

**NKS Distributors, Inc. d/b/a Century Wine & Spirits and General Teamsters Local Union No. 326 a/w International Brotherhood of Teamsters, AFL-CIO**

**Delaware Beverage Co. and General Teamsters Local Union No. 326 a/w International Brotherhood of Teamsters, AFL-CIO**

**Eugene M. Tigani, Steven D. Tigani, J. Paul Tigani, J. Vincent Tigani, Jr., F. Gregory Tigani, J. Paul Tigani (u/w of Joseph P. Tigani), and Francis G. Tigani, a partnership d/b/a Standard Distributing Co. and General Teamsters Local Union No. 326 a/w International Brotherhood of Teamsters, AFL-CIO**

**N.K.S. Distributors, Inc. and General Teamsters Local Union No. 326 a/w International Brotherhood of Teamsters, AFL-CIO**

**West Coast Industrial Relations Association, Inc. and General Teamsters Local Union No. 326 a/w International Brotherhood of Teamsters, AFL-CIO.** Cases 4-CA-17616-1, 4-CA-17616-2, 4-CA-17616-3, 4-CA-17888, 4-CA-17616-4, 4-CA-17889, 4-CA-17616-1, 4-CA-17616-2, 4-CA-17616-3, and 4-CA-17616-4

July 14, 1995

#### SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS STEPHENS  
AND BROWNING

On August 26, 1991, the National Labor Relations Board issued a Decision and Order<sup>1</sup> in this proceeding in which the Board remanded portions of the proceeding to the administrative law judge, and found, *inter alia*, that the Respondent Distributors<sup>2</sup> and the Respondent West Coast Industrial Relations Association, Inc. (Respondent West Coast) engaged in certain unfair labor practices, including violating Section 8(a)(1) of

<sup>1</sup> 304 NLRB 338.

<sup>2</sup> The Respondent Distributors is comprised of NKS Distributors Inc. d/b/a Century Wine and Spirits, Delaware Beverage Co., Eugene M. Tigani et al. d/b/a Standard Distributing Co., and N.K.S. Distributors, Inc.

the Act by interrogating an employment applicant about his union membership.

Thereafter, before the judge could address the remand, the Charging Party (the Union) and Respondent Distributors settled all allegations of unlawful conduct by the Respondent Distributors in the instant case. Pursuant to joint motions filed by the General Counsel, Respondent Distributors, and the Union, Regional Director on June 29, 1992, dismissed all portions of the complaint except for the finding that Respondent West Coast unlawfully interrogated an applicant for employment.

On February 18, 1993, Respondent West Coast filed a motion to reopen proceedings and to dismiss complaint and/or to amend Order. By Order dated May 28, 1993, the Board denied the motion.<sup>3</sup>

On March 7, 1995, the United States Court of Appeals for the Ninth Circuit issued an unpublished decision reversing the Board's May 28, 1993 Order. The court found that, in light of the settlement and subsequent dismissal of all other allegations in the complaint, the unlawful interrogation was an isolated incident and was *de minimis*. The court "remand[ed] with instructions that the NLRB reopen the case and modify the remedial order in accordance with this memorandum."

On May 25, 1995, the Board notified the parties that it had accepted the remand and will take appropriate action consistent with the court's remand.

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

The Board has accepted the court's remand as the law of the case. Accordingly, we shall modify the Order consistent with the court's instructions.

#### ORDER

The remaining part of the Board's Order of August 26, 1991, pertaining to the Respondent, West Coast Industrial Relations Association, Inc., is vacated and the complaint is dismissed in its entirety.

<sup>3</sup> 311 NLRB 422.