

NOTICE: This opinion is subject to formal revision before publication in the Board volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Otari Adamia d/b/a Value Line Maintenance Systems and Hospital and Service Employees Union, Local 399, SEIU, AFL-CIO. Case 31-CA-21463

May 10, 1996

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS COHEN
AND FOX

Upon a charge filed by the Union on August 15, 1995, the General Counsel of the National Labor Relations Board issued a complaint on February 29, 1996, against Otari Adamia d/b/a Value Line Maintenance Systems, the Respondent, alleging that it has violated Section 8(a)(1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On April 12, 1996, the General Counsel filed a Motion for Summary Judgment with the Board. On April 16, 1996, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

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

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated March 28, 1996, notified the Respondent that unless an answer were received by April 8, 1996, a Motion for Summary Judgment would be filed.

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

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times the Respondent, a sole proprietorship with an office and place of business in Canoga Park, California, has been engaged in the business of providing janitorial services to various retail supermarkets including Pavilions and Lucky. The Respondent, in conducting its business operations, annually purchases and receives goods or services at its Canoga Park, California facility valued in excess of \$50,000 directly from points located within the State of California. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

About mid-July 1995, the Respondent ordered an employee not to talk to union organizers and told an employee he could be laid off if seen talking to union organizers at work.

About June 15 and 30, July 16, and August 1, 1995, the Respondent interrogated an employee about the presence of union organizers at the store, and whether the employee had talked to the organizers.

About August 1, 1995, the Respondent ordered an employee to report the presence of union organizers at the store.

About May 15, 1995, the Respondent created the impression that it was engaging in surveillance of the union activities of its employees and ordered employees not to talk to union organizers.

About June 15, 1995, the Respondent ordered employees not to have contact with union organizers and told employees that violation of the order would result in termination.

About June 29, 1995, in the presence of employees, the Respondent ordered a union organizer not to talk to employees and threatened a union organizer with police action if he did not leave the store and/or if the organizer were to return to the store.

About July 15, 1995, the Respondent created the impression that it was engaging in surveillance of the union activities of its employees and threatened an employee with termination if he were seen talking to union organizers.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has interfered with, restrained and coerced, and is interfering with, restraining, and coercing its

employees in the exercise of their rights guaranteed in Section 7 of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

REMEDY

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

ORDER

The National Labor Relations Board orders that the Respondent, Otari Adamia d/b/a Value Line Maintenance Systems, Canoga Park, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Ordering employees not to talk to union organizers or have contact with them.
 - (b) Telling employees they could be laid off or terminated if they were seen talking to or had contact with union organizers.
 - (c) Interrogating employees about the presence of union organizers at the store, or whether employees had talked to the organizers.
 - (d) Ordering employees to report the presence of union organizers at the store.
 - (e) Creating the impression that it is engaging in surveillance of employee union activities.
 - (f) Ordering union organizers, in the presence of employees, not to talk to employees.
 - (g) Threatening union organizers with police action if they do not leave the store and/or if they return to the store.
 - (h) 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) Within 14 days after service by the Region, post at its facility in Canoga Park, California, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 31, 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

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 15, 1995.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. May 10, 1996

William B. Gould IV, Chairman

Charles I. Cohen, Member

Sarah M. Fox, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

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

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

WE WILL NOT order employees not to talk to organizers from Hospital and Service Employees Union, Local 399, SEIU, AFL-CIO or have contact with them.

WE WILL NOT tell employees they could be laid off or terminated if they were seen talking to or they had contact with union organizers.

WE WILL NOT interrogate employees about the presence of union organizers at the store, or whether employees had talked to the organizers.

WE WILL NOT order employees to report the presence of union organizers at the store.

WE WILL NOT create the impression that we are engaging in surveillance of employee union activities.

WE WILL NOT order union organizers, in the presence of employees, not to talk to employees.

WE WILL NOT threaten union organizers with police action if they do not leave the store and/or if they return to the store.

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

OTARI ADAMIA d/b/a VALUE LINE
MAINTENANCE SYSTEMS