JD–11–08
Toledo, OH

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

ACKLIN STAMPING COMPANY

and Case 8-CA-36788

NILES MENARD, AN INDIVIDUAL

UNITED AUTOMOBILE AEROSPACE AND
AGRICULTURAL IMPLEMENT WORKERS OF
AMERICA, UAW, LOCAL 12

and Case 8-CB-10622

NILES MENARD, AN INDIVIDUAL

Rudra Choudhury, Esq., of Cleveland, OH,
for the General Counsel.
Joan Torzewski, Esq., of Toledo, OH,
for the Respondent Union.
Renisa A. Dorner, Esq., of Toledo, OH,
for the Respondent Employer.

SUPPLEMENTAL DECISION

Statement of the Case

Bruce D. Rosenstein, Administrative Law Judge. On December 28, 2007, the Board issued a Decision and Order (351 NLRB No. 90) remanding the above captioned matter to the undersigned for further appropriate consideration and analysis. In its Decision the Board stated "whenever a labor organization 'causes the discharge of an employee, there is a re-buttable presumption that [the labor organization] acted unlawfully because by such conduct [it] demonstrates its power to affect the employees' livelihood in so dramatic a way as to encourage union membership among the employees." *Graphic Communications Local 1-M (Bang Printing),* 337 NLRB 662, 673 (2002) quoting *Operating Engineers Local 478 (Stone & Webster),* 271 NLRB 1382 fn. 2 (1984). As the Board further explained in *Graphic Communications,* supra at 673 quoting *Operating Engineers Local 18,* 204 NLRB 681, (1973), enf. denied on other grounds 496 F.2d 1308 (6th Cir. 1974) (emphasis added).

> No question that read literally, Sections 8(b)(2) and 8(a)(3) of the Act specify only, in essence, failure to satisfy union security obligations as a basis for allowing labor organizations to lawfully cause or attempt to cause an employer to discharge an employee. That, of course, is not the situation presented here. Even so, under the Act a labor organization can engage in statutory "cause or attempt to cause" conduct "not only when the interference with employment was pursuant to a valid union-security clause *but also in instances where the facts show that the union action was necessary to the effective-performance of its function of representing its constituency."*

The Board framed the issue to rebut the presumption that the discharge of Menard was unlawful, the Respondent Union must show that its action was "necessary to the effective performance of its function of representing its constituency." The Board directed the undersigned to apply the applicable standard and determine on the existing record whether the Respondent Union has shown that its request to discharge Menard was necessary to represent its members, and thereby sufficient to rebut the presumption of a violation.

On January 14, 2008, after a previous conference call with the parties, I issued an Order holding that the record would not be reopened to take additional evidence. It was agreed, in lieu of filing additional post hearing briefs that I would rely on the record as a whole including the objections, answering and reply briefs and opposition brief filed previously with the Board and would prepare and serve a supplemental decision in due course.

The complaint alleges that the Respondent Union requested the Respondent Employer to discharge its employee Niles Menard because it refused to allow Menard membership in the Union and for reasons other than the failure to tender uniformly required initiation fees and periodic dues. Pursuant to the Respondent Union's request, the Employer discharged Menard.

Findings of Fact

I. Jurisdiction

The Employer, with an office and place of business in Toledo, Ohio, is engaged in the business of metal stamping. The Employer, during the past calendar year, in conducting its business operations purchased and received goods valued in excess of $50,000 directly from points outside the State of Ohio. The Respondent Employer admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Respondent Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

A. Background

The parties are subject to a collective-bargaining agreement effective by its terms from October 18, 2005, to October 18, 2008 (GC Exh. 2). Pertinent provisions subject to this case include article 3,[1] article 6,[2] and article 50.[3]

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[1] New employees' have a probationary period of (90) workdays. After the expiration of ninety (90) workdays employees can become members of the Union.

[2] The Company agrees to discharge any employee covered by this contract when the Union submits proof to the Company that the employee is not in good standing in the Union because

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Since 1996, Daniel Twiss has been the International Representative of Respondent Union in Region 2-B, which oversees the Union at the Respondent Employer. Twiss served as the Union's lead negotiator for the parties' current collective-bargaining agreement, executed it on behalf of the Union, and regularly assists the Union in the administration of their collective-bargaining agreement including the processing of grievances.

