

USF Red Star, Inc. and International Brotherhood of Teamsters, Local Union No. 592, AFL-CIO.
Case 5-CA-28985

June 27, 2003

DECISION AND ORDER

BY MEMBERS SCHAUMBER, WALSH, AND ACOSTA

On August 1, 2001, Administrative Law Judge Marion C. Ladwig issued the attached decision. The Respondent and the General Counsel both filed exceptions and supporting briefs, and the Respondent filed an answering brief to the General Counsel's exceptions.¹

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, and conclusions only to the extent consistent with this Decision and Order and to adopt the recommended Order as modified.²

As amended at the hearing, the complaint alleges that the Respondent violated Section 8(a)(1) of the Act when it told employees Daniel Turner and Bruce Richard to remove the Overnite button (described below), and Section 8(a)(3) and (1) when it issued a written warning to Turner for refusing to do so. The judge found the 8(a)(1) violation. We agree, and affirm. However, he dismissed the 8(a)(3) allegation, finding that Turner was disciplined to prevent him from wearing the Overnite button at customer locations *away* from the Respondent's Richmond, Virginia trucking terminal, and that special circumstances justified an away-from-the-terminal prohibition. After reviewing the record, we find that the 8(a)(3) warning, like the 8(a)(1) conduct, was directed at prohibiting the wearing of the Overnite button *at* the Richmond terminal. Thus, we reverse and find the 8(a)(3) violation as alleged.³

¹ The Respondent has requested oral argument. The request is denied as the record, exceptions, and briefs adequately present the issues and the positions of the parties.

² The judge concluded that the Respondent did not violate Sec. 8(a)(3) in issuing a written warning to one of its employees. We will reverse that conclusion and modify the recommended Order accordingly. In addition, we shall modify the recommended Order to include a provision, inadvertently omitted by the judge, requiring the Respondent to file a sworn certification attesting to the steps it has taken to comply with the Order. We shall also substitute a new notice reflecting these modifications and in accordance with our recent decision in *Ishikawa Gasket America, Inc.*, 337 NLRB 175 (2001).

³ The Respondent has filed a motion to reopen the record to introduce evidence of the presence of customers and nonunion employees at the Richmond terminal, and of the degree of independence employees enjoy. The Respondent does not explain how this evidence, if introduced, would require a different result than that reached by the judge. See *Fitel/Lucent Technologies, Inc.*, 326 NLRB 46 fn. 1 (1998). How-

Facts

The union insignia at the center of this dispute is a button that reads as follows:

Overnite Contract in '99

**Shut
Overnite
Management
Down**

or 100,000 Teamsters will

The button is approximately 2-1/2 inches in diameter and has a dark blue background. The top and bottom lines on the button are in one-eighth-inch white print. The words "Shut," "Overnite," and "Down" stand out vividly in three-eighths-inch bright yellow print. "Management," also in yellow, is in one-quarter-inch print.

The Respondent is an LTL or "less than load" trucking company headquartered in Newark, New Jersey. One of the Respondent's terminals is located in Bayshore, New York, adjacent to an Overnite Transportation terminal. In November 1999, an attorney representing Overnite paid a visit to the Respondent's Bayshore terminal and stated that the Respondent was interfering with the orderly flow of traffic into and out of Overnite's Bayshore terminal. So stating, the attorney presented the Respondent with an order to show cause for preliminary injunc-

ever, it appears the Respondent believes that this evidence would be probative of special circumstances justifying a ban on wearing the Overnite button at the Richmond terminal.

Sec. 102.48(d)(1) of the Board's Rules and Regulations provides that the Board may reopen the record "because of extraordinary circumstances." The Respondent presents two arguments in support of its motion. First, it contends that some of the evidence it wishes to adduce probably *was* introduced at the hearing but omitted from the transcript by the court reporter. The hearing transcript does show a number of omissions, including almost all of the testimony given by Frank Borum, an agent of one of the Respondent's customers. However, the record in this case has already been reopened once. At that time, the Respondent agreed that the reopening would be for the limited purpose of introducing Borum's testimony. By agreeing to that limitation, the Respondent effectively conceded the adequacy of the record in other respects. Second, the Respondent contends that it could not have anticipated that the judge would have differentiated between at-the-terminal and away-from-the-terminal prohibitions on the wearing of the Overnite button. That may be. However, the evidence clearly revealed that all of the incidents at issue here took place *at* the Richmond terminal. Thus, at the time of the hearing, the Respondent either knew or should have known that it needed to introduce evidence of special circumstances prevailing at the terminal. The Respondent did not do so, however, and it does not contend in its motion papers that the evidence it seeks to introduce is newly discovered or was previously unavailable. See Sec. 102.48(d)(1). Accordingly, we deny the motion to reopen the record because the Respondent has failed to show extraordinary circumstances.

tion with a temporary restraining order obtained by Overnite from a New York State court.⁴

After receiving the TRO, the Respondent directed all of its terminals to post a notice stating, in relevant part, as follows:

USF Red Star employees are expressly forbidden, while on duty, while in the service of the company, while on company property or while using company equipment, to in any way participate in pro-company, pro-union, or any other activity regarding Overnite Transportation Company and the International Brotherhood of Teamsters dispute.

The Respondent posted a copy of this notice at its Richmond terminal. Employees Daniel Turner and Bruce Richard work at and out of the Richmond terminal as a driver and a combination dock worker/driver, respectively. At the hearing, Turner was twice asked to describe his workday. Both times, Turner responded that he arrives at the terminal, punches the clock, performs a variety of tasks, and then punches the clock again before leaving the terminal to make deliveries.

On March 28, 2000, Richmond Terminal Manager Mike White observed Turner wearing the button described above. White instructed Turner to take off the button on company time, adding that “there’s a notice posted there that we cannot endorse . . . any activity re-

⁴ Those subject to the TRO were Teamsters Local 707’s officers, employees, agents, representatives, and members, as well as those persons in active concert with the foregoing who received actual notice of the TRO. The TRO was issued on November 6, 1999, but it did not specify an expiration date. Thus, under New York law, it remained in force only until the preliminary injunction hearing. See *Carrabus v. Schneider*, 111 F. Supp. 2d 204, 211 fn. 6 (E.D.N.Y. 2000). The order to show cause for preliminary injunction set a preliminary injunction hearing date of November 10, 1999. There is nothing in the record to indicate that this hearing did not take place as scheduled, nor does the record show whether the state court ordered any further injunctive relief after the TRO expired.

The substance of the TRO is sobering: violence, threats, coercion, intimidation, and vandalism. Although most of its prohibitions were geographically limited to Overnite’s Bayshore terminal, some activities were forbidden “at any place”—presumably including Richmond, Virginia. Under other circumstances, the TRO might have helped justify the insignia prohibition at issue here. However, there is no evidence that Overnite was the target of unlawful conduct in the Richmond area, and there is nothing in the record to suggest that the Overnite button was intended or understood as a message to engage in such conduct. There is also no evidence that any of the Respondent’s Richmond employees would have been subject to the TRO as persons in “active concert” with actual notice; and in any event, the TRO apparently expired several months before the events at issue here, and there is no evidence that it was replaced by other injunctive relief. Thus, there is simply no basis for considering whether the Respondent, in prohibiting the Overnite button from being worn at the Richmond terminal, may have been legitimately seeking to prevent conduct in contempt of a court order and/or unlawful in itself.

garding Overnite.” White testified that he also told Turner not to pass out the Overnite button “on the premises while you’re on the clock here at Red Star.” Turner said that he would remove the button until he spoke with his union representative. A few days later, White again spotted Turner wearing the button. White told Turner that he could not wear the button while on duty on the clock. Turner refused to remove it, and White issued him a written warning. Turner signed the warning, removed the button, and informed White that the Union would be filing charges with the Board.

Several months later, White saw employee Richard wearing the button in the terminal office. White told Richard, “You know, you cannot wear that button while you’re on the clock on the premises here.” Richard replied, “Yes, I know,” and removed the button.

Asked at the hearing why the Overnite button was a problem, White testified that Red Star drivers might wear it while making deliveries. White observed that the button “could be offensive to certain customers who deal daily or regularly with Overnite Transportation. And we could be working at the same customer locations, side by side, with Overnite personnel.” The Respondent’s director of labor and safety, Don Rucker, echoed White’s concerns about customer offense and expressed a further concern that the Overnite button would result in lost revenues. Officials from two companies that do business with the Respondent testified that the wearing of the Overnite button at their facilities could or would result in their ceasing to use the Respondent’s services. In June 2000, the Respondent lost an account on Long Island worth \$10,000 a month after the customer’s president overheard a Red Star driver and an Overnite driver arguing at the customer’s facility about the pros and cons of union versus nonunion carriers.

Discussion

At issue here is whether the Respondent violated Section 8(a)(1) when it told Turner and Richard to remove the Overnite button, and Section 8(a)(3) and (1) when it issued Turner a written warning for wearing the button. In evaluating the merits of these allegations, the judge decided that the purpose of the written warning was to prevent Turner from wearing the button when making deliveries away from the Richmond terminal, while the purpose of telling Turner and Richard to remove the button was to prevent its being worn at the terminal. The judge also found that special circumstances justified an away-from-the-terminal ban, but not an at-the-terminal ban. Thus, he dismissed the 8(a)(3) allegation and found the 8(a)(1) violation. The General Counsel and the Respondent except, inter alia, to the 8(a)(3) dismissal and the 8(a)(1) violation, respectively.

Employees have a protected right under Section 7 of the Act to wear union insignia while working. *Inland Counties Legal Services*, 317 NLRB 941 (1995). This right extends to the situation presented here, in which employees wear union insignia to make common cause with employees of another employer. *Boise Cascade Corp.*, 300 NLRB 80, 82 (1990). At the same time, however, employers possess an “undisputed right . . . to maintain discipline in their establishments.” *Republic Aviation Corp. v. NLRB*, 324 U.S. 793, 797–798 (1945). In adjusting these mutually limiting rights, the Board has long applied the rule that a ban on wearing union insignia violates the Act unless it is justified by special circumstances. See, e.g., *Floridan Hotel of Tampa, Inc.*, 137 NLRB 1484, 1486 (1962), *enfd.* as modified 318 F.2d 545 (5th Cir. 1963). Customer displeasure at union insignia, without more, does not constitute special circumstances. *Howard Johnson Motor Lodge*, 261 NLRB 866, 868 fn. 6 (1982), *enfd.* 702 F.2d 1 (1st Cir. 1983). However, special circumstances include, *inter alia*, harm to the employer’s business. *Inland Counties*, *supra* at 941.

It is possible, as found by the judge in this case, that there may have been special circumstances justifying a prohibition on the employees’ wearing of the Overnite button away from the Respondent’s Richmond terminal, *i.e.*, at customer facilities. But we find it unnecessary to address that possibility, or to pass on the judge’s finding, because regardless of whether such a prohibition may have been permissible, the evidence clearly demonstrates that the Respondent’s prohibition extended beyond such circumstances to include the employees’ wearing of the button *at the terminal*. Indeed, the conduct of the Respondent that serves as the basis of the complaint allegations at issue was directed solely toward enforcing the prohibition against employees working at the terminal.

The record evidence clearly reveals that Turner and Richard were told to remove the button, and Turner was disciplined for refusing to remove the button, while working at the Richmond terminal. Indeed, as noted above, Turner testified that, on a daily basis, he punches in upon arriving at the terminal, after which he checks and makes any necessary adjustments to his truck’s load, “manifests” his bills, and punches out before leaving the terminal to make his deliveries. The record reveals that both at the time Turner was ordered to remove the button, and at the time he was disciplined for refusing to remove the button, he had not yet punched out of the terminal to depart to make his deliveries. Indeed, on the occasion on which Turner was disciplined, he had just arrived and punched in at the terminal.

Moreover, when White ordered Turner and Richard to remove their buttons, he stated that the button was not to

be worn “on company time,” “on duty on the clock,” and “on the clock on the premises here.”⁵ Each of these statements may be reasonably understood to encompass times other than those during which the employees are making deliveries to customers, and the last of these phrases clearly demonstrates that the Respondent was applying the insignia ban to the Richmond terminal.

Based on the foregoing, we find that all of the Respondent’s conduct at issue here was directed against the wearing of the Overnite button at the Richmond terminal, and we agree with the judge that the record contains no evidence of special circumstances justifying a ban on wearing union insignia at the terminal. Accordingly, without passing on whether special circumstances might have existed that in turn might have justified a ban on wearing union insignia away from the terminal, we find that the Respondent violated Section 8(a)(1) and (3) as alleged.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondent, USF Red Star, Inc., Richmond, Virginia, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified below.

1. Substitute the following for paragraph 1(b) and reletter that paragraph accordingly.

“(b) Issuing warnings to employees for wearing a Teamsters button on the Company’s premises on company time, and in order to discourage employees from engaging in union or other concerted activities.”

2. Substitute the following for paragraph 2(a) and reletter that paragraph accordingly.

“(a) Within 14 days from the date of this Order, remove from its files any reference to the unlawful written warning issued to Daniel Turner, and within 3 days thereafter notify the employee in writing that this has been done and that the warning will not be used against him in any way.”

3. Insert the following as paragraph 2(c).

“(c) 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. Substitute the attached notice for that of the administrative law judge.

⁵ Additionally, White had told Turner not to distribute the Overnite button “on the premises while you’re on the clock here at Red Star.”

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

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT coerce our employees by unlawfully directing you not to wear a Teamsters' button on the Company's premises on company time.

WE WILL NOT issue warnings to our employees for wearing a Teamsters' button on the Company's premises on company time, and in order to discourage you from engaging in union or other concerted activities.

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.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful written warning issued to Daniel Turner, and WE WILL, within 3 days thereafter, notify him in writing that we have done so and that we will not use the warning against him in any way.

USF RED STAR, INC.

Thomas J. Murphy, Esq., for the General Counsel.
Quinn F. Graeff and F. William Kirby Jr., Esqs. (Davis & Kirby), for the Respondent.

DECISION

STATEMENT OF THE CASE

MARION C. LADWIG, Administrative Law Judge. This case was tried in Richmond, Virginia, on December 4, 2000, and February 1, 2001. The charge was filed by Teamsters Local 592 against USF Red Star, Inc. on May 16, 2000.¹ The complaint was issued August 31 and amended at the trial (Tr. 173–174).

On November 18, 1999, the Company posted a notice, "Activities Regarding Overnite Transportation Company" (Tr. 42–

43, 118–119; GC Exh. 8) at its Richmond terminal, addressed to all its employees, stating:

USF Red Star employees are expressly forbidden, while on duty, while in the service of the company, while on company property or while using company equipment, to in any way participate in procompany, prounion, or any other activity regarding Overnite . . . and . . . Teamsters dispute.

On March 28 (Tr. 28–29, 44), Michael White, the terminal manager in Richmond, observed that driver Daniel Turner, Local 592 shop steward, before leaving the terminal to make his deliveries of freight, was wearing a large, 2-1/2-inch dark blue button (GC Exh. 11) that read:

Overnight Contract in '98
Shut
Overnight
 Management
Down
 or 100,000 Teamsters will

The top and bottom lines on the button are in small, one-eighth inch white print. The words "Shut Overnite" and "Down" (shown above in boldface) are outstanding in large, three-eighth inch, bright-yellow print. The word "Management," also in yellow, is in smaller, one-quarter inch print.

White instructed Turner to take off the button on company time. When Turner protested that he had the right to wear the button, White said, "[T]here's a notice posted in there that we cannot endorse . . . any activity, regarding Overnite." He further explained that the button was "bad for business and showed that Red Star supported" the Teamsters' strike against Overnite. Turner told White he would take the button off until he spoke with his union representative. (Tr. 44–45, 91, 148.) White did not object to drivers wearing a Teamsters' cap or other clothing bearing a Teamsters logo when making deliveries (Tr. 44, 50; GC Exhs. 6–7).

On March 31 Turner again went to work wearing the button. White asked him to come to his office with a witness. Turner went there with the assistant shop steward. White said Turner could not wear the button while on duty, on the clock. Turner responded that his local said he should be able to wear it. When Turner refused to stop wearing the button, White gave him a written warning, stating that, "[f]uture violations of this nature will result in more severe disciplinary action being taken against you up to and including discharge." (Tr. 149; GC Exh. 12.)

After reading the warning letter and checking with the Local, Turner signed the letter, stopped wearing the button, and the Union filed the Board charge (Tr. 51–52, 151).

When Turner was asked on cross-examination what the words on the button meant to him, he credibly testified (Tr. 64–65):

To me, the button means there are union men at Overnite right now that want to be Teamsters. And it shows them that myself, as a fellow Teamster, are supporting their cause in . . . trying to get their management to negotiate with the Teamsters. That's what the button means to me. It was a show of

¹ All dates are in 2000 unless otherwise indicated.

support to men that are trying to be Teamsters . . . that we are supporting them and we're behind them.

Terminal Manager White testified that if the button was allowed to be worn (Tr. 168)

it could be offensive to certain customers who deal daily or regularly with Overnight Transportation. And we could be working at the same customer locations, side by side, with Overnite personnel. So it could be a detriment to that environment for sure. . . . Where a customer would be upset that we would be endorsing a campaign that's trying to organize their company.

Later that year, in September, White saw dock worker/driver Bruce Richard wearing the same button when Richard came into the general office about 30 or 40 minutes before he was due to punch in. As White testified, Richard "was campaigning off the clock on his own time." White approached and told him, "You know, you cannot wear that button while you're on the clock on the premises here." Richard said, "Yes, I know," took the button off, and left the room. He was not disciplined. (Tr. 92-93, 152-153.)

The primary issues are whether the Company unlawfully (a) directed driver Daniel Turner on March 28, 2000, and dock worker-driver Bruce Richard in September 2000 not to wear, on the premises on company time, a button supporting the International Union's position in a dispute with Overnite and (b) gave driver Daniel Turner a written warning on March 31, 2000, for refusing to stop wearing the union button, violating Section 8(a)(1) and (3) of the Act.

Wearing Button on Premises on Company Time

The Company contends in its brief (at 12), that by posting the November 1999 notice, "Activities Regarding Overnite Transportation Company" (GC Exh. 8), it

was not trying to . . . shut down communications between its employees. It simply wanted its employees to remain neutral regarding the Overnite conflict while they were representing Red Star *in front of Red Star customers*. [Emphasis added.]

To the contrary, the Company clearly stated in its posted notice that it was not limiting employee activity regarding Overnite to activity "in front of Red Star customers." Instead it unequivocally stated that its "employees [not limited to drivers who come in contact with customers when making deliveries] are expressly forbidden, while on duty . . . while on company property" from engaging in activity regarding Overnite.

Thus, in wording the notice that way, the Company was ignoring the presumptive Section 7 right of its employees, on the Company's premises on company time, to wear a union button supporting the International Union's position in a dispute with Overnite unless "special circumstances" exist.

The Company has made no effort to establish special circumstances, even though it cites in its brief (at 7-8) the Fourth Circuit Court's decision in *Eastern Omni Constructors, Inc. v. NLRB*, 170 F.3d 418, 424-425 (4th Cir. 1999). In that case the court points out that in *Republic Aviation Corp. v. NLRB*, 324 U.S. 793 at 803-804 (1945), "the Supreme Court held that employees have a presumptive right to wear union insignia" and

that "the right . . . can be abridged when *the employer* [emphasis added] demonstrates that special circumstances exist which justifies the banning of union insignia," and cites a number of court cases ruling on "special circumstances."

The Company presented no evidence that wearing the Overnite button on company time on company property would or might cause any delays in deliveries, any friction among its employees or any labor unrest, any discipline, or any safety problems, or otherwise adversely affect its business.

In the absence of a demonstration of special circumstances, I find that the Company unlawfully coerced employees in the exercise of their Section 7 right when prohibiting the wearing of the Overnite button on company time on company property, violating Section 8(a)(1).

Wearing Button when Making Deliveries

The evidence clearly shows that the Company has established special circumstances for forbidding its drivers from wearing the Overnite button when making deliveries to customers who are also customers of Overnite.

When Terminal Manager Michael White first saw driver Daniel Turner wearing the button and told him to take it off, White explained that the button was bad for the Company's business and showed that the Company supported the Teamsters' strike against Overnite. The Company's policy was to remain neutral in the longstanding Overnite-Teamsters dispute, to avoid loss of business.

Such a loss occurred at another terminal in June 2000, resulting in loss of a \$10,000 account when the president of a customer overheard an argument over union and nonunion service between a Red Star driver and an Overnite driver when both were picking up freight at the same time (Tr. 125, 129-130).

The General Counsel contends in his brief (at 13) that the Company failed to show that it had any reason in March 2000 to believe that any customer relationship would be affected by its employees wearing the Overnight button. I disagree. Four months earlier, obviously to avoid loss of business, the Company had posted its November 1999 notice, "Activities Regarding Overnite Transportation Company," announcing its neutrality policy regarding Overnite. Then in March, when White discovered that the policy was being violated, he specifically prohibited a driver from leaving the premises wearing the button to make deliveries.

Because of this prompt action, preventing widespread wearing and awareness of the button, the only customer officials the Company called as witnesses had not been aware of the Overnite button. The witnesses made it clear at the trial, however, that wearing the button could or would result in their ceasing to use the Company's freight services.

One of the witnesses, Melvin Masters, was the distribution manager of Creative Data Products Inc., which uses shipping services of the Company, Overnite, and other union and nonunion carriers. He credibly testified that if a company driver arrived at his business wearing the button, "I would either tell him to leave or I would get another driver any . . . And ultimately make the decision of what companies to use." (Tr. 100-101, 104-105.)

Another witness was Frank Borum, manager of transportation for a nonunion firm, D. D. Jones Transfer and Warehouse Co.

He also uses shipping services of the Company, Overnite, and other union and nonunion carriers. He credibly testified that if a driver was wearing that Overnite button, he would question why they intend to shut another carrier down just because they are not union, and "I think it would also stir the idea that our people are not union and do you [sic] not like us either." (Feb. Tr. 5-6, 8, 11-14.)

Borum also credibly testified, "I probably would not ask him to remove it But I would ask him not to wear it on the premises again," and "if he decided that he was going to wear it or if he wanted to have the right to express himself, we would ask them not to send that driver back," or "we could get to the point where we would not call them in for pickups." (Feb. Tr. 8-9.)

The General Counsel has failed to cite any applicable precedent. I agree with the Company's contention in its brief (at 13) that it has "shown that the communications it sought to ban," those on the button pertaining to the Overnite-Teamsters dispute, "were provocative, in fact inflammatory, and had the potential to disrupt its business."

I therefore find that the Company has established special circumstances for forbidding driver Daniel Turner from wearing the Overnite button when making deliveries to its customers.

Accordingly, I find that the allegation in the complaint that the Company violated Section 8(a)(3) and (1) by issuing the March 31, 2000 written warning to driver Daniel Turner for wearing the Overnite button when making deliveries to customers must be rejected.

CONCLUSIONS OF LAW

1. By forbidding employees from wearing, on the Company's premises on company time, a Teamsters' button supporting the International's position in a dispute with Overnight Transportation Company, the Company unlawfully coerced employees in the exercise of their Section 7 rights, engaging in an unfair labor practice affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

2. The Company did not act unlawfully, in violation of Section 8(a)(3) and (1), in issuing driver Daniel Turner a written warning for refusing to stop wearing the Teamsters' button while making deliveries to customers who are also customers of Overnite.

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 recommended²

ORDER

The Respondent, USF Red Star, Inc., Richmond, Virginia, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Coercing its employees by unlawfully directing them not to wear a Teamsters' button on the Company's premises on company time.

(b) 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 Richmond, Virginia, copies of the attached notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 5, 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 March 28, 2000.

² 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.

³ 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."