United Paperworkers International Union, AFL–CIO, CLC, and its Local Union No. 1033 (Weyerhaeuser Paper Co.) *and* Roland Buzenius. Cases 7–CB–9732(1) & (2)

December 20, 1995

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING, COHEN, AND TRUESDALE

The judge in this case[1] has found, inter alia, that the Respondents breached their duty of fair representation, in violation of Section 8(b)(1)(A) of the Act, by failing to advise Charging Party Roland Buzenius and all other unit employees who were subject to a union-security agreement of their rights under *NLRB v. General Motors Corp*., 373 U.S. 734 (1963), and *Communications Workers v. Beck*, 487 U.S. 735 (1988).[2] 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,[3] as further discussed below, and to adopt the recommended Order as modified.[4]

In affirming the judge's finding of a violation for the failure to give notice of *Beck* and *General Motors* rights, we rely on the analysis of these rights in *California Saw & Knife Works*, 320 NLRB 224 (1995), issued today. The Board found that the union in *California Saw* violated its duty of fair representation by failing to provide notice of *Beck* rights to unit employees covered by a union-security agreement who were not members of the union.[5] In making this finding, the Board observed the close connection between the right of a nonmember employee under *Beck* to limit payment of union-security dues and initiation fees to certain moneys spent on activities germane to a union's role as collective-bargaining representative and the right under *General Motors* to be and remain a nonmember subject only to the duty to pay union initiation fees and periodic dues. Simply stated, an employee cannot exercise *Beck* rights without exercising the *General Motors* right. In light of this close connection, the Board stated that ''in order to fully inform nonmember employees of their *Beck* rights, a union must tell them . . . of their *General Motors* right to be and remain nonmembers.'' Id. at fn. 57.

The complaint and decision in *California Saw* directly addressed only the rights of nonmember employees under *Beck*. The decision in that case resolved that issue and the closely related issue of the rights of nonmembers under *General Motors*. The complaint in the instant case alleges the unlawful failure to inform *all unit employees*, including those who are still members of the Union, of their rights under *Beck* and *General Motors*. We find that the rationale of *California Saw* for concomitant notice of *Beck* and *General Motors* rights applies with no less force to those who are still full union members and who did not receive those notices before they became members. Current members must be told of their *General Motors* rights if they have not previously received such notice, in order to be certain that they have voluntarily chosen full membership and a concomitant relinquishment of *Beck* rights.

In *California Saw*, the Board observed that newly hired nonmember employees are typically presented at the commencement of their employment with both a union membership application form and a dues-checkoff authorization form. We emphasized that the presentation of these documents to newly hired nonmember employees, absent concurrent notification of *Beck* rights and the right under *General Motors* to be and remain nonmembers, might mislead these newly hired nonmember employees to believe that payment of full dues and assumption of full membership is required. Because of this potential to mislead employees, we held that the union acted arbitrarily and in bad faith in violation of the duty of fair representation by failing

[1] On March 25, 1994, Administrative Law Judge Richard H. Beddow Jr. issued the attached decision. The Respondents and the Charging Party each filed exceptions and a supporting brief. The General Counsel filed limited exceptions and a supporting brief. The Respondents filed separate answering briefs in response to the Charging Party's exceptions and to the General Counsel's limited exceptions. The Charging Party filed an answering brief to the Respondents' exceptions. The Respondents filed a brief in reply to the Charging Party's answering brief.

[2] In *General Motors*, the Supreme Court described an employee's ''membership'' obligation under a union-security clause, as permitted by the proviso to Sec. 8(a)(3) of the Act, as ''whittled down to its financial core.'' 373 U.S. at 742. Thus, the ''*General Motors*'' right is to pay an amount equivalent to union initiation fees and dues.

[3] We agree with the judge that the Respondents' collection and use of full service fees from Charging Party Buzenius violated Sec. 8(b)(1)(A). We do not rely on his conclusion that such conduct also violated Sec. 8(b)(2). See *Electrical Workers IBEW Local 2088 (Lockheed Space Operations)*, 302 NLRB 322, 330 (1991).

