

Multi Color Industries, Inc. and International Ladies' Garment Workers' Union, AFL-CIO.
Cases 29-CA-17333, 29-CA-17443, and 29-CA-17494

June 21, 1995

DECISION AND ORDER

BY MEMBERS BROWNING, COHEN, AND
TRUESDALE

On February 1, 1995, Administrative Law Judge Steven B. Fish issued the attached decision. The Respondent filed exceptions and a supporting brief and the General Counsel and the Charging Party responded. The Charging Party also filed limited exceptions.

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 conclusions and to adopt the recommended Order² as modified.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Multi Color Industries, Inc., Brooklyn, New York, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

Substitute the following for paragraph 2(a).

“Post at its facility in Brooklyn, New York, in both the English and Spanish languages, copies of the at-

¹The Respondent has excepted to some of the judge's credibility findings. In this regard the Respondent contends, inter alia, that the judge improperly credited the testimony of employee Isidro Clara, with respect to some matters, while discrediting his testimony with respect to others. 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. 188 F.2d 362 (3d Cir. 1951). Further, “nothing is more common in all kinds of judicial decisions than to believe some and not all” of a witness' testimony. *NLRB v. Universal Camera Corp.*, 179 F.2d 749, 754 (2d Cir. 1950). We have carefully examined the record and find no basis for reversing the findings.

²The Charging Party has excepted to the judge's failure to provide for Spanish and Hebrew translations of the notice. The General Counsel and the Respondent have not opposed this exception. We find the Charging Party has established sufficient grounds for requiring that the notice be posted in both the English and Spanish languages. This is not so however, with respect to the Hebrew language. The Charging Party merely asserts that 1 employee in the approximately 40-employee unit comprehends Hebrew only. Accordingly, the administrative law judge's recommended Order is modified by requiring that the notice marked “Appendix” be posted at the Respondent's premises in both the English and Spanish languages.

tached notice marked “Appendix.”³ Copies of the notice, on forms provided by the Regional Director for Region 29, after being duly 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.”

³If 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 coercively interrogate our employees about how they intend to vote in a National Labor Relations Board election.

WE WILL NOT threaten our employees with discharge, closing of the plant, or moving our facility if our employees select the International Ladies' Garment Workers Union, AFL-CIO (ILG), or any other labor organization as their collective-bargaining representative or because of their activities on behalf of or support for the ILG.

WE WILL NOT inform our employees that we will not deal with the ILG.

WE WILL NOT solicit grievances from our employees with the implied promise of favorably adjusting those grievances in order to dissuade our employees from supporting the ILG.

WE WILL NOT promise our employees increases or improvements in wages, paid holidays, sick days, health insurance, or other terms and conditions of employment, in order to induce our employees to refrain from supporting the ILG or any other labor organization or to refrain from voting for the ILG or any other labor organization.

WE WILL NOT spray our employees with a hose because of our employees' support for or activities on behalf of the ILG or any other labor organization.

WE WILL NOT impose more arduous working conditions on our employees because of our employees' support for or activities on behalf of the ILG or any other labor organization.

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

MULTI COLOR INDUSTRIES, INC.

Sharon Chau and Stephanie Latour, Esqs., for the General Counsel.

Dorothy Rosenzweig, Esq. (Kaufman, Naness, Schneider & Rosenzweig, P.C.), of Melville, New York, for the Respondent.

Lori Smith Esq., of New York, New York, for the Charging Party.

DECISION

STATEMENT OF THE CASE

STEVEN B. FISH, Administrative Law Judge. Pursuant to charges filed on May 10, June 23, and July 12, 1993,¹ respectively, by International Ladies Garment Workers' Union (the Union, ILG, or Charging Party), the Regional Director for Region 29 issued an order consolidating cases, consolidated complaint, and notice of hearing on August 31 and an amended consolidated complaint on November 4 (the complaint). The complaint alleges that Multi Color Industries Inc. (Respondent) violated Section 8(a)(1), (3), and (4) of the Act, by various actions, including inter alia, imposing more arduous working conditions on Isidro Clara, Bonifacio Clara, Victor Gomez, and other employees, and unlawfully discharging Isidro Clara, Bonifacio Clara, Victor Gomez, Sergio Bedeno, and Jose Edwin Chacon.

Thereafter Respondent filed an answer denying that it violated the Act.

On the first day of hearing, General Counsel "due to the lack of cooperation" from various witnesses, withdrew a majority of the allegations in the complaint, including particularly the allegations concerning the unlawful discharge of Bonifacio Clara and Victor Gomez.

The hearing with respect to the remaining allegations in the complaint, which included the unlawful discharge of Isidro Clara, the imposition of arduous working conditions on employees, and various 8(a)(1) allegations, was held before me in Brooklyn, New York, on April 11 and 12, 1994.

Briefs have been filed and have been carefully reviewed.

Based upon the entire record,² careful consideration of the briefs, as well as my observation of the demeanor of the witnesses, I make the following³

¹ All dates are in 1993 unless otherwise indicated.

² The errors in the transcript have been noted and corrected. Although Charging Party objected to two of the proposed corrections, I am satisfied from my examination of the transcript as well as my notes, that Respondent's motion is accurate and the transcript should be corrected as set forth in the motion.

³ Although every apparent or nonapparent conflict in the evidence may not have been specifically resolved herein, my findings are based on my examination of the entire record, my observation of the witnesses' demeanor while testifying, and my evaluation of the reliability of their testimony. Accordingly, any testimony that is inconsistent with or contrary to my findings is hereby discredited.

FINDINGS OF FACT

I. JURISDICTION AND LABOR ORGANIZATION

Respondent is a New York corporation, with an office and place of business in Brooklyn, New York (the Brooklyn facility), where it is engaged in the business of dyeing fabric for textile companies.

During the past year, Respondent sold and shipped from the Brooklyn facility, dyed fabrics valued in excess of \$50,000 to enterprises located outside the State of New York, each of which enterprises, in turn, is directly engaged in interstate commerce, meeting a Board standard for the assertion of jurisdiction exclusive of indirect inflow or indirect outflow.

