

**A&E Food Co. 1, Inc., d/b/a Best Yet Market and
United Food and Commercial Workers, Local
1500, AFL-CIO.** Case 29-CA-24995

July 29, 2003

DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN
AND ACOSTA

On January 14, 2003, Administrative Law Judge Steven Davis issued the attached decision. The Respondent filed exceptions and a supporting 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 brief 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 Respondent, A&E Food Co. 1, Inc., d/b/a Best Yet Market, Astoria, New York, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

Tabitha Tyle, Esq., for the General Counsel.
Thomas V. Walsh, Esq. (Jackson Lewis, LLP), of White Plains, New York, for the Respondent.
Patricia McConnell, Esq. (Meyer, Suozzi, English & Klein, P.C.), New York, New York, for the Union.

DECISION

STATEMENT OF THE CASE

STEVEN DAVIS, Administrative Law Judge. Based upon a charge filed on June 19, 2002¹ by United Food and Commercial Workers, Local 1500, AFL-CIO (Union), a complaint was issued on August 28 against A&E Food Co. 1, Inc., d/b/a Best

¹ The Respondent has excepted to some of the judge's credibility findings. 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. See *Standard Dry Wall Products*, 91 NLRB 544, 544-545 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

² Chairman Battista and Member Acosta agree with the judge that, under the precedent of *Wild Oats Community Markets*, 336 NLRB 179, 180-182 (2001), Respondent violated the Act by imploring the property manager, Elias Properties, to expel union representatives from Elias' parking lot. They note, however, that the Respondent did not challenge that precedent directly. In the absence of such a challenge, they accept *Wild Oats* as controlling precedent and affirm the judge's finding of a violation. Such affirmation should not be construed as an endorsement of that precedent.

¹ All dates hereafter are in 2002.

Yet Market (Respondent or Best Yet), a supermarket located in a shopping center in Queens County, New York.

The complaint alleges that on June 11, the Respondent's store manager, Jim Eriksen (a) directed union handbillers and pickets to remove themselves from the shopping center parking lot; (b) informed the owner of the shopping center about the Union's lawful picketing and handbilling where an object of so informing the owner was to interfere with such activities; and (c) caused the owner of the shopping center to issue a letter seeking to cause the union handbillers and pickets to leave the shopping center parking lot. The complaint further alleges that on June 12, Eriksen threatened union handbillers and pickets that he would call the police if they did not remove themselves from the shopping center parking lot.

The Respondent's answer denied the material allegations of the complaint, and on October 2, a hearing was held before me in Brooklyn, New York. Upon the evidence presented in this proceeding, and my observation of the demeanor of the witnesses and after consideration of the briefs filed by the General Counsel and the Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a domestic corporation, having an office and place of business in Astoria, New York, has been engaged in the operation of a supermarket. During the past 12-month period it has derived gross annual revenues in excess of \$500,000 and has also purchased and received at its facility goods and materials valued in excess of \$5000 directly from suppliers located outside New York State. The Respondent admits and I find that it is an employer within the meaning of Section 2(2), (6), and (7) of the Act. The Respondent also admits and I find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. Background

The Best Yet store involved in this matter is located in a shopping center in Queens County, New York, which comprises one square block. Best Yet leases the store from Elias Properties Astoria, LLC (Elias). The store is situated on the north side of the shopping center, and is one of seven stores occupying the center. The Best Yet store occupies an area which is two-thirds that of the total area of all the stores in the shopping center. The east side of the store is a few feet from 37th Street. That street is a roadway which has three entrances across the sidewalk into the shopping center parking lot. Two entrances are customer entrances having two lanes of traffic each. One of the entrances is situated only about 10 feet from the Best Yet building. The third entrance is a commercial entrance through which vendors bring goods for the Best Yet store. A main parking lot is situated to the south of the Best Yet store and extends to 37th Street. The sidewalk separates the roadway from the parking lot.