[4] The Respondents except to the judge's recommended remedial requirement that it reimburse Buzenius for all dues collected since his resignation from membership and filing of a *Beck* objection. We agree that the Respondents were still entitled to collect dues for expenses related to representational activities. We shall modify the relevant recommended Order and notice provisions to require reimbursement only of dues determined to be in excess of the amount that the Respondents could lawfully collect under *Beck*.

We also find merit in the General Counsel's exception to the judge's failure to recommend that the Respondents maintain and preserve records necessary to determine the amount of back dues owed to Buzenius. We shall modify the recommended Order to include a recordkeeping provision.

[5] For the reasons stated in fn. 47 of *California Saw*, Chairman Gould finds that it is appropriate here to resolve issues of *Beck* and *General Motors* notice violations directly under Sec. 8(b)(1)(A)'s prohibition against restraint and coercion rather than under duty of fair representation standards as set forth in *Vaca v. Sipes*, 386 U.S. 171 (1967).

to give notice of *Beck* rights to newly hired nonmember employees.[6] We accordingly held that basic considerations of fairness obligate a union to notify newly hired nonmember employees of their rights under *Beck* and *General Motors*, at the time the union first seeks to obligate these newly hired nonmember employees to pay dues.

These same considerations require that union members receive such notice, if they did not receive notice of their *Beck* and *General Motors* rights at the time they entered the bargaining unit. Notice to these members assures that they have not been misled to believe that payment of full dues and assumption of full membership is required. This notice requirement is satisfied by giving the unit employee notice once and is not a continuing requirement. Thus, newly hired nonmembers must be given *Beck* and *General Motors* notice once—at the time the union first seeks to obligate them to pay dues.[7] The same notice to members is likewise required to be given once, if they have not previously received it. The form of such notice is not prescribed by the Board, moreover, and ''the union meets [its] obligation as long as it has taken reasonable steps'' to notify employees of their *Beck* rights before they become subject to obligations under the union-security clause. *California Saw & Knife*, supra, slip op. at 10. The same holds true of their *General Motors* rights.

These notice requirements furnish significant protection to the interests of the individual unit employee vis-a-vis *Beck* rights, without compromising the countervailing collective interests of bargaining unit employees in ensuring that every unit employee contributes to the cost of collective-bargaining activities.

Accordingly, we hold that in order for all unit employees subject to a union-security provision to exercise their *Beck* rights meaningfully, the law requires that notice of those rights include notice that the only way in which they can do so is to exercise the right under *General Motors* to become nonmembers. On this basis, we affirm the judge's finding that the Respondents violated Section 8(b)(1)(A) of the Act by failing to give the requisite notice.

We do not view this opinion, or the one in *California Saw*, as being inconsistent with the court's opinion in *Paramax*.[8] The Board's opinion in *Paramax* was premised on the alleged ambiguity of the union-security clause. The Board held that, in view of that ambiguity, a union was required to give employees notice as to what their obligations were. The court rejected this position. In doing so, the court noted that the Board had previously blessed an identical clause. By contrast, the violation in the present case is *not* premised on any ambiguity in the union-security clause. We hold that, without regard to the precise language of a union-security clause, a union has an obligation (as described here and in *California Saw*) to tell employees of the statutory limits on union-security obligations.

In addition, as discussed supra, this decision and the one in *California Saw* are premised essentially on *Beck* rights. In these cases, *General Motors* rights are involved only because they are inextricably related to *Beck* rights. At the time of the events here, there was a considerable body of law concerning a union's obligation to tell employees of their *Beck* rights.[9] Thus, the Respondent can hardly complain that, at the time of the events here, it had no warning that notices would be required.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondents, United Paperworkers International Union, AFL–CIO, CLC, and its Local Union No. 1033, Three Rivers, Michigan, their officers, agents, and representatives, shall take the action set forth in the Order as modified.

1. Substitute the following for paragraph 1(a).

''(a) Failing to notify unit employees of their rights under *Communications Workers v. Beck*, 487 U.S. 735 (1988), including the information that unit employees are not required to become or remain members of the Respondent Unions as long as they are financial core members in accordance with *NLRB v. General Motors Corp*., 373 U.S. 734 (1963).''