Linda Straub served as Chairman of the Union at the Employer between 1997 and July 5, 2006.[4] In an internal Union election held on May 31, Joel McVicker was elected Chairman and informally assumed the duties of the position on June 30, during the time that Straub was winding down her term of office.

Mark Echler holds the position of Corporate Director of Human Resources for Ice Industries and is headquartered in Sylvania, Ohio. Ice Industries owns the Respondent Employer and Echler oversees the human resources function at the facility assisted by on-site human resource assistant Cheryl Lyons.

Vince Curtis serves as the Employer's Plant Superintendent and has held the position since April 10. Bob LeBarr was Menard's first-line supervisor during the pertinent period herein.

Menard was contacted by Lyons in early February 2006,[5] to discern whether he was interested in an electrician position at the Respondent Employer. Around the same time, Menard saw an advertisement in the Toledo Blade newspaper seeking applicants for the electrician position.[6] Menard interviewed for the position in February 2006, submitted a written application along with a resume and reference letters, and was offered the position by Lyons, who scheduled a starting date of February 20. Lyons requested Menard to provide a written summary of his related electrical experience to both the Employer and the Union. Menard complied with this request when he submitted a letter from his prior employer on or about February 15 (U Exh. 4).

B. The Section 8 (a)(1) and (3) and 8(b)(1)(A) and (b)(2) Allegations

1. The Position of the Parties

The General Counsel alleges in paragraph 8 of the complaint that about June 14, Respondent Union requested that Respondent Employer discharge its employee Menard because it refused to allow Menard membership in the Union and for reasons other than the failure to tender uniformly required initiation fees and periodic dues. On or about June 14, pursuant to the Union's request, Respondent Employer discharged Menard. Under these

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of the failure of the employee to pay his or her Union dues.

[3] New employees will have no seniority until they have been with the Company for a period of ninety (90) workdays, at the termination of which they are accepted by the Company as permanent employees.

[4] All dates are in 2006 unless otherwise indicated.

[5] Lyons worked in human resources at Techneglas, where Menard had worked for 35 years.

[6] The advertisement stated in pertinent part under education/experience required: must possess a journeyman's electrician's card or certification of having completed a U.S. Department of Labor recognized apprenticeship as a journeyman electrician, or have 8 years of proven experience working as an electrician in a manufacturing environment, along with 2 years related experience.

circumstances, the General Counsel alleges that the Respondent Union and Respondent Employer engaged in violations of the Act and both are jointly and severally liable for wages and benefits the employee lost due to the unlawful discharge.

The Respondent Employer argues that in an effort to maintain a positive relationship and avoid an expensive grievance with the Union, it acquiesced to the Union's demand to discharge Menard on the basis that the Union did not find Menard qualified under its membership requirements. Further, the Respondent Employer asserts that it had no intention of discharging Menard until the Union demanded that he be terminated.[7]

The Respondent Union asserts that it did not affirmatively request that Menard be terminated and therefore, it is not responsible for his subsequent discharge. Additionally, the Union argues that Menard did not have an apprenticeship or journeyman card and lacked the required eight years experience required for the electrician position. Since Menard lacked the requisite qualifications and experience, the Employer terminated his employment.

2. The Facts

Menard, on March 6, completed a Union membership application and dues check-off authorization (U Exh. 2). He continued to remit dues to the Union for the months of April, May and June 2006 (U Exh. 6). On the date of his termination, Menard had fully paid all periodic dues and initiation fees to the Union.

In or around April 2006, Straub approached Menard and requested that he supplement his electrical experience as the Union needed more detailed information to augment the letter that he had provided from his prior employer.[8] According to Menard, McVicker informed him that he did not need to give additional documentation to the Union if his supervisor was not requesting it. McVicker, however, denied that he informed Menard that supplemental documentation did not have to be provided to the Union. In any event, Menard did not supply any additional information to the Union.[9]

In or around early May 2006, Straub showed the letter that Menard had provided from his prior employer to both Twiss and Curtis. Straub noted that both individuals agreed that there wasn't enough information to verify Menard's electrical experience. Straub testified that after she asked Menard for more information, LeBarr told her that he did not think Menard was

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[7] By letter dated June 16, the Employer stated in pertinent part: Due to circumstances with the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), Local # 12, Mr. Menard was relieved of duty through no fault of his own (GC Exh. 9).