B. The Picketing

The Best Yet store opened on May 23. On June 11, four Union pickets stood at each of the two customer entrances on the sidewalk bordering 37th Street—two of the four pickets stood on each side of each entrance with traffic passing between them to and from 37th Street into and out of the parking lot. The picket sign stated:

SHOPPERS
THIS EMPLOYER DOES NOT EMPLOY
MEMBERS OF UFCW LOCAL 1500
PLEASE DO NOT SHOP AT
"BEST YET"
BUY UNION
SHOP AT
STOP-N-SHOP
KEY FOOD MARKETS
PATHMARK
UNITED FOOD & COMMERCIAL WORKERS LOCAL
1500

A flyer distributed by the pickets advised that Best Yet is a "non-union" store; its employees receive fewer benefits than other food union workers in New York City; and Best Yet "lowers the quality of life in your community by not providing Union wages and benefits." The flyer asked that calls be made to the Best Yet store manager inquiring as to why the workers do not receive the "best benefits." The flyer also requested that shoppers not shop at Best Yet and instead shop at other, union stores.

John Mallen, the union organizer, did not stand on the sidewalk. Rather, he stood in an empty parking space at the end of a row of spaces in the parking lot immediately adjacent to the sidewalk abutting 37th Street. The space in which he was standing was the closest parking space to the parking lot entrance at which the pickets stood, and was 2 to 3 feet from the sidewalk.

Mallen stood in that area during the picketing and handbilling. He testified that other pickets also entered the lot in order to give a flyer to the occupant of a vehicle. On such occasions, the pickets gave a flyer to a vehicle which had traveled not more than 5 to 6 feet into the lot.

Mallen denied seeing any signs in the lot prohibiting solicitation or trespassing. Other witnesses testified about such signs, which will be discussed below.

C. The Respondent's Actions

Aviv Raitses, the Respondent's president, testified that on about June 11, Jim Eriksen, the store manager of Best Yet, called and told him that pickets were present at the shopping center, and that picketing and handbilling were being conducted on the public sidewalk abutting 37th Street. Raitses told Erik-

sen to watch the picketing to see if it was being conducted in an "orderly fashion" or if "there were unusual occurrences" such as blocking of traffic by the pickets or harassment of customers. In the first or a subsequent conversation, Raitses was told that the pickets had entered the parking lot. Raitses then told Eriksen to ask the pickets to leave the property.

Mallen stood in the parking lot on June 11, and observed a man leaving the Best Yet store carrying the Union's flyer. The man approached Mallen, told him that he was on private property, and asked him to step onto the sidewalk. Mallen replied that the parking lot was a "public space" located in a "public shopping center" and refused to leave. The man repeated that "it is private property" and said, "[W]e do not allow solicitation." Mallen asked him if he was the owner of the property, and the man replied that he was not the owner but that he was the store manager of Best Yet.² Mallen asked if Best Yet owned the property. The manager said it did not, but it rented the store, and again said that Mallen was on private property, and demanded that he get on the sidewalk. Mallen replied that he could be removed only by the property owner. The man answered that he would call the landlord. Mallen stood in the parking space for the rest of the day until about 5 p.m.

After being informed by Eriksen of the picketing, Raitses called Loraine Fruhwald, the office manager for Elias, and told her that there were pickets in the parking lot. He asked for a letter which would "reinforce our right in case we would need to get the police involved to remove the picketers or in case they would not accept our request [to remove them]." Raitses testified that he did not ask for a letter specifically referring to the police, but wanted a letter "reaffirming our rights as tenant." He also stated that he requested the letter in the event the police refused to evict the pickets without authorization from the landlord. Raitses mentioned to Fruhwald that picketing had taken place at another store he owned in West Islip, New York, in 1988, but that his request of the police that they be removed was refused because only the property owner could ask that they be evicted. Raitses obtained such a letter in the West Islip case from the landlord's agent, which was also Elias.