2. Substitute the following for paragraph 2(d).

''(d) Reimburse Roland Buzenius, with interest, for any fees exacted from him for nonrepresentational activities since his resignation from union membership.''

3. Insert the following as paragraph 2(e), and reletter the subsequent paragraphs.

''(e) Preserve and, on request, make available to the Board or agents, for examination and copying, all

[6] As in this case, Chairman Gould found it appropriate in *California Saw* to resolve the *Beck* and *General Motors* notice violations under Sec. 8(b)(1)(A) rather than under duty of fair representation standards as set forth in *Vaca v. Sipes*, supra.

[7] Member Cohen notes that there is no record evidence in this case of a union requirement that a *Beck* objection, in order to remain valid, must be repeated each year. (In *California Saw*, there was such a requirement, but the General Counsel did not attack it. See fn. 41 of *California Saw*.) In cases where there is such a ''repeating'' requirement, Member Cohen would impose a corresponding requirement on the union to repeat its notice each year prior to the annual window period.

[8] *Electronic Workers IUE v. NLRB*, 41 F.3d 1532 (D.C. Cir. 1994), denying enf. to *Electronic Workers IUE Local 444 (Paramax Systems)*, 311 NLRB 1031 (1993).

[9] See *Chicago Teachers Local 1 v. Hudson*, 475 U.S. 297, 306 (1986); *Tierney v. City of Toledo*, 824 F.2d 1497 (6th Cir. 1987); and *Abrams v. Communications Workers*, 59 F.3d 1373, 1378–1381 (D.C. Cir. 1995), affg. in part and revg. in part 818 F.Supp 393 (D.D.C. 1993). See also 884 F.2d 628 (D.C. Cir. 1989).

records necessary to verify the amounts of reimbursement due to Roland Buzenius.''

4. Substitute the attached notice for that of the administrative law judge.

APPENDIX

NOTICE TO EMPLOYEES AND 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 the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize

To form, join, or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT restrain and coerce you in the exercise of rights guaranteed in Section 7 of the National Labor Relations Act by failing to notify you of your rights under *Communications Workers v. Beck*, 487 U.S. 735 (1988), including the information that you are not required to become or remain members of Respondent Unions as long as you are a financial core member in accordance with *NLRB v. General Motors Corp*., 373 U.S. 734 (1963).

WE WILL NOT refuse to acknowledge Roland Buzenius' resignation from membership.

WE WILL NOT fail to establish an appropriate service fee for financial core members consistent with the Supreme Court's *Beck* decision.

WE WILL NOT continue to collect from Roland Buzenius union membership fees for expenses that are not germane to our representational activities.

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.

WE WILL notify each Weyerhaeuser Paper Company unit employee in writing of their rights and information necessary and relevant for the exercise of such rights under the *Beck* decision including the information that they are not required to become or remain members of Respondent Unions as long as they pay a service fee and are financial core members.

WE WILL establish an appropriate service fee for financial core members consistent with the *Beck* decision.

WE WILL refund with interest all membership dues withheld and collected from Ronald Buzenius since his resignation from membership on May 30, 1993, that are for expenses that are not germane to our representational activities.

UNITED PAPERWORKERS INTERNATIONAL UNION, AFL–CIO, CLC, AND ITS LOCAL UNION NO. 1033

Howard M. Dodd, Esq., for the General Counsel.

Carol Bush, Esq., of Nashville, Tennessee, for the Respondent.

Barry Smith, Esq., of Kalamazoo, Michigan, for the Employer.

John Scully, Esq., of Springfield, Virginia, for the National Right to Work Foundation.

DECISION

STATEMENT OF THE CASE

RICHARD H. BEDDOW JR., Administrative Law Judge. This matter was heard in Kalamazoo, Michigan, on December 8, 1993. Subsequent to an extension in the filing date briefs were filed by the General Counsel, the Respondent, and the Right to Work Foundation. The proceeding is based on charges filed June 23, 1993,[1] by Roland Buzenius, an individual. The Regional Director's consolidated complaint dated August 5, 1993, alleges that Respondent United Paperworkers International Union, AFL–CIO, CLC, and its Local Union No. 1033 violated Section 8(b)(1)(A) and (2) of the National Labor Relations Act by refusing to accept or acknowledge Buzenius' resignation of his membership in Respondents, failing to advise Buzenius and other employees that they are not required to become or remain members of the Respondents as long as they are financial core members, failing and refusing to give Buzenius notice of his rights and information necessary and relevant to exercise his rights under *Communications Workers v. Beck*, 487 U.S. 735 (1988), to object to the use of his service fees for purposes not germane to Respondents' role as his exclusive collective-bargaining representative, and continuing to collect and use Buzenius' service fees for purposes not germane to their role as his exclusive collective-bargaining representative.