[8] Pursuant to a 2003 grievance settlement between the parties, it was agreed that the Union Chairman would be able to review all new hires for the skilled trade positions to check if the applicant has the qualifications for a journeyman card or the credentials to apply for one (GC Exh. 3, item 2). McVicker confirmed in his testimony that this entitlement only applied during the 90 day probationary period of the new hire.

[9] Menard's assertion that McVicker told him that he did not need to provide any additional information about his electrician credentials is not credited. In this regard, the letter that Menard submitted did not detail the type of electrical experience that Menard possessed nor did it provide the title of the person who signed the letter (U Exh. 4). Likewise, when McVicker allegedly made the statement he was not officially the Union chairman and could not counter prior instructions given by Straub for Menard to produce additional evidence of his qualifications.

qualified to be an electrician. McVicker testified that between May and June 2006, a number of skilled tradesmen in the facility apprised him that they were not sure of Menard's skill level. Likewise, McVicker spoke with LeBarr prior to the completion of Menard's probationary period. LeBarr told McVicker that he knew that Menard was not qualified to be an electrician. McVicker told LeBarr that he had heard things from other skilled tradesmen to the same effect. On or about June 10, Curtis called Straub into his office and informed her that in his opinion Menard was not qualified for the electrician's job and he would like to create a position for him because he is a nice guy. He further told Straub that Menard lacked the skills necessary to be on his own in the facility because the machines were old and hard to work on. Straub informed Curtis that a skilled trade position could not be created for Menard because there were other workers with more seniority that would be entitled to bid on the job. Straub suggested that Curtis could create a production job and if Menard bid on the job and got it, it was fine. Curtis thought that was a good idea.

On June 12, a meeting occurred in Curtis's office that was attended by Lyons and Menard. During the meeting, Curtis informed Menard that he was happy to have him aboard as a full-time employee since he had successfully completed his 90 day probationary period.[10]

During the morning of June 14, Straub asked Curtis what had happened with Menard. Curtis informed Straub that Menard had completed his probationary period and was a member of the Union. Straub asked Curtis if Menard was coming on board as a permanent employee in production. Curtis replied that Echler had overruled him and Menard would remain in maintenance performing electrical work. Straub immediately telephoned Twiss to apprise him of the situation with Menard.

Twiss, after talking with Straub on the morning of June 14, placed a telephone call to Echler who was unavailable but left a message for him to return the call.

Earlier on June 14, before Echler received the telephone message from Twiss, Curtis had called Echler and informed him that Menard was slow and did not catch on quickly. Echler informed Curtis that since Menard had completed his probationary period, the responsibility falls on either you or Lyons. Echler inquired if Curtis had performed the proper evaluations on Menard during the probationary period, and Curtis replied that we really did not do so.

Echler testified that he returned the telephone call to Twiss either later that morning or early afternoon.

Twiss testified that he informed Echler that the Union had a problem with Menard's qualifications and he did not hold a journeyman's card. According to Twiss, Echler said he did not know what Twiss was talking about. Twiss said, "We need to resolve the situation with Menard's qualifications." Twiss informed Echler that Curtis had told McVicker that he would take care of the problem. According to Twiss, Echler said he would just terminate Menard. Twiss said, "I am not asking you to do this".

According to Echler, after he returned the telephone call, Twiss informed him that the Union has an issue with Menard as he is not qualified to be an electrician. Echler said, "He has already reached his 90 days and he's beyond that point." Twiss said, "It doesn't matter, I don't

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[10] Menard completed his 90 days prior to June 20 because he worked sufficient overtime hours. Straub testified, without contradiction, that when somebody is satisfactory to the Company and they get there probation time in, they are acceptable to the Respondent Union.

care, this guy's not an electrician, you need to get him out of there." Echler said, "What you are trying to tell me is I should terminate him." Twiss said "yes". Echler said, "I will call Vince Curtis and I will let him know." Echler then telephoned Curtis and instructed him to terminate Menard.

Curtis testified that Echler telephoned him during the afternoon of June 14, and stated that Twiss asked that Menard be terminated. Echler then instructed Curtis to terminate Menard. Curtis contacted Menard to offer him a production job. Menard turned the offer down since it would be at a reduced rate of pay.

Thereafter, on the afternoon of June 14, Lyons telephoned Menard at home and told him not to come into work. She informed Menard that the Union would not accept him as an electrician, and therefore, she had to terminate him.

3. The Agency Status of Daniel Twiss

The Board and the Courts have uniformly held that whether someone acts as an agent under the Act must be determined by common law principles of agency. See, e.g. *NLRB v. Plasterers & Cement Masons Local 90 (Southern Ill. Builders Ass'n),* 606 F.2d 189 (7th Cir. 1979), *enforcing* 236 NLRB 329 (1978).

Applying these principles to the subject case, the evidence establishes that Twiss negotiated four contracts including the parties' current collective-bargaining agreement on behalf of the Union and routinely visits the facility to participate in discussions with the parties to resolve disputes including the processing of grievances. Additionally, Twiss acknowledged that he has a long standing relationship with Echler on behalf of the Union and routinely deals with him on issues related to the administration of their collective-bargaining agreement.

Further evidence that impacts on the agency status of Twiss was his testimony that when he made the June 14 telephone call to Echler concerning Menard, it was on behalf of the Respondent Union.

For all of the above reasons, and contrary to the Respondent Union's denial of his agency status, I find that Twiss is an agent of the Union for all matters associated with this case.

4. Analysis

In *Wright Line,* 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), the Board announced the following causation test in all cases alleging violations of Section 8(a)(3) or violations of Section 8(a)(1) turning on employer motivation. First, the General Counsel must make a prima facie showing sufficient to support the inference that protected conduct was a "motivating factor" in the employer decision. On such a showing, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct. The United States Supreme Court approved and adopted the Board's *Wright Line* test in *NLRB v. Transportation Management Corp.,* 462 U.S. 393, 399-403 (1983). In *Manno Electric,* 321 NLRB 278, fn. 12 (1996), the Board restated the test as follows. The General Counsel has the burden to persuade that antiunion sentiment was a substantial or motivating factor in the challenged employer decision. The burden of persuasion then shifts to the employer to prove its affirmative defense that it would have taken the same action even if the employee had not engaged in the protected activity.

The Supreme Court has held in *Air line Pilots Assn. v. O'Neill,* 499 U.S. 65 (1991) that the "arbitrary, discriminatory, or in bad faith" standard applies to all union activity.

The Board has held that a labor organization violates Section 8(b)(1)(A) and (b)(2) of the Act when pursuant to a union–security agreement it seeks the discharge of employees who have been denied membership on grounds other than their failure to tender periodic dues uniformly required as a condition of employment. In addition, an employer violates Section 8(a)(1) and (3) of the Act when it discharges an employee, pursuant to a valid union-security agreement, if it is aware that the employee has tendered his periodic dues. *AMF Wheel Goods Division of AMF Incorporated and Kenneth D. Schwartz,* 247 NLRB 231 (1980).

As discussed above, the Board has previously held in statutory cause or attempt to cause conduct issues, not only when the interference with employment was pursuant to a valid union-security clause but also in instances when the facts show that the action was necessary to the effective performance of its function of representing its constituency, a union my lawfully cause an employer to discharge an employee. For example, in *Ashley, Hickham-UHR Company,* 210 NLRB 32 (1974), and *Carpenters Local Union 1243,* 240 NLRB 1118 (1979), the Board found that the Respondent Union's action in placing experienced stewards on potentially troublesome jobsites was in furtherance of legitimate and valid concerns of the union membership. And in *Philadelphia Typographical Union No. 2 (Triangle Publications),*189 NLRB 829 (1971), the Board dismissed a complaint when the union's interference with a member's employment was necessary to deter felonious and egregious conduct which could seriously threaten the union's very financial survival-the offending employee there having embezzled a very substantial amount of union funds.

In the subject case, I find that the Respondent Union's concerns about Menard's qualifications, work performance, and safety record are built on innuendo, speculation, and hearsay evidence. For example, Straub and McVicker testified that a number of skilled tradesmen in the facility had concerns about his performance and Menard's first line supervisor expressed doubts to them about his skill level and experience. No concrete facts were produced by the Respondent Union to substantiate these allegations and LeBarr was not called as a witness by Respondent Union to substantiate them. While Curtis expressed his opinion that Menard lacked the skills necessary to be in the facility because the machines were old and hard to work on, he never informed Menard of these shortcomings and did not prepare 60 or 90 day evaluations of his progress during the probationary period documenting these perceived deficiencies.[11] Likewise, LeBarr never counseled Menard or put in writing any of his perceived concerns about his skill level or performance on the job. Lastly, the Respondent Union did not introduce conclusive evidence to provide or establish a legitimate or substantial concern that Menard created a safety concern nor did it ever file a grievance with the Respondent Employer raising any issues of safety involving Menard. Accordingly, and in the absence of a written record or other documentation to establish that Menard was not qualified to become a full-time electrician or complete his probationary period, the Respondent Union's argument that the termination was undertaken to represent the interests of its constituency must fail. To the contrary, the Employer made him a permanent employee on June 12, based on his unblemished job performance.

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[11] Curtis testified that to support the termination of an employee, it is necessary to have supporting documentation including performance evaluations. The evidence established that only a 30 day evaluation was completed but the Respondent Employer neglected to conduct a 60 or 90 day evaluation for Menard. No evidence was introduced to establish that Menard experienced any work problems during the first 30 days of employment. Thus, in the absence of any hard evidence to substantiate performance deficiencies, the Respondent Employer and Respondent Union have no justifiable basis to support Menard's termination.

As the Board found in *Graphic Communications Local 1-M (Bang Printing),* supra, a statutory labor organization commits an unfair labor practice by reporting the possibility of misconduct without a genuine belief that such conduct occurred. Likewise, in the subject case, mere supposition, rumor, and innuendo about Menard's work performance without documentation cannot serve to protect the Union from its request to the Respondent Employer to terminate Menard's employment that was thereafter effectuated.

The record evidence fully establishes that Menard complied with his membership requirements including the tendering of periodic dues and initiation fees and the Employer had never been apprised otherwise by the Union. Indeed, the Employer was aware through the check-off process that Menard had remitted his dues and initiation fee to the Union.

Contrary to the Union's argument that Twiss never requested that Menard be terminated, I find otherwise for the following reasons. It is not in dispute, and the Union did not contend otherwise, that Menard completed his 90 day probationary period on June 12. The grievance settlement, that the Union relies upon to check whether an applicant has the qualifications for a journeyman card or has the credentials to apply for one, is only applicable during the probationary period. On June 12, the Employer determined that Menard qualified as a permanent full-time employee and considered him part of its maintenance department that was responsible for the performance of electrical work. Indeed, Curtis apprised Straub of this fact on the morning of June 14, which prompted Straub's telephone call to Twiss. Therefore, it strains credulity that Echler would have independently terminated Menard without having first been requested to do so by the Union. Further, I credit Curtis's testimony that when Echler called on June 14, immediately after talking with Twiss, he told him that Twiss asked that Menard be terminated and he should carry out this act.

Lastly, I note that on June 16, the Employer prepared a letter to "whom it may concern" that due to circumstances with the Union, Menard was relieved of duty through no fault of his own. The letter further stated that the Employer would recommend him and viewed him as a valued worker with an exemplary attendance record and a positive work attitude who would hire him again if the opportunity should arise (GC Exh. 9).

Under these circumstances, and for all of the above reasons, I find that the Respondent Employer and the Respondent Union acted in an arbitrary and discriminatory manner and the Union breached its duty of fair representation owed to Menard. They further violated Sections 8(a)(1) and (3) and 8(b)(1)(A) and (b)(2) of the Act when the Employer discharged Menard based on the Union's request for reasons other then the tendering of periodic dues and initiation fees uniformly required and without substantial evidence to support that the action was necessary to the effective performance of its function of representing its constituency.

Conclusions of Law

1. Acklin Stamping Company is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent Union violated Section 8(b)(1)(A) and (b)(2) of the Act when it requested Acklin Stamping Company to terminate Menard for reasons other than the failure to tender uniformly required initiation fees and periodic dues and without substantial evidence to support that the action was necessary to the effective performance of its function of representing its

constituency.

4. Respondent Employer violated Section 8(a)(1) and (3) of the Act when it terminated Menard based on the Union's request for reasons other than the failure to tender uniformly required initiation fees and periodic dues.

Remedy

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

Accordingly, I order the Respondent Employer to immediately reinstate Menard to his former or substantially equivalent job and that the Respondent Employer and Respondent Union jointly and severally make Niles Menard whole for any loss of earnings, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[12]

ORDER

A. Acklin Stamping Company, It's officers, agents, and representatives, shall

1. Cease and desist from
   (a) Terminating Niles Menard for reasons other then the failure to tender uniformly required initiation fees and periodic dues.
   (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) Immediately reinstate Niles Menard to his former or a substantially equivalent position and jointly and severally make him whole, with interest, for any loss of earnings suffered because he was terminated in the manner set forth in the remedy section of the decision.
   (b) Within 14 days from the date of this Order, remove from the files of Acklin Stamping Company, any reference to the unlawful termination of Niles Menard, and within 3 days thereafter, notify him in writing that we have done so and that we will not use the termination against him in any way.
   (c) We will preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports,

[12] 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.

and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(d) Within 14 days after service by the Region, post at our offices, copies of the attached notice marked "Appendix A."[13] Copies of the notices, on forms provided by the Regional Director for Region 8, after being signed by the Respondent Employer's authorized representatives, shall be posted and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken 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 Employer has gone out of business it shall duplicate and mail, at its own expense, a copy of the notice to all employees at any time since June 14, 2006.

(e) Sign and return to the Regional Director sufficient copies of the notice for posting at all places where notices to employees are customarily posted.

(f) 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 it has taken to comply.

B. Respondent United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, Local 12, its officers agents, and representatives, shall

3. Cease and desist from

(a) Causing or attempting to cause Acklin Stamping Company to discriminate against Niles Menard or any other employee in violation of Section 8(a)(1) and (3) of the Act.

(b) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

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

(a) Jointly and severally make whole Niles Menard, with interest, for any loss of earnings suffered because he was terminated in the manner set forth in the remedy section of the decision.

(b) Within 14 days from the date of this Order, remove from the Union's files, any reference to the unlawful termination of Niles Menard, and within 3 days thereafter, notify him in writing that we have done so and that we will not use the termination against him in any way.

(c) WE will preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

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[13] 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."

(d) Within 14 days after service by the Region, post at the Union Office, copies of the attached notice marked "Appendix B."[14] Copies of the notices, on forms provided by the Regional Director for Region 8, after being signed by the Respondent Union's authorized representatives, shall be posted and maintained for 60 consecutive days in conspicuous places including all places where notices to employees and members are customarily posted. Reasonable steps shall be taken 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 Union has gone out of business or closed the Union office involved in these proceedings, it shall duplicate and mail, at its own expense, a copy of the notice to all employees and current members employed by Acklin Stamping Company at any time since June 14, 2006.

(e) Sign and return to the Regional Director sufficient copies of the notice for posting by the Union at all places where notices to employees and members are customarily posted.

(f) 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 it has taken to comply.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. February 15, 2008

Bruce D. Rosenstein
Administrative Law Judge

[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."

APPENDIX A

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 within 14 days from the date of the Board's Order, offer Niles Menard full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

WE WILL, jointly and severally, make Niles Menard whole for any loss of earnings and other benefits suffered as a result of the discrimination against him in the manner set forth in the remedy section of the decision.

WE WILL within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharge, and within 3 days thereafter notify the employee in writing that this has been done and that the discharge will not be used against him in any way.

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.

Acklin Stamping Company
(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

1240 East 9th Street, Federal Building, Room 1695
Cleveland, Ohio 44199-2086
Hours: 8:15 a.m. to 4:45 p.m.
216-522-3716.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 216-522-3723.

APPENDIX B

NOTICE TO MEMBERS

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 on your behalf with your employer
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL, jointly and severally, make Niles Menard whole for any loss of earnings and other benefits resulting from our request to Acklin Stamping Company to terminate Niles Menard for reasons other then the failure to tender uniformly required initiation fees and periodic dues, less any net interim earnings, plus interest and without substantial evidence to support that the action was necessary to the effective performance of our function in representing our constituency.
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WE WILL, within 14 days from the date of this Order, remove from our files, any reference to the our request to Acklin Stamping Company to terminate Niles Menard , and WE WILL, within 3 days thereafter, notify him in writing that we have done so and that we will not use the termination against him in any way.

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

United Automobile, Aerospace and Agricultural
Implement Workers of America, UAW, Local 12
(Labor Organization)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

1240 East 9th Street, Federal Building, Room 1695
Cleveland, Ohio 44199-2086
Hours: 8:15 a.m. to 4:45 p.m.
216-522-3716.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 216-522-3723.