Fruhwald testified that on about June 11 she received a phone call from a manager of the Respondent who told her that there were pickets in the shopping center. He asked for a letter which would prevent the pickets from trespassing in the center. She prepared the following letter dated June 11 on the letterhead of Elias:

To Whom It May Concern:

The owner, Elias Properties Astoria, LLC, forbids trespassing on its property located at 1930-1950 37th Street, Astoria, New York for the purpose of picketing and hereby gives permission to the Police Department to enforce the above.

The following day, June 12, Mallen returned with the same pickets. They stood in the same places with Mallen standing in the same empty parking space he had stood in the day before. At 11 a.m. the same man who had identified himself as the Respondent's store manager approached Mallen and told him he must leave, and if he did not he would call the police.

² I find that this man was Eriksen, the store manager.

Mallen then stepped onto the sidewalk. The manager gave Mallen the above letter. Raitses testified that according to Erikson, the pickets were obstructing traffic and the Respondent's business. Erikson did not testify.

Following June 12, Mallen did not stand in any parking space in the parking lot, but rather stood on the sidewalk abutting 37th Street. The Union continued to picket from Tuesday through Saturday through the end of July. The police were not called to the premises at any time during the picketing.

Fruhwald testified that Elias is not the owner of the property. Rather it is the managing company. The lease executed by Elias and the Respondent states that Elias is the agent for the owner. Fruhwald stated that the parking lot is part of the common area of the premises which includes the sidewalks and the rear of the building. The lease also defines the "common areas" as "those portions of the shopping center which are not, from time to time, covered by buildings or structures, and are for the joint use of all tenants of the shopping center, their customers and invitees, and for the parking of motor vehicles in the areas designated as 'parking area.'"

The common areas are not leased, but rather are shared by all seven tenants of the shopping center. Fruhwald stated that the Landlord is responsible for the maintenance of the common areas—"we make sure it is clean. We repair anything that needs to be repaired." Each of the seven tenants is billed monthly for a "common area maintenance" (CAM) charge pursuant to which they share the costs of the maintenance and repair of the common areas based upon their proportionate leasehold share of the building space. Under this system, the Respondent pays 68.02 percent of the total CAM, which constitutes its leasehold proportion of the entire property. Such maintenance and repair include, according to the lease, cleaning, policing, drainage, lighting, electric, signs and pylons, and snow, ice, and debris removal. Tenants seeking services involving the common area call Elias which then calls a contractor to perform the service. For example, the Respondent called Elias to remove abandoned cars from the parking lot.

Fruhwald stated that the shopping center does not have a policy concerning solicitation, and that she did not know what right Best Way had to exclude individuals from its "leased property." She noted that the Respondent's lease contained no provisions restricting Best Way's right to exclude individuals from its leased property, nor does Elias have any rules regarding the tenant's ability to do so. She stated that if the Respondent, under its lease, wanted to ask an individual to leave the parking lot, it would not be required to call Elias first. Elias erected two signs in the parking lot in June or July 2002. The signs state:

Warning. Private parking lot. No overnight parking. No double-parking. Parking for customers only while you are in this establishment. You cannot leave the premises without your vehicle for any reason or length of time. Violators will be towed immediately. Rules are in effect 24 hours, 7 days. No manager or employee can assist you.

The sign also set forth the name, address and phone number of the towing company. Raitses stated that the signs were pre-

sent in the lot when the Respondent opened its store prior to the picketing.

Raitses testified that he believes that Best Yet has the right, as a tenant, to exclude individuals who are not its customers or invitees from the common areas of the property. This belief is based upon his "understanding from common sense" and from his examination of the lease which contains no restrictions on the Respondent's right to remove such persons.

Raitses further stated that it is the Respondent's policy that only customers and individuals who are shopping in its store and other stores of the shopping center and others who are invited there by the stores are permitted in the parking lot. Raitses conceded that this policy is not in writing and he had not asked any other tenant of the shopping center if it agreed with this policy.

III. ANALYSIS AND DISCUSSION

A. Legal Principles

An employer's exclusion of union representatives from public property violates Section 8(a)(1) of the Act as long as the union representatives are engaged in activity protected by Section 7 of the Act. Section 7 of the Act protects the Union's peaceful area standards activity comprising picketing and leafleting. See, e.g., *Sears, Roebuck & Co. v. San Diego County District Council Carpenters*, 436 U.S. 180, 206 fn. 42 (1978).