On a review of the entire record in this case and from my observation of the witnesses and their demeanor, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Employer, Weyerhaeuser Paper Company, is a corporation engaged in the manufacture of paper products at a facility in Three Rivers, Michigan, and it annually ships goods valued in excess of $50,000 from its location to points outside Michigan and at all times has been an employer engaged in operations affecting commerce within the meaning of Section 2(2), (6), and (7) of the Act. The Union is a labor organization within the meaning of Section 2(5) of the Act and at all material times Respondent International and Respondent Local 1033 have been the exclusive collective-bar-

[1] All dates are 1993 unless otherwise indicated.

gaining representative for a unit of all production and maintenance employees employed by the Employer at its facility at Three Rivers, Michigan, including the Charging Party.

II. THE ALLEGED UNFAIR LABOR PRACTICES

At all material times Respondent International, Respondent Local 1033, and the Employer have been parties to a collective-bargaining agreement which contains a provision which states:

> It is agreed that all employees who are members of the Union shall remain members of the Union in good standing. All new employees, who after the completion of thirty (30) days shall become and remain members in good standing as a condition of this employment.

Buzenius has worked for the Employer for 15 years, was a member of the Respondents, and served as its local president in 1990 and 1991. By letters dated April 30, he resigned his membership in both the Local and the International. The text of the letter reads as follows:

> In accordance with the U.S. Supreme Court's decision in *Patternmakers v. NLRB*, I hereby resign as a member of U.P.I.U. Local 1033, effective immediately.
>
> Under the U.S. Supreme Court:s [sic] decision in *Communications Workers of America v. Beck*, I hereby declare myself protected by financial core status as defined in the aforementioned decision of the U.S. Supreme Court.
>
> Please return any reduced dues owed to me, and charge me for the new appropriate amount in compliance with the requirements of *Beck*.

Prior to his resignation, Buzenius' dues were deducted directly from his paycheck and since his resignation, the Respondents have continued to deduct the same amount for Buzenius' service fee as they did for his dues prior to his resignation. The Respondents have made no attempt to stop Buzenius' service fee deductions nor to reduce the amount of his service fee. Neither the Local nor the International has ever advised Buzenius of his rights under *Beck* or that under the union-security clause he can maintain employment at the Employer by becoming a financial core member of the Respondents and they have not established nor implemented any procedures under *Beck*. In November Buzenius received a letter from the International enclosing his new membership card for 1994 and 1995.

While president of Local 1033, Buzenius, negotiated the current collective-bargaining agreement between Respondents and Weyerhaeuser. He signed it as president of Local 1033 and he was aware of the specific union-security language contained in this agreement prior to and during negotiations. He executed this agreement on behalf of Local 1033 on June 25, 1990. Robert Sobczak Sr. (then vice president and chief steward of Local 1033, who succeeded Buzenius as president of Local 1033 in January 1992) testified that he and Buzenius attended a financial officers' training class sponsored by the Union in the spring of 1990 at which Buzenius commented to him ''you don't have to pay your dues. Do you know that? You don't have to pay your dues.''

III. DISCUSSION

Here, the General Counsel has clearly established that the Charging Party sent a letter of resignation that was never recognized, that the Union never responded with any notice of his *Beck* rights, or information relative to the exercise of those rights and that the Union never accounted for or made any reduction of or reimbursement of dues withheld.

The Respondents' defense is based on the arguments that (1) Buzenius' letter of resignation was unclear and lacked specificity, (2) that Respondents had no affirmative duty to provide *Beck* rights notice or information, (3) that because Buzenius was motivated by a strong desire to become a ''free rider'' Respondents owed him no fiduciary obligations, and (4) that Buzenius waived any claim regarding the legality of the union-security clause because he, on behalf of the Union, previously negotiated and on June 25, 1990, signed the current bargaining agreement containing the controlling language.

