.

3. The above violations constitute unfair labor practices within the meaning of the Act.

THE REMEDY

I shall order the Respondent to cease and desist from the unlawful conduct found herein and to take certain affirmative actions to effectuate the policies of the Act. The Respondent shall be ordered to honor the terms of the 1990-1993 collective-bargaining agreements and to apply the terms of the agreements to the Weber employees from December 7, 1990, until their expiration. The Respondent shall also be ordered to make whole all employees for any losses sustained by them by virtue of the failure to apply the agreements to them, make the union benefit funds whole for monies owed to them under the agreements, and make the Union whole for any loss of dues as a result of the failure or delay in giving effect to dues-checkoff authorizations by employees.⁵

⁴Weber, a party-respondent here, makes no separate contention to escape liability, should a violation be found, under the principles of *Capitol EMI Music, Inc.*, 311 NLRB 997 (1993). Nor is there any contention or showing that Weber had no reason to know about the unfair labor practices involving the Weber employees. Thus, even if *Capitol EMI*, which applies only to motivation-type violations, were read to apply to bargaining-type violations, such as those involved here, Weber would be subject to the Board's Order.

⁵The make-whole remedy shall be computed in accordance with Board law. Wages owed shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). Fringe benefit payments shall be computed in accordance with *Merryweather Optical Co.*, 240 NLRB 1213, 1216 fn. 7 (1979); and *Kraft Plumbing & Heating*, 252 NLRB 891 fn. 2 (1980), enfd. mem. 661 F.2d 940 (9th Cir. 1981), and the funds are to be made whole

on these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁶

ORDER

The Respondents, Jonko, Inc. d/b/a Sterling Nursing Home, Maple Shade, New Jersey; Extended Care Facilities, Inc. d/b/a Rosewood Manor Nursing Center, Maple Shade, New Jersey; LTC Consulting, Teaneck, New Jersey; and Weber Management, Inc., Brooklyn, New York, their officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to apply all provisions of the 1990-1993 Rosewood and Sterling bargaining agreements with the Union (Local 815-S a/w Production Service and Sales District Council) to Weber employees.

(b) Failing to provide the Union with information relevant to its collective-bargaining responsibilities.

(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) Make whole the Weber employees who have performed work in the bargaining unit covered by the 1990-1993 collective-bargaining agreements between Respondent and the Union for the loss of wages and benefits they have suffered by virtue of the Respondent's failure to apply the agreements to them; and also make whole the Union's fringe benefit funds and the Union itself for the failure to make fringe benefit payments and union dues under the applicable 1990-1993 agreements on behalf of the Weber employees.

(b) Provide to the Union all relevant information concerning the unit employees covered by the Rosewood and Sterling collective-bargaining agreements in response to the Union's request for such information.

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

(d) Post at its facilities in Maple Shade, New Jersey copies of the attached notice marked "Appendix."⁷ Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondents' authorized representative, shall be posted by the Respondents 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

under *Stone Boat Yard*, 264 NLRB 981 (1982), enfd. 715 F.2d 441 (9th Cir. 1983), cert. denied 466 U.S. 937 (1984). Union dues are to be computed in accordance with *Parkview Furniture Mfg. Co.*, 284 NLRB 947, 974 (1987).

⁶If 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.

⁷If 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."

taken by the Respondents to ensure that the notices are not altered, defaced, or covered by any other material.

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

APPENDIX

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

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

WE WILL NOT fail to apply all provisions of the 1990–1993 Rosewood and Sterling bargaining agreements with the Union (Local 815-S a/w Production Service and Sales District Council) to Weber employees.

WE WILL NOT fail to provide the Union with information relevant to its collective-bargaining responsibilities.

WE WILL make whole the Weber employees who have performed work in the bargaining unit covered by the 1990–1993 collective-bargaining agreements between Respondent and the Union for the loss of wages and benefits they have suffered by virtue of the Respondent’s failure to apply the agreements to them; and WE WILL also make whole union fringe benefit funds and the Union itself for our failure to make fringe benefit and union dues payments under the 1990–1993 agreements on behalf of the Weber employees.

WE WILL provide to the Union all relevant information concerning the unit employees covered by the Rosewood and Sterling collective-bargaining agreements in response to the Union’s request for such information.

JONKO, INC. D/B/A STERLING NURSING HOME,
EXTENDED CARE FACILITIES, INC. D/B/A
ROSEWOOD MANOR NURSING CENTER, AND
LTC CONSULTING

WEBER MANAGEMENT, INC.