An employer's exclusion of union representatives from private property as to which the employer lacks a property right entitling it to exclude individuals also violates Section 8(a)(1) of the Act. *Bristol Farms, Inc.*, 311 NLRB 437, 438 (1993). The Board in *Wild Oats Community Markets*, 336 NLRB at 180, stated:

It is well established that an employer may properly prohibit solicitation/distribution by nonemployee union representatives on its property if reasonable efforts by the union through other available channels of communication will enable it to convey its message, and if the employer's prohibition does not discriminate against the union by permitting others to solicit/distribute. See *Lechmere, Inc. v. NLRB*, 502 U.S. 527 (1992); *NLRB v. Babcock & Wilcox Co.*, 351 U.S. 105 (1956). This precedent, however, presupposes that the employer at issue possesses a property interest entitling it to exclude other individuals from that property. Therefore, in situations involving a purported conflict between the exercise of rights guaranteed by Section 7 of the Act and private property rights, an employer charged with a denial of union access to its property must meet a threshold burden of establishing that it had, at the time it expelled the union representatives, a property interest that entitled it to exclude individuals from the property. If it fails to do so, there is no actual conflict between private property rights and Section 7 rights, and the employer's actions therefore will be found violative of Section 8(a)(1) of the Act. See *Indio Grocery Outlet*, 323 NLRB 1138, 1141-1142 (1997); *Food for Less*, 318 NLRB 646, 649 (1995); *Bristol Farms, Inc.*, 311 NLRB 437-438-439 (1993).

Accordingly, the Respondent must first establish that it had a property interest in the parking lot which entitled it to exclude the union representatives from the lot. In determining whether an adequate property interest has been shown, it is appropriate to examine the lease, other evidence and the relevant state law. *Bristol Farms*, supra at 438–439; *Johnson & Hardin Co.*, 305 NLRB 690, 695 (1991).

B. The Lease

The lease provides that the Landlord “leases to the Tenant . . . in the building known as 1930 37th Street, Astoria, New York 11105 (approx. 32,000 s.f.) to be used and occupied by the Tenant as a supermarket.” The lease further provided that “no vaults or space not within the property line of the building are leased hereunder.”

As set forth above, the lease provides that the “common areas” refers to “those portions of the shopping center which are not, from time to time, covered by buildings or structures, and are for the joint use of all tenants of the shopping center, their customers and invitees, and for the parking of motor vehicles in the areas designated as ‘parking area.’” The Landlord maintains and repairs the common areas and bills each of the tenants for the costs involved in such work based upon the tenant’s proportionate leasehold share of the property.

I cannot agree with Raitses that the Respondent has the right, as a tenant, to exclude individuals who are not its customers or invitees from the common areas of the property. His assertion is that inasmuch as the lease does not restrict the Respondent from removing such persons, the Respondent possesses such right.

There is nothing in the lease which permits the Respondent to remove individuals from the parking lot or other common areas of the property. The lease does not give the Respondent exclusive control over the lot or the ability to possess it to the exclusion of the other tenants. Rather, the lease expressly provides that the Respondent had the “joint use” of the lot with the other tenants. It is clear that the Respondent is leased only a certain specified area of property which constitutes its store. Pursuant to the lease, the landlord retains the right to maintain and repair the parking lot. *Giant Food Stores*, 295 NLRB 330, 332 (1989); *Polly Drummond Thriftway*, 292 NLRB 331, 333 (1989). The Respondent possessed “parking privileges on the property but not the right to exercise dominion over strangers on it.” *Polly Drummond*, supra at 333, commenting on *Barkus Bakery*, 282 NLRB 351 (1986).