Turning first to the latter defense it is clear that Buzenius' knowledge of this language in early 1990 is irrelevant since it did not become applicable to his situation until his subsequent resignation and I also find that he could not know then of the potential illegality established when *Electronic Workers IUE Local 444 (Paramax Systems)*, 311 NLRB 1031 (1993), was issued on May 28, 1 day before he mailed his resignation. I also find no unambiguous personal waiver inasmuch as Buzenius was acting on behalf of the overall Union's position on the union-security clause, not his own position, a position he was free to change for reasons otherwise noted below.

In connection with this argument, the Respondents also argue that the *Paramax* violation alleged in the consolidated complaint is time barred under Section 10(b) of the Act.

First, as noted by the General Counsel, the charge was filed June 23 and *Paramax* was decided May 28, less than a month earlier. Prior to that time, union-security clauses—similar to the one here—were not considered as ambiguous nor potentially illegal and Buzenius' prior knowledge of the union-security clause language is irrelevant as the time limits could not begin to run until after *Paramax* issued. Moreover, a *Paramax* violation is not, as discussed below, a per se violation but is in the nature of a continual violation that can be triggered, not merely by the negotiation or execution of a collective-bargaining agreement, but by a union's failure to respond or provide information once an employee makes an inquiry or attempts to avail himself of rights not clearly explained in a union-security provision. The ambiguity and taint of illegality becomes apparent at that point and thereby sets a reference point for the 10(b) period and, accordingly, none of the allegations here are time barred.

I also find that Respondents' defense regarding the clarity of Buzenius' resignation is strained at best. It would take a particularly obtuse reading of his communication with the Union to conclude anything other than that he was resigning his membership and did not want to pay any dues beyond that which he was obligated to (his service fee) for purposes of retaining employment under the union-security provision. Buzenius referred to *Beck* and asked for the ''return of any reduced dues'' and for the ''charge'' of a ''new appropriate amount.'' To the extent that any ambiguity or lack of specificity remained, it was in areas within the control of the Respondents. Respondents had received adequate notice and the

burden to respond, as well as the burden to clarify and provide information, shifted to the Union at both the Local and International level to appraise Buzenius of his rights or of their compliance.

Here, the Respondents merely stonewalled. They failed to respond or act on the resignation and failed to reduce the amount of dues to a level consistent with an appropriate service fee. Their failure to respond in any way (except by issuing a new membership card), and their failure to provide any information whatsoever is the equivalent of providing false and inaccurate information and, as discussed below, constitutes a failure of the Union's responsibility to provide fair representation for all employees in a bargaining unit.

Just as a union may not discriminatorily deny a request for membership, *Scofield v. NLRB*, 394 U.S. 423, 430 (1969), a union cannot refuse to accept a resignation of membership, both where there is no union-security clause, *Electrical Workers IBEW Local 2088 (Lockheed Space Operations)*, 302 NLRB 322 (1991), and where such a provision in a collective-bargaining agreement provides for union representation of all employees, *Pattern Makers League v. NLRB*, 473 U.S. 95 (1985), and *Electronic Workers IUE Local 444 (Paramax Systems)*, supra. Whereas *Lockheed Space* finds that the refusal to accept the revocation of all payroll deduction of union dues, the *Paramax* decision draws on the decision in *Beck*, supra, and *NLRB v. General Motors Corp*., 373 U.S. 734 (1963), to find circumstances under which a failure to appraise unit employees that they need only tender applicable initiation fees to become and remain a ''member'' of the union in good standing is improper because such a clause is ambiguous in that it fails to appraise employees of the lawful limits of their obligations.

Here, the same clause is under examination and here the Respondents have failed to appraise the Charging Party or other unit members of their lawful limits of his obligations under the *Beck* decision (see p. 748), to pay to the Union:

> Only those fees and dues necessary to ''performing the duties of an exclusive representative of the employees in dealing with the employer on labor-management issues. [*Ellis v. Railway Clerks*], 466 U.S. [435] at 448.''