Respondent admits, and I so find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

It is also admitted, and I so find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. FACTS

A. Background and Organizational Activities

On January 18 and March 19, 1990, the ILG filed petitions in Cases 29-RC-2497 and 29-RC-7571 seeking to represent certain employees of Respondent. Thereafter pursuant to a Stipulated Election Agreement executed on April 29, 1993, an election was conducted on June 3, 1993.

The initial tally of ballots disclosed an indeterminative election, which resulted in an investigation by the Region of the challenges, as well as objections filed by Respondent. On July 29, 1993, the Regional Director issued a report on objections and challenges, in which he set forth a revised tally of ballots that revealed that 44 ballots were cast, 18 votes were for the ILG, 9 were for the Intervenor, United Production Workers Union, Local 1718, and the incumbent representative of Respondent's employees. Nine votes there were cast against the participating labor organizations, and nine votes were challenged. Thus once again challenges were determinative. The Regional Director also ordered a hearing with respect to the challenge to the ballot of Jacob Roth, and of Respondent's objections.

In February 1993, the ILG resumed its organizing campaign among Respondent's employees. The Union placed organizers at various locations near Respondent's facility and distributed leaflets to and spoke with the employees as they entered and left the premises, or when the employees went out for lunch.

The Union also held meetings, visited employees, and distributed authorization cards to employees. In that regard, Isidro and Bonifacio Clara both signed and distributed ILG cards to other employees and attempted to persuade such employees to sign such cards.

In April, five employees of Respondent, including Bonifacio Clara (Bonifacio) were subpoenaed by the ILG to appear at and in fact were present at a preelection conference at the NLRB. Respondent's President Benjamin Hirsch and Joseph Lefkowitz its general supervisor both admitted that they were aware that Bonifacio was present at the conference pursuant to a subpoena issued by the ILG.

Isidro Clara (Isidro), testified credibly that he met regularly with ILG organizers across the street from the facility

in front of a bodega during the weeks prior to the election on June 3. On one of these occasions, about a week before the election, during lunch hour, Isidro asserts that he was speaking to two ILG organizers, Marcelino and Ken. At the time, according to Isidro, there were no other employees present, when he observed Hirsch driving his car slowly and turning to watch Isidro speaking to the organizers.

On another occasion, about 1 or 2 weeks before the election, Isidro asserts that after he brought his lunch at the bodega, he stopped to talk to the ILG organizers for 5 or 6 minutes. At that time he observed Lefkowitz looking at him and the ILG representatives through the front door of the factory. When Isidro returned to the facility, Lefkowitz looked at him, but said nothing.

Isidro also testified to two other instances, where he claims Supervisors "Leiby" and "Chan Cha" observed him speaking to union agents, from outside the loading dock and through the window of the factory respectively. No further testimony was elicited to further identify or establish the supervisory status of other "Leiby" or "Chan Cha." The complaint, however, alleges that Zalman Leiby Goldman was a supervisor and agent of Respondent, which was admitted by Respondent. The complaint makes no reference to anyone named "Chan Cha."

Hirsch and Lefkowitz both admit being aware that the ILG was organizing and that they were distributing leaflets and talking to its employees on a daily basis. Hirsch admitted that he observed employees talking to union organizers in front of the bodega on many occasions, but claims that he never took note of which employees were involved. Hirsch also admits that some of these observations took place from his car while he was driving by. Hirsch didn't recall whether he observed either Clara among those employees talking to union organizers. He denies, however, that he ever slowed down in his car and looked at the employees talking to union representatives, or that he ever saw Isidro by himself speaking with union organizers in the street.

Lefkowitz, for his part, admitted that he observed union leaflets on the union floor of the premises or in possession of employees, but asserts that he paid no attention to which employees he saw with the leaflets. Lefkowitz admitted, however, that he asked some employees, which ones he could not recall, to explain what the leaflets were. The employees replied that the leaflets were for the ILG. Lefkowitz also admitted that at one point during the campaign, Hirsch told him that "he would hope that, 1718 is okay with him." Additionally, Lefkowitz testified that he complained to Hirsch about the fact that Local 1718 representatives were holding campaign meetings during worktime and interfering with work. Hirsch instructed Lefkowitz to allow the Local 1718 representatives to campaign during work, and not to stop them from coming in.

B. The Preelection Meeting

Approximately 2 weeks before the election, Hirsch, accompanied by a female translator came into the pulling department, and spoke to the employees therein, which included the Clara brothers. Hirsch, through the interpreter, asked the employees "what was wrong at the department." Bonifacio responded with several complaints, including problems with the floor, size of the fabrics, and temperature. Hirsch replied that he could not fix the problems because Re-

spondent would be moving to a different site. Hirsch added, however, that he would continue to make the interpreter available to employees, so that employees could tell the interpreter if there were any problems, which would then be relayed to Hirsch, "so that would be fixed and so that we would be more in touch with the work."

Isidro testified, without contradiction, that he had never heard Hirsch ask any employees about their problems at work, prior to this meeting described above. Respondent adduced no evidence that it ever made such inquiries of its employees on any prior occasions.

About a week before the election, all of the 40 or so bargaining unit employees met with Local 1718 representatives on the second floor of the facility. After the meeting Hirsch came in, and through the same female interpreter instructed the employees to remain for a meeting with him. Once again, Hirsch spoke through the interpreter. Also present were Lefkowitz, "Leiby," and "Chan Cha."

Hirsch told the employees about the upcoming election between the ILG, Local 1718 and Respondent, and added that employees should vote "for him." Hirsch added that he didn't want any of the unions, and if the employees agreed with him, he could give them better benefits, such as holiday pay, sick days, and family health insurance. Hirsch also stated that the ILG was not good, he didn't want it there, and if the ILG won, he was not going to sit down and negotiate with them or deal with them. Additionally, Hirsch asserted that if the ILG won, the employees were going to go on strike because he was not going to deal with them and that he could fire employees and hire new people. Finally he stated that the employees would not have work, the ILG was not going to pay them, and that he was going to open at a different site with new workers. One of the employees asked Hirsch to put his promises in writing. Hirsch responded that he could not give employees anything in writing until after the election.