In *Food for Less*, supra at 649–650, the shopping center tenant’s lease had similar provisions as the Respondent’s: it provided that the tenant had a nonexclusive easement for parking for its “customers, employees and invitees.” That respondent also had a no-solicitation/no-trespassing and no-distribution policy. Nevertheless, the Board found that the respondent only had a nonexclusive easement for specified business purposes, and lacked a property interest in the parking lot which entitled it to expel the union’s handbillers. The Board held that at best it had a nonexclusive easement interest for limited business purposes, and that such an interest did not include the legal authority to exclude the union agents from the shopping center property.

The parking lot is the property of the owner, not the Respondent. The rules restricting the use of the lot apply to the owner’s rights and not the Respondent’s. Accordingly, Raitses’ testimony that it is the Respondent’s policy that only shoppers and invitees are permitted to use the parking lot is irrelevant, and also does not take into account the rights of the other tenants.

Accordingly, the “Respondent has shown that at best it had a nonexclusive easement interest for limited business purposes, and it has not established that this interest carried the legal authority to exclude.” *Food for Less*, supra at 650.

Notwithstanding Raitses’ hearsay testimony that Eriksen told him that the pickets were obstructing traffic, that contention has not been proven. The record does not contain any evidence that the handbilling or picketing interfered with the Respondent’s conduct of its business or any person’s ingress to or egress from the Respondent’s store.

C. New York Law

In *Latrieste Restaurant & Cabaret, Inc. v. Village of Port Chester*, 212 A.D. 2d 668 (1995), leave to appeal denied 86 N.Y. 2d 837 (1995), the court held that “there is no First Amendment right to picket or demonstrate on private property, including private driveways and parking lots, against the wishes of the property owner and/or tenant in possession.”

I cannot find that the Respondent was a tenant in possession of the parking lot. In *Turrisi v. Ponderosa, Inc.*, 179 A.D. 2d 956, 957 (1992), a case involving personal injury sustained in a parking lot, the owner of the property agreed to maintain the common area, including the parking lot, in good repair. The plaintiff fell in the parking lot, a common area, and sued Ponderosa restaurant, a tenant in the shopping center. The court held that “Ponderosa exercised no control over the parking lot which is evident by its inability to exclude others from this common area. Further, Ponderosa did not have a right of possession to the parking lot, but only a right to use it.” See *Bridgham v. Fairview Plaza*, 257 A.D. 2d 914 (1999).

Accordingly, I cannot find that the Respondent was a tenant in possession of the parking lot. It did not possess the lot, occupy it, or have the exclusive right to possess it. The Respondent merely had, according to the lease, the “joint use” of the lot which it shared with the other tenants. Therefore, under New York law, the Respondent did not have the right to exclude persons from picketing or demonstrating in the parking lot.

The cases cited by the Respondent are inapposite. *Steltzer v. Spesaison*, 161 Misc. 2d 507 (1994), and *Zwerin v. Geiss*, 38 Misc. 2d 306 (1963), both involved tenants residing in residential apartment dwellings in New York City. It was held in those cases that the tenants have exclusive possession and occupation of their dwellings and their landlords had no authority to enter their apartments without cause. In addition, *Cary v. Fisher*, 149 A.D. 2d 890 (1989), *In re Cole*, 77 N.Y.S. 2d 275 (1947), and *Brinn v. Slawson & Hobbs*, 273 A.D. 1 (1947), involved issues of possession of property by co-owners who owned the property as tenants in common. Here, the Respondent does not own the parking lot. The cases cited by the Respondent are far different from the instant facts where a tenant of a store seeks to exclude persons from a shopping center parking lot. The Re-

spondent does not have exclusive possession of any part of the lot sufficient to exclude anyone from it, and it does not own the lot.

D. Conclusions

Under the above principles, I cannot find that the Respondent has established that it has any exclusory property interest in the parking lot. The lease gives the Respondent a nonexclusive right to use that common area jointly with the other tenants. Neither the lease nor New York law gave the Respondent the authority to attempt to remove anyone from the parking lot or to take the actions that it did on June 11 and 12. "The lease gave the Respondent parking privileges on the property but not the right to exercise dominion over strangers on it." *Polly Drummond*, supra at 333.

Based upon the above, I find that the Respondent interfered with the Section 7 rights of employees by its actions. I specifically find that store manager Eriksen's demand on June 11 that Mallen leave the parking lot property, and Eriksen's further demand on June 12 that he leave and if he did not Eriksen would call the police, violate Section 8(a)(1) of the Act. *Food for Less*, supra at 647, 650; See *Wild Oats Community Markets*, 336 NLRB 179, 181–182 (2001).

I accordingly find and conclude that, as alleged in the complaint, the Respondent unlawfully directed union handbillers and pickets to remove themselves from the shopping center parking lot, and threatened union handbillers and pickets that it would call the police if they did not remove themselves from the shopping center parking lot.

I also find, as alleged in the complaint, that the Respondent unlawfully informed the owner of the shopping center about the Union's lawful picketing and handbilling where an object of so informing the owner was to interfere with such activities, and caused the owner of the shopping center to issue a letter seeking to cause the union handbillers and pickets to leave the shopping center parking lot. These findings are consistent with *Wild Oats*, above, in which the Board found that a shopping center tenant unlawfully "initiat[ed] a chain of events" which culminated in the removal of union agents from the center's parking lot. In that case, as here, the respondent tenant contacted the shopping center manager to report the presence of pickets. Thereafter, the manager, accompanied by the tenant's attorney, asked the pickets to leave the parking lot and the manager asked the police to remove them. The Board found that the respondent unlawfully engaged in an "indirect attempt to expel the union representatives." Here, as in *Wild Oats*, by informing Elias of the picketing and requesting a letter which would enable the police to remove the pickets, the Respondent indirectly attempted, through Elias, to unlawfully remove the pickets. As the Board noted in *Wild Oats*, the Respondent could not accomplish indirectly that which it was prohibited from doing directly.

CONCLUSIONS OF LAW

1. By directing union handbillers and pickets to remove themselves from the shopping center parking lot, the Respondent violated Section 8(a)(1) of the Act.

2. By informing the owner of the shopping center about the union's lawful picketing and handbilling where an object of so informing the owner was to interfere with such activities, the Respondent violated Section 8(a)(1) of the Act.

3. By causing the owner of the shopping center to issue a letter seeking to cause the union handbillers and pickets to leave the shopping center parking lot, the Respondent violated Section 8(a)(1) of the Act.

4. By threatening union handbillers and pickets that it would call the police if they did not remove themselves from the shopping center parking lot, the Respondent violated Section 8(a)(1) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended³

ORDER

The Respondent, A&E Food Co. 1, Inc., d/b/a Best Yet Market, Astoria, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Directing union handbillers and pickets to remove themselves from the shopping center parking lot.

(b) Informing the owner of the shopping center about the Union's lawful picketing and handbilling where an object of so informing the owner was to interfere with such activities.

(c) Causing the owner of the shopping center to issue a letter seeking to cause the union handbillers and pickets to leave the shopping center parking lot.

(d) Threatening union handbillers and pickets that it would call the police if they did not remove themselves from the shopping center parking lot.

(e) 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.

³ 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.

(a) Within 14 days after service by the Region, post at its facility in Astoria, New York, copies of the attached notice marked "Appendix."⁴ 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. 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 June 11, 2002.

(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.

⁴ 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."

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 Federal labor law and has ordered us to post and obey this notice.

WE WILL NOT direct union handbillers and pickets to remove themselves from the shopping center parking lot.

WE WILL NOT inform the owner of the shopping center about the Union's lawful picketing and handbilling where an object of so informing the owner was to interfere with such activities.

WE WILL NOT cause the owner of the shopping center to issue a letter seeking to cause the union handbillers and pickets to leave the shopping center parking lot.

WE WILL NOT threaten union handbillers and pickets that we would call the police if they did not remove themselves from the shopping center parking lot.

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

A&E FOOD CO. 1, INC., D/B/A BEST YET MARKET