The Board's decision in *Paramax*, supra, issued in May 1993, concluded that the union-security clause in the underlying collective-bargaining agreement which contained a phrase requiring employees to be ''members in good standing'' was not illegal per se. That phrase, however, was found to be ambiguous and subject to a reasonable interpretation which could cause employees to believe that they were required to become and remain members of a union, contrary to the holding in *General Motors*. Accordingly, the Board held that any union that maintains a union-security clause similar to the one in *Paramax* would breach its duty of fair representation and violate Section 8(b)(1)(A) of the Act if it failed to advise employees of their rights under *General Motors* to maintain employment by becoming a financial core member without being required to become or remain a member of the Union.

Here, the underlying collective-bargaining agreement between Respondents and the Employer contains a union-security clause which requires employees to ''become and remain members of the'' Respondents, language that is virtually identical to that in *Paramax*. It is ambiguous and subject to a reasonable interpretation by employees that would lead them to conclude that they must become and remain members of the Respondents. Because of this ambiguity, the Respondents had and have a fiduciary duty to advise Buzenius and all other employees in the unit of their rights under *General Motors* and *Beck*. Neither the Local nor the International made any attempt to advise Buzenius or any other employee in the unit that they were not required either to become or remain members of the Local or the International so long as they are financial core members even though they were alerted to this by his letter of resignation. It is clear that the Union here is the exclusive collective-bargaining representative of a unit, the agreement between it and the Employer has a union-security clause requiring ''membership'' in the Union as a condition of employment, a member of the unit resigned membership in the Union and he objected to the Union's use of his dues for purposes other than those required by law (for collective bargaining, contract administration, and grievance handling). These criteria were met and the Union's continued use of Buzenius' dues for purposes other than those enumerated violates Section 8(b)(1)(A) and (2). I also conclude that once a unit employee resigns and voices his objection, a union must establish a *Beck* procedure, notify the objecting nonmember of his rights under *Beck*, and cease collecting any fee from that person until it has established that the fee is being used exclusively for purposes permitted by *Beck*. If, as here, the union fails to establish an appropriate procedure and give the employee notice, it breaches its duty of fair representation and violates Section 8(b)(1)(A). If a union continues to collect its full dues as the service fee without establishing that the service fee is being used exclusively for representational purposes, it additionally violates Section 8(b)(2) of the Act.

Under these circumstances, I find that the Respondents have breached their duty of fair representation and I find that they are shown to have violated Section 8(b)(1)(A) and (2) of the Act, as alleged.

The Respondents also attempted to present evidence at the hearing that Buzenius was ''illegally'' motivated in withdrawing from the Respondents, and they contend that if Buzenius was motivated by the desire to become a free rider in attempting to resign his union membership and assert *Beck* rights, then contrary to the General Counsel's contentions, Respondents had no fiduciary obligation to notify him that the term ''members in good standing'' found in the union-security clause of the pertinent collective-bargaining agreement meant only the payment of dues and fees.

As pointed out by the General Counsel, the purpose of the Act is to ensure that employees are free to choose whether or not they wish to become or remain members of a union. Motive is irrelevant. An employee has the right to join or resign full union membership for good cause, no cause, or a cause that some may view as morally indefensible. Buzenius' rights, and the rights of all other employees covered by the Act, to become or refrain from becoming a member of a union, are found in Section 7 of the Act and are rights that are absolute and not conditioned on motivation.

While at some future time the Board may find special circumstances (such as motivation that is tied in with an illegal effort on the part of an employer to decertify a union or an illegal conspiracy on the part of some group to interfere with

a union's rights as a collective-bargaining representative), the conjecture here that Buzenius merely wanted to be a ''free rider'' fails to provide any valid reason to limit his rights in this case.

Although the Respondents on brief also request that this court's denial of enforcement of their subpoena of possible records from Buzenius that could be indicative of such a ''free rider'' motive be reversed, that request is denied for the reasons noted above.

Otherwise, I find no basis for finding (as urged by the Charging Party's representative) that the union-security clause itself is per se invalid, see the *Paramax* decision, supra.