Then, 2 days before the election, Hirsch called another meeting of all unit employees, this time on the first floor. On this occasion Hirsch brought along a male friend, who acted as interpreter. Hirsch, once again speaking through the interpreter, reminded employees that the election was near, and that he wanted to remind the employees of what he said at the previous meeting about not wanting the ILG. Hirsch asked the employees how they were going to vote, and whether they were going to vote for him or for Local 1718 or the ILG. Some of the employees responded that they were going to vote for the ILG, others for Local 1718, and some for Respondent. Most of the employees who responded, stated that they were going to vote for the ILG.

Hirsch then told employees that if they voted for him, he was going to give them a raise and better benefits. If the employees voted for the ILG, and the ILG won, Hirsch stated that he would rather close down the factory and not deal with the ILG.

The interpreter at that point informed the employees that Hirsch was right in what he was saying, since the ILG had won an election at his shop, and because of the ILG's demands, he had to close his business and move to New Jersey. The interpreter added that Hirsch had brought him to the factory so he would talk to the employees so they would vote for Hirsch. He gave the employees 5 minutes to talk among themselves and gave Hirsch addresses. After discussing Re-

spondent's proposal, an employee again asked Respondent to put its promises in writing. Hirsch replied that he could not do so because the election was very near, but maybe he would give it to the employees in writing after the election.

The above description of events, with respect to the three meetings is based on the credible, undenied testimony of Isidro Clara, corroborated in part by employee Estafance Zarate. Although the record does contain some minor contradictions between Isidro's direct testimony and cross-examination, and some of his testimony differed in some respects from or was not referred to in his affidavit, I found him to be credible in his recounting of these events, particularly because he was corroborated by Zarate in part. More importantly, while Hirsch and Lefkowitz (who was not present at one of meetings) testified on other matters, they furnished no testimony as to these meetings, and did not deny any of the statements attributed to Hirsch by the employees. Nor did Respondent present any other witnesses or evidence to refute the employees' accounts of the meetings that I have detailed above.

C. The Alleged More Onerous Working Conditions

Immediately after the election on June 3, Respondent by Lefkowitz assigned the five employees in the pulling department, which included the Clara brothers, more work to do in the same period of time. Thus prior to the election, the employees were required to load their machines three or four times a day. After the election however, their work load increased to five or six times a day during the same work hours. Additionally, Lefkowitz, after the election would stand over the workers more frequently than he had prior to the election, and would scream at them to work fast, without giving them any rest. Although Lefkowitz had in the past screamed at employees or stood over them, he did so more frequently after the election (once an hour as opposed to once or twice a day). Moreover, in the 1- or 2-week period immediately before the election, Lefkowitz didn't yell at or stand over the employees at all. In fact, a week before the election, Hirsch bought donuts for all the workers, for the first and only time during Isidro's tenure as an employee of Respondent. The above description of events with respect to the treatment of employees before and after the election is based on the credible, undenied, and uncontradicted testimony of Isidro.

D. The Alleged Threat to Discharge

On June 9 the Clara brothers were having lunch with an employee known as "Baldorama,"⁴ who works in another department under Lefkowitz's supervision. After lunch ended Baldorama returned to work. At that point Lefkowitz approached the Clara brothers and said that Baldorama was only going to have 2 more weeks of work because he was with the ILG, and that Lefkowitz wanted to know if the ILG would give Baldorama a job, or if they were going to see Baldorama at the corner with the Union. These remarks were made to the Claras by Lefkowitz in a combination of English and Spanish, but mostly in Spanish, which Isidro was able to understand.

⁴The correct name of this employee is Jesus Gonzalez.

Although Lefkowitz did deny this conversation, I credit Isidro's testimony in this regard as outlined above, particularly because the remarks were similar in tone and substance to Hirsch's statements to employees at the preelection meetings.

E. The Alleged Assault

On June 9, between 11 a.m. and 1:30 a.m., the machine that Isidro was about to enter was filled with white fabric. In such circumstances, employees normally clean themselves and their boots with a water hose, so as not to dirty the fabric when the employees handle the material. Accordingly, Isidro was washing off his boots with a hose when Hirsch came over and told Isidro to hurry up, and while clapping his hands said, "Let's go, let's go." When Isidro continued to wash his boots, Hirsch grabbed the hose from Isidro, and sprayed Isidro's entire body, including his boots with the water. Hirsch laughed and left the area. Although Hirsch denied that he ever directed a water hose at Isidro, I credit Isidro's testimony, as related above, as I find it unlikely that Isidro would make up such an incident.

F. The Alleged Unlawful Discharge of Isidro Clara

On June 9, at around 12 noon, Isidro, Bonifacio, Victor Gomez, and two other workers in the pulling department, decided that they were tired and wanted to leave early at 8 a.m. The employees designated Bonifacio as a spokesperson to make such a request of Lefkowitz on their behalf. Bonifacio consequently informed Lefkowitz that the employees were tired and had worked a lot, and wanted permission to leave at 8 p.m. Lefkowitz replied that he would think it over.

About 2 hours later, Lefkowitz returned and told the employees that they could not leave until all the machines were done, which would be at 11 p.m. or midnight. Bonifacio then asked Lefkowitz if the employees could receive some extra pay or some food, since other workers in the painting department had allegedly received such payments. Lefkowitz responded that he would not pay any extra money and he denied that Respondent paid any extra money to the painters.

At around 4 p.m. Isidro was inside one of the machines. His job at that time was to hand the wet bags of fabric to another employee standing outside the machine, who would then load the bags onto a cart to be brought to the drying area. Bonifacio Clara was outside the machine at the time. The record is unclear whether Victor Gomez was inside or outside the machine. The other two employees were working at another machine.

According to Isidro, he, Bonifacio, and Gomez were waiting, as per Respondent's normal procedure for the water to drain before unloading the fabric. Isidro asserts that Lefkowitz came over to the machine and told the employees partly in English and partly in Spanish to hurry up using the Spanish word, "Avansa." Isidro asserts that Bonifacio told Lefkowitz in English, which was allegedly translated to Isidro by Bonifacio, that the employees were waiting for the water to drain. Lefkowitz replied in English (again translated by Bonifacio) that he wanted to load more fabric into the machine, and ordered Isidro to give him the bags of fabric. Isidro complied with this request, but as he was doing so, Isidro asserts that Bonifacio noticed that Isidro was getting wet with hot water. Therefore, Isidro claims that Bonifacio

told him not to continue to pass out the bags, and to wait until the water was out because Isidro was going to burn. Lefkowitz then, according to Isidro, said through Bonifacio, that if the employees did not want to work, to go home. Isidro recalled Lefkowitz saying in English the words, "get out of here, go home." At that point Isidro testified that Lefkowitz asked him, through Bonifacio to hand up the bags but that Isidro, again through Bonifacio, responded that he was waiting for the water to come out because he was getting burned. Lefkowitz allegedly responded again, through Bonifacio, that if he didn't want to work, he could go home. Gomez also, according to Isidro, told Lefkowitz he didn't want to get burned because the water was too hot.

Isidro also asserts (for the first time on recross) that Lefkowitz, again through the translation of Bonifacio, told the employees to go home and that "there was no more work for us." Isidro then contends that Bonifacio, speaking on behalf of the employees told Lefkowitz in English (and translated to the employees), "[O]kay Joseph, we're going home, but we're not leaving our jobs. You are firing us, so you have to punch our cards." Isidro adds that Lefkowitz replied, "Okay its no problem, I'm going to punch out your cards." According to Isidro, Lefkowitz then punched the timecard of Gomez, and the Clara brothers and the three of them left, after being escorted out by Lefkowitz. The remaining two employees in the department continued to work on another machine.

After the employees left Respondent's premises on June 9, Isidro asserts that they proceeded to the ILG office and explained to the ILG organizers what had happened. The organizers instructed the employees to report for work together the next day.

Therefore, on June 10, Isidro claims that the three employees met outside the plant, and arrived together at about 8 a.m. He asserts that as they walked into the facility, they were approached by Lefkowitz. Bonifacio spoke to Lefkowitz and translated the conversation for Isidro and Gomez. According to Isidro, Bonifacio told them that he had asked Lefkowitz if there was going to be work for the employees. Lefkowitz allegedly replied that Gomez couldn't work there anymore, but there might be work for the Claras who would have to wait and speak to Hirsch about it when Hirsch arrived.

The employees then left, and according to Isidro waited outside on the corner for 2 hours, until they saw Hirsch arrive. Isidro contends that the three employees approached Hirsch as he was walking up the stairs to his office. Once again, Isidro's version of the alleged conversation is based solely on Bonifacio's alleged translation to him.⁵ Isidro asserts that Bonifacio told him that Bonifacio had asked Hirsch if the employees were going to "get our jobs." Hirsch allegedly asked why Bonifacio had told Lefkowitz to punch the employees' cards, and Bonifacio allegedly replied that Lefkowitz had fired the workers and told them there was no more work for them. Hirsch responded, according to Bonifacio's translation that Lefkowitz had the right to do whatever he wanted because the employees were to blame. Hirsch made some more comments, which Bonifacio didn't translate. Bonifacio then allegedly told Hirsch that if he was

⁵ Isidro did testify, however, that Hirsch was speaking in a loud voice.

not going to give them their jobs back, to give them their checks. Isidro adds that Hirsch then went upstairs, and returned with checks for all three employees. Hirsch told Bonifacio to "be careful" about what they were going to do and the employees left.

Neither Bonifacio Clara nor Gomez testified. Indeed, as noted, they were both alleged as discriminatees in the complaint, but the allegations pertaining to their discharges were withdrawn, due to "lack of cooperation."

Lefkowitz and Hirsch both testified on behalf of Respondent, and in most significant areas their versions of the relevant events are corroborative of each other. Thus, Lefkowitz asserts that when he approached the machine on June 9, the Claras and Gomez were not working, and were standing around and talking. Lefkowitz claims that he told them to hurry up, "let's go," and that Respondent had work to get out. The employees did not budge and continued to talk.

At that point Lefkowitz said, "Let's go, I will give you a hand." Lefkowitz then directed Isidro to hand him the bags of fabric from inside the machine. Isidro began to pass the bags out to Lefkowitz who in turn placed them in the basket. Bonifacio complained that there was still water coming out. Lefkowitz claims that he looked and saw only some water dripping on the bottom, which was a normal thing, and said, "Don't tell me any stories, let's go." As Isidro was continuing to pass out the bags to Lefkowitz, Bonifacio said that the employees were leaving and were going home. According to Lefkowitz, Gomez and the Claras spoke among themselves in Spanish, and he heard them cursing and saying in Spanish that they were leaving. Bonifacio then informed Lefkowitz in English that the employees were going home, and said, "let's go we're leaving."

Lefkowitz admits that he was outraged at Bonifacio's announcement that they were leaving, but he states that he did not want to beg them to stay because he would lose his power as a manager. Therefore he responded that if the employees wanted to leave or go home, they could leave right now. Lefkowitz would get someone else to do the job. Bonifacio then asked Lefkowitz to punch the timecards, and Lefkowitz responded, "[I]f that's what you want, I will do it."⁶ Gomez and the Claras were then escorted out of the building by Lefkowitz. Lefkowitz adds that he told them, "If you want to go, let's go, don't wait over here and keep on talking. If you want to go home, you can go home right now." Bonifacio replied, "Fine, no problem, we are going home."

Lefkowitz testified further that he, along with the remaining employees, finished up the work on the machine. Some time later that evening, Lefkowitz informed Hirsch about the incident, and claims that he told Hirsch that the three employees had refused to work and had gone home, and that although he was outraged by this action, he wouldn't beg them to stay. They didn't discuss what disciplinary action, if anything, Respondent would take against the employees for the conduct. Hirsch essentially corroborated Lefkowitz' version of their conversation on June 9, except that Hirsch recalled that Lefkowitz informed him that the employees had

⁶ Lefkowitz was not sure if he actually punched the cards of the employees or not.

complained that the water in the machine was too hot.⁷ Both Hirsch and Lefkowitz testified that they expected the employees to come into work the next day.

On June 10, according to Lefkowitz the three employees arrived together a few minutes after 8 a.m. At that point, he still had not made up his mind whether or not to discipline any of them. When he saw them, Bonifacio asked if the employees could go back to work. Lefkowitz asserts that he then made up his mind that since Gomez was a new employee, having worked there only 3 weeks, he would be fired. Lefkowitz claims that he had to do something for his prestige, so that employees would not “do it to me every day.” As for the Claras, he told them to wait and speak to Hirsch when Hirsch arrives. Lefkowitz states that the Claras were both good workers and he wanted to give them another chance. The purpose of having the employees talk to Hirsch was for Hirsch to speak to them, perhaps give them a warning, and they would be allowed to return to work. Although Lefkowitz had not told Hirsch that the Claras would be instructed to speak with him, the normal practice in these situations would entail Hirsch calling Lefkowitz into the office and they would discuss the matter.

Lefkowitz also asserts that Hirsch was familiar with the incident, as he had discussed it with Hirsch the day before.⁸

Lefkowitz asserts further that after he told the Claras to speak with Hirsch and that Gomez was fired, Bonifacio Clara stated that if Lefkowitz was not taking back Gomez, all of the employees were leaving. Lefkowitz replied, “[I]f that’s what you want, do as you wish.” Bonifacio responded, “Okay, we are leaving,” and all three employees left the premises.

Later on that morning, Lefkowitz testified that he spoke to Hirsch, and informed him of what happened earlier with respect to the three employees. Lefkowitz did not recall whether the conversation with Hirsch was in person or by phone. Lefkowitz adds that Hirsch comes and goes, and he wasn’t sure if Hirsch was at the facility on that day.

Hirsch confirmed that Lefkowitz informed him of the developments on June 10, and corroborated Lefkowitz, that Lefkowitz informed him that the Claras had walked out when Gomez was fired, rather than speak with Hirsch, as Lefkowitz had suggested. Hirsch also emphatically denies having any conversation with the employees on June 10 or any other subsequent day. Hirsch admits that the employees did receive their final paychecks, which he signed, but he did not recall when or how the employees received their checks. Normally, according to Hirsch, office workers distribute checks to employees.

Lefkowitz recalled seeing the three employees in the afternoon of June 10, coming down the stairs from the office areas where the secretaries were stationed, which also includes Hirsch’s office. Lefkowitz did not see or hear any conversations between the employees and anyone from Respondent.

⁷Lefkowitz denied that employees made any complaints about water being too hot.

⁸Hirsch confirmed Lefkowitz’ testimony that had the employees come and spoken to him, he would have allowed them to keep their jobs.

III. ANALYSIS

A. Alleged Unlawful Threats

The record revealed several instances of unlawful threats by Respondent’s representatives and agents.

They include Hirsch’s statements, through interpreters at two preelection meetings, that if the ILG won the election, he would not sit down and negotiate with them or deal with them. These remarks are threats of futility and that Respondent would not bargain in good faith with the ILG in violation of Section 8(a)(1) of the Act.⁹ *Treanor Moving & Storage Co.*, 311 NLRB 371, 373 (1993). *Overnite Transportation Co.*, 296 NLRB 669, 671 (1989), *enfd.* 938 F.2d 815 (7th Cir. 1991).

Additionally, Hirsch also communicated to employees that if the ILG won, the employees would go on strike, because he was not going to deal with them, and he could fire employees and hire new people. Hirsch also told them that if the ILG won he was going to open at a different site with new workers and or that he would rather close down the factory and not deal with the ILG. These constitute clear threats of plant closure and moving the plant that are violative of the Act. I so find. *DTR Industries*, 311 NLRB 833, 834 (1993); *LRM Packaging*, 308 NLRB 829, 832, (1992); *Baddour, Inc.*, 303 NLRB 275 (1991).

Similarly, at the meeting 2 days before the election, Hirsch used as an interpreter, a friend of his, who apparently was also an owner of a factory. After translating Hirsch’s unlawful threats to close if the ILG won, the interpreter reinforced Hirsch’s remarks, by informing the employees that Hirsch was right in what he was saying, since the ILG won an election at his (the interpreter’s) shop, and he had to close his business and move to New Jersey because of the ILG’s demands. This comment by the interpreter, although referring to his own shop, in the circumstances herein, can only be construed as a further unlawful threat by Respondent that its employees would suffer the same fate if they voted for the ILG, and is further violative of Section 8(a)(1) of the Act.

I further have found above that Lefkowitz informed the Claras that fellow employees Baldorama was only going to have 2 more weeks of work because he was with the ILG, and that Lefkowitz wanted to know if the ILG would give Baldorama a job. I conclude that these statements are unlawful threats of discharge and thereby also in violation of Section 8(a)(1) of the Act. *Minnesota Boxed Meat*, 282 NLRB 1208, 1215 (1987).

B. Alleged Solicitation of Grievances and Promises of Benefit

When, as here, an employer, who had not previously had a practice of soliciting employee grievances or complaints, adopts such a course in the midst of an organizational campaign, a compelling inference exists that he is implicitly promising to correct those inequities that he discovers as a result of his inquiries, and to convince employees that the combined program of inquiry and correction will make union representation unnecessary. *DTR Industries*, *supra* at 834; *Heartland of Lansing Home*, 307 NLRB 152, 156 (1992);

⁹It is clear and not disputed by Respondent, that the interpreters at all the meetings were speaking on behalf of and acting as agents for Respondent. *Charles G. Watts, Inc.*, 300 NLRB 914, 917 (1990).

Windsor Industries, 265 NLRB 1009, 1016, 1017 (1982), enfd. in pertinent part 730 F.2d 860, 864 (2d Cir. 1984).

Although in certain situations the inference of an implied promise to correct the problems that the employer discovers as a result of such inquiries, can be rebutted, *Uarco Inc.*, 216 NLRB 1-3 (1974), I find insufficient evidence here to rebut such an inference.

Thus, the Respondent held a meeting in the midst of an organizational campaign, in which it solicited employee complaints, without presenting any evidence that it had ever held such meetings in the past. *Wellstream Corp.*, 313 NLRB 698, 712 (1994); *Houston County Electric Cooperative*, 247 NLRB 579, 585 (1980); *First Data Resources, Inc.*, 241 NLRB 713, 723 (1974).¹⁰

Although Hirsch, after listening to the complaints of employees, stated that he could not fix the problems because Respondent would be moving to a different site, these comments are insufficient to rebut the inference of implied correction, in view of his subsequent remarks. Thus, Hirsch informed the employees that he would continue to make the interpreter available to employees, so that employee problems would be relayed to Hirsch, "so that would be fixed and so that we would be more in touch with the work." These latter statements of Hirsch, in my view, reaffirms the inference of an implicit promise to correct the inequities that employees present, so that union representation would be unnecessary, and I therefore conclude that Respondent has violated Section 8(a)(1) of the Act by soliciting grievances from its employees. *DTR Industries*, supra; *Wellstream*, supra; *Windsor*, supra; See also *Escada (USA), Inc.*, 304 NLRB 845, 850 (1991).

I have also found above that Hirsch, through the interpreters at both preelection meetings made specific promises to employees of better benefits, paid holidays, sick days, family health insurance, and/or a raise, if they voted for Respondent in the upcoming election. Such conduct constitutes blatant violations of Section 8(a)(1) of the Act, and I so find. *Gardner Engineering*, 313 NLRB 755, 764-765 (1994); *Pembrook Management*, 296 NLRB 1226, 1240 (1989).

C. Alleged Unlawful Interrogation

At the meeting 2 days prior to the election, Hirsch again through an interpreter asked employees how they were going to vote in the upcoming election, and whether they were going to vote for him, Local 1718 or the ILG. Although some of the employees did respond honestly to these inquiries, I nonetheless conclude that under the standards of *Rossmore House*, 269 NLRB 1176, 1177 (1984), that Respondent's questioning was clearly coercive. Thus, questions were asked by the highest official of Respondent, and were accompanied by and made in the context of numerous other unfair labor practices, as set forth above, such as threats and promises of benefits.

Accordingly, I conclude that Respondent has unlawfully interrogated its employees in violation of Section 8(a)(1) of the Act. *Three Sisters Sportswear Co.*, 312 NLRB 853, 866 (1993); *Fiber Glass Systems*, 298 NLRB 504, 505 (1990).

¹⁰Note that Isidro testified without contradiction that this was the first time that he had ever been present at such a meeting.

D. The Alleged Imposition of More Onerous Working Conditions

Immediately after the election of June 3, which as noted above, although inconclusive, revealed a plurality of votes counted to have been case for the ILG, Respondent's methods of supervision and work assignments were changed in the pulling department. Thus employees in that department were required to load their machines five or six times a day, rather than three or four times as prior to the election during the same work hours. Additionally, Lefkowitz, the department supervisor, would stand over and watch the workers more frequently after the election than he did prior thereto, and would scream at them on a more frequent basis without giving them any rest.

Although Lefkowitz would scream at employees before the election, after the election he would do so on the average of once an hour, rather than once or twice a day. Moreover, in the 1- or 2-week period prior to the election, Lefkowitz did not yell at the employees at all. In fact in the week before the election, Respondent supplied free donuts to employees.

In analyzing the above-described charges under *Wright Line*¹¹ standards, I conclude that General Counsel has established that motivating factor in Respondent's conduct in this regard was protected conduct of its employees. Thus, as noted, the election had just been conducted in which a number of employees voted for the ILG.

The five employee pulling department contained the two Clara brothers, who were leading ILG adherents, which I find was known to Respondent. The Claras were both cardsigners and solicitors of other employees to sign cards for the ILG. Bonifacio Clara was one of five of Respondent's employees who were subpoenaed by the ILG to attend a preelection conference at the Regional Office. Respondent admitted being aware of Bonifacio's presence at the Region in that role, which I conclude lead Respondent to believe that Bonifacio was a prominent ILG supporter. Because Isidro was Bonifacio's brother, and his coworker in the department, it is reasonable to conclude, which I do, that Respondent believed that Isidro was an ILG supporter as well.

Even apart from his familial relationship with an open ILG supporter, Isidro was seen on a number of occasions speaking to the ILG organizers outside the plant, by both Hirsch and Lefkowitz. In this regard I credit Isidro's testimony that a week before the election, while he was the only employee speaking to two ILG organizers, Hirsch drove his car slowly by them, and turned to look at Isidro speaking to the ILG organizers. While Hirsch admits that from time to time he would observe employees speaking to ILG organizers on the street, sometimes, even from his car, he denies slowing down to look at such conduct, denies that he ever took note of which employees were there, and denies that he ever saw Isidro Clara by himself talking to ILG representatives. I find Hirsch's testimony in this regard to be unconvincing. His purported disinterest in organizing activities is not believable, particularly in view of his intense hostility towards the ILG, as expressed in his statements made to employees in violation of Section 8(a)(1) of the Act, as detailed above.

Similarly, I also find Lefkowitz' preported denials of any general interest in organizing activities or specific knowledge of Isidro's ILG activities to be equally unconvincing. There-

¹¹251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981).

fore I also credit Isidro's testimony that Lefkowitz observed him speaking to ILG organizers on the street for 5 or 6 minutes.

Lefkowitz denied that he observed any employees talking to ILG organizers on the street, which I find highly unlikely because even Hirsch admitted that he observed such activities. Moreover, Lefkowitz did admit that he asked employees about the ILG leaflets. Finally I again rely on the animus displayed by Respondent in its comments to employees. Therefore I conclude that Respondent was aware that at least 40 percent of the employees in the pulling department, i.e., the Clara brothers, were ILG supporters.

Inasmuch as the changes were effectuated immediately after the election which revealed 18 votes for the ILG, plus a strong possibility of a runoff election, the timing of Respondent's actions was quite suspicious. Considering such timing, along with the significant anti-ILG animus as disclosed by the above unfair labor practices, and the knowledge by Respondent that a substantial portion of the department were ILG supporters, raises a strong inference that Respondent's actions were motivated by its employees' ILG activities.

Under *Wright Line*, supra, the burden then shifts to Respondent to establish by preponderance of the evidence, that it would have taken the same action, absent the employees' protected conduct. Respondent has fallen far short of meeting its burden in that regard. Indeed Respondent's only evidence in connection with these issues was Lefkowitz' general testimony that the busy season begins around the end of March, and that work changes "weekly, daily and monthly." Such testimony, not supported by any records or other documents, is hardly sufficient to explain the sudden and significant increase in work assignments and pressure on the employee immediately after the election.

Accordingly, I conclude that Respondent has violated Section 8(a)(1) and (3) of the Act, by its imposition of more arduous conditions on its pulling department employees, such as increasing work assignments, closer supervision, and more frequent verbal abuse of its employees, in retaliation for their activities on behalf of the ILG. *Three Sisters*, supra at 875 (employee Charleston); supra at 872 (employee Galarza); supra at 870 (employee Nieves); *Heartland Nursing*, supra; *Adscan, Inc.*, 290 NLRB 501, 517 (1988).

E. *The Alleged Unlawful Assault*

The complaint alleges and General Counsel contends that Respondent physically assaulted its employee, Isidro Clara, in retaliation for his ILG activities. The incident complained of relates to Isidro's testimony that Hirsch, on June 9, sprayed him with a hose, laughed, and walked away. I credit Isidro about this event over Hirsch's denial, as I conclude that it is not likely that such testimony would be made up.

I also conclude in agreement with General Counsel and Charging Party, that the evidence is sufficient to establish that Hirsch engaged in such conduct because of Isidro's ILG support and activities. I note particularly my findings above that Respondent violated the Act by imposing more arduous working conditions upon employees in the pulling department including Isidro, which I have found was primarily motivated by the ILG activities of Isidro and Bonifacio Clara. In view of this finding, as well as the other unfair labor practices committed by Respondent, it is reasonable to conclude,

which I do that Hirsch's actions on June 9, of spraying Isidro with the hose was similarly motivated.

I have considered the fact that Isidro normally hoses himself off and was in fact in the process of doing so, when Hirsch grabbed the hose away from and sprayed him with it all over his body. Because it is undisputed that neither Hirsch nor any other official of Respondent had ever hosed an employee off before, however, and Hirsch accompanied this instance with laughter, I can only conclude that Hirsch's action was meant to humiliate Isidro in retaliation for his protected conduct.

It is also not significant whether or not Hirsch's action meets the legal definition of an "assault." It is sufficient to conclude, which do, that such conduct was coercive and interferes with employees' Section 7 rights, and was motivated by Isidro's ILG support and activities. *Refuse Compactor Service*, 311 NLRB 12, 19 (1993). Therefore I find that Respondent has violated Section 8(a)(1) of the Act by Hirsch's actions in spraying Isidro with a hose on June 9. *Refuse Compactor Romar Refuse Removal*, 314 NLRB 658, 670-671 (1994); *Kenrich Petrochemicals*, 294 NLRB 519, 534-535 (1989).

F. *The Alleged Unlawful Discharge of Isidro Clara*

Bearing in mind that General Counsel has the obligation to establish by a preponderance of credible probative, and competent evidence the allegations of the complaint, I cannot conclude that General Counsel has presented such evidence sufficient to meet its burden of proving this allegation.

More particularly, the sole witness called by General Counsel with respect to Isidro's alleged discharge was Isidro Clara himself. Unfortunately for General Counsel, Isidro does not speak English, and his testimony concerning the statements allegedly made to him, Bonifacio, and Gomez by Hirsch and Lefkowitz on June 9 and 10 is derived primarily from Bonifacio's alleged translation to him of the remarks of Respondent's officials. I agree with Respondent that Isidro's testimony in this regard is hearsay, which in my judgment is insufficient evidence to meet General Counsel's burden of proof.

Charging Party contends that such testimony is not hearsay, because Bonifacio should be considered an agent of Respondent, for the purposes of communications between Bonifacio and Isidro. *Midessa Construction Co.*, 290 NLRB 269, 277 (1988). I do not agree. In *Midessa*, supra, testimony was adduced from two employees concerning a conversation with a supervisor, during which one employee translated a request for reinstatement to the employer for the other employee (as well as making a similar request on his own behalf, plus the latter employees' response. The administrative law judge found that because the evidence disclosed that the employer therein regularly communicated with its employees using the services of bilingual coworkers, that the employee-interpreter was the employer's agent for the communications involved, and the testimony of the other employee about what the interpreter told him was not hearsay.

The instant case, however, is clearly distinguishable. Initially there is no record evidence that Respondent employed a regular practice of communicating with its employees through bilingual coworkers. More importantly, in *Midessa*, supra, unlike here, both employees testified, so nonhearsay testimony, which incidentally was not contradicted by the su-

pervisor, was presented. Thus, the testimony of the non-English speaking employed was unnecessary and superfluous.

Here Bonifacio, the employee who translated for Isidro, was not called as a witness, and contradictory testimony was offered by Respondent's officials to Isidro's version of their alleged conversations. In these circumstances I can not agree with Charging Party's assertion that Bonifacio should be held to be an agent for Respondent for the purposes of the conversations. I conclude therefore that to the extent that Isidro's testimony reflects his assertions as to what Bonifacio told him about what Lefkowitz and Hirsch allegedly said, such testimony is clearly hearsay.

It is true that in certain circumstances hearsay can be admissible in NLRB proceedings, and such testimony can be relied upon. *Avlin J. Bart*, 236 NLRB 242 (1978); *Conagra, Inc.*, 311 NLRB 1056 fn. 1 (1993). I, however, do not believe that such evidence can be relied on to form the primary basis for the finding of a violation, particularly when other more probative evidence was available. *Three Sisters*, supra at 866; *New Life Bakery*, 301 NLRB 421, 430 (1991). *Teamsters Local 812 (Sound Distribution)*, 307 NLRB 1267, 1269 (1992).

Here the crucial portions of Isidro's testimony concerning the alleged statement made by Lefkowitz, and all of the alleged conversation with Hirsch, comes from his hearsay testimony as to what his brother Bonifacio related to him about what Respondent's officials said to Bonifacio. Isidro testified that he did understand some English of the June 9 conversation with Lefkowitz, and asserts that he understood Lefkowitz tell the employees in English to "go home." The significant and disputed portions of this discussion, however, such as who first suggested the employees go home, and Isidro's assertion that Bonifacio mentioned firing and Lefkowitz said "there is no more work for us" is derived solely from hearsay testimony.

Two other witnesses were present during these events, Gomez and Bonifacio. Yet neither of these witnesses were called by General Counsel, nor was any explanation given as to their unavailability. Indeed, because they were both alleged as discriminatees and the complaint was withdrawn regarding them for failure to cooperate, it must be assumed that these witnesses were not interested in participating in these proceedings. The failure to call Bonifacio as a witness, who was not only the brother of Isidro, but also the only other witness who could provide legally competent, as opposed to hearsay testimony, is particularly damaging to General Counsel's case. In fact, I am in agreement with Respondent that in the above circumstances when such a witness, who must be presumed to be favorably disposed to support Isidro's testimony, is not called by General Counsel, it is appropriate to draw an adverse inference that Bonifacio's testimony would not be consistent with Isidro's version of events. *International Automated Machines*, 285 NLRB 1122, 1123 (1987); *Greg Construction Co.*, 277 NLRB 1411, 1419 (1985).

Therefore based on the above analysis, I am constrained to credit the essentially mutually corroborative testimony of Lefkowitz and Hirsch about the events and conversations of June 9 and 10. Such a finding reveals a crucial flaw in General Counsel's case, as the credible evidence has not established that Isidro was discharged by Respondent. Thus in the midst of a dispute between Lefkowitz and Bonifacio about

whether work should continue while there was still water dripping inside the machine, Bonifacio announced that the employees were leaving and going home. At that point Gomez and the Claras spoke among themselves in Spanish, and repeated in Spanish that they were leaving. Bonifacio then informed Lefkowitz in English that the employees were going home and said, "Let's go, we are leaving." It was only at that point that Lefkowitz told the employees that if they want to go home, they could leave right then, and he would get someone else to do the job. The employees were then escorted out by Lefkowitz. Therefore neither Isidro nor the other employees were fired on June 9, but they walked off the job. It is notable that this finding is consistent with the fact that the employees had asked Lefkowitz to leave early on that night, or in the alternative to be paid money to stay, and Lefkowitz had turned down both requests. Thus, it is apparent that the employees were anxious to leave early, and it is reasonable to conclude that they might have seized on the dispute with Lefkowitz to walk out and accomplish their earlier desire to leave early on that evening.

Based on the credited testimony of Lefkowitz and Hirsch, the employees came to work on June 10, and asked Lefkowitz, through Bonifacio about the jobs of all three. At that point Lefkowitz fired Gomez, but told the Claras that they should wait to speak to Hirsch when Hirsch arrives.¹² Bonifacio, however, speaking for Isidro, told Lefkowitz that if Respondent was not taking back Gomez, all of the employees were leaving. The employees then walked out, and according to Hirsch's credited testimony did not thereafter speak to Hirsch as requested by Lefkowitz. In these circumstances, because General Counsel has not adduced sufficiently credible probative evidence, that Isidro was discharged by Respondent, the complaint allegation that he was discharged because of his activities on behalf of the ILG must be dismissed. I so recommend.

CONCLUSIONS OF LAW

1. Respondent is an employer within the meaning of Section 2(2), (6), and (7) of the Act.
2. The ILG is a labor organization within the meaning of Section 2(5) of the Act.
3. By threatening its employees with discharge, closing of the plant and moving its facility, if its employees selected the ILG as their collective-bargaining representative or because of their activities on behalf of or support for the ILG, informing employees that it would not deal with the ILG, soliciting grievances from its employees with the implied promise of favorably adjusting those grievances in order to dissuade employees from supporting the ILG, promising its employees increases or improvements in wages, paid holidays, sick days, health insurance, or other terms and conditions of employment, in order to induce its employees to refrain from supporting the ILG or any other labor organization, or to refrain from voting for the ILG or any other labor organization in a NLRB election, coercively interrogating its employees about their intentions of voting in an NLRB election, and by spraying its employee with a hose because of

¹²I note that Hirsch corroborated Lefkowitz' testimony that had the Claras spoken to him, he would have allowed them to return to work.

said employee's support for and activities on behalf of the ILG Respondent has violated Section 8(a)(1) of the Act.

4. By imposing more arduous working conditions on its employees, because of its employees' support for or activities on behalf of the ILG, Respondent has violated Section 8(a)(1) and (3) of the Act.

5. The General Counsel has not established that Respondent discharged Isidro Clara in violation of the Act.

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

Based on these findings of fact and conclusions of law and on the entire record, I issue the following recommended¹³

ORDER

The Respondent, Multi Color Industries, Inc., Brooklyn, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Coercively interrogating its employees as to how they intended to vote in NLRB election.

(b) Threatening its employees with discharge, closing of the plant, or moving its facility, if its employees selected International Ladies' Garment Workers' Union, AFL-CIO (ILG or any other labor organization as their collective-bargaining representative or because of the activities on behalf of or support for the ILG.

(c) Informing its employees that it would not deal with the ILG.

(d) Soliciting grievances from its employees with the implied promise of favorably adjusting those grievances in order to dissuade employees from supporting the ILG.

¹³ If no exceptions are filed as provided by Sec.102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(e) Promising its employees increases or improvements in wages, paid holidays, sick days, health insurance, or other terms and conditions of employment, in order to induce its employees to refrain from supporting the ILG, or any other labor organization, or to refrain from voting for the ILG or any other labor organization in an NLRB election.

(f) Spraying its employees with a hose because of employees' support for activities on behalf of the ILG.

(g) Imposing more arduous working conditions on its employees, because of its employees support for or activities on behalf of the ILG.

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

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

(a) Post at its facility in Brooklyn, New York, copies of the attached notice mark "Appendix."¹⁴ Copies of the notice, on forms provided by the Regional Director for Region 29, 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.

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

IT IS ORDERED that the complaint is dismissed regarding the allegations not specifically found herein.

¹⁴ 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."