CONCLUSIONS OF LAW

1. Respondents United Paperworkers International Union, AFL–CIO, CLC, and its Local Union No. 1033 are a labor organization within the meaning of Section 2(5) of its Act and have entered into and maintain a collective-bargaining agreement with the Employer, Weyerhaeuser Paper Company, that requires employees to become and remain members in good standing in the Union.

2. By refusing to acknowledge Roland Buzenius' resignation from membership in Respondents, failing and refusing to give him notice of his rights and information necessary and relevant for his exercise of his rights under *Communications Workers v. Beck*, 487 U.S. 735 (1988), and by failing to advise him and all other employees in the unit that they are not required to become or remain members of the Respondents as long as they are financial core members, the Respondents have violated Section 8(b)(1)(A) of the Act.

3. By continuing to collect and use Buzenius' full service fees without giving the appropriate *Beck* notice and by using his service fee for purposes not germane to their role as the exclusive collective-bargaining representative, Respondents have violated Section 8(b)(1)(A) and (2) of the Act.

4. The union-security clause is not per se unlawful.

REMEDY

Having found that the Respondents have engaged in certain unfair labor practices, I find it necessary to order them to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

With respect to the necessary affirmative action, it is recommended that Respondents be ordered to notify each unit employee, in writing, of the employee's *Beck* rights. Nothing here shall preclude the Respondents from negotiating a modification to the union-security provision with Weyerhaeuser Paper Company which unambiguously apprises unit employees of their lawful union-security obligations.

The Respondents also shall be required to establish an appropriate service fee for financial core membership consistent with the *Beck* decision and to acknowledge in writing Roland Buzenius' resignation. And, because the Respondents are shown to have willfully refused to acknowledge Buzenius' resignation while at the same time failing to establish an appropriate financial core service fee and continuing to wrongfully collect his full membership dues, in breach of Respondents' duties of fair representation, the Respondents have thereby failed to allow the computation of any accurate service fee amount and, accordingly, as the wrongdoer, Respondents shall be held accountable for the full amount of dues collected until such time as they toll their accountability by establishing an appropriate fee and apply it to Buzenius' core membership status. Accordingly, Respondents shall refund the full amount of dues collected from Roland Buzenius since his resignation on May 30, until the tolling of this responsibility by the action required above, with interest as prescribed 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[2]

ORDER

The Respondents, United Paperworkers International Union, AFL–CIO, CLC, and its Local Union No. 1033, their officers, agents, and representatives, shall

1. Cease and desist from

(a) Maintaining a union-security clause requiring that, as a condition of employment, Weyerhaeuser Paper Company, unit employees ''become and remain members of the Union in good standing'' without informing those employees of their rights and information necessary and relevant for the exercise of such rights under the decision in *Communications Workers v. Beck*, 487 U.S. 735 (1988), including the information that they are not required to become or remain members of the Respondent Unions as long as they are financial core members.

(b) Refusing to acknowledge Roland Buzenius' resignation from membership.

(c) Failing to establish an appropriate service fee for financial core members consistent with the *Beck* decision.

(d) Continuing to collect and use Buzenius' full union membership fees.

(e) In any like or related manner restraining or coercing Weyerhaeuser Paper Company employees in the exercise of their rights protected by Section 7 of the Act.

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

(a) Establish an appropriate service fee for financial core members consistent with the *Beck* decision.

(b) Notify each Weyerhaeuser Paper Company unit employee in writing of their rights and information necessary and relevant to the exercise of such rights under the *Beck* decision and that the only required condition of employment under the union-security clause is the tendering of uniform initiation fees (if any) and financial core membership service fees.

(c) Acknowledge in writing Roland Buzenius' resignation from membership and henceforth collect from him only a financial core membership service fee consistent with the *Beck* decision.

(d) Refund with interest all membership dues withheld and collected from Roland Buzenius since his resignation from membership on May 30, in the manner set forth in the remedy section above, and refrain from collecting or requiring any withholding by the Employer until such time as

[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.

Buzenius' resignation is acknowledged and an appropriate financial core membership service fee is established.

(e) Post at their business offices and local meeting halls copies of the attached notice marked ''Appendix.''[3] Copies of the notice, on forms provided by the Regional Director for Region 7, after being duly signed by Respondents' representatives, shall be posted by Respondent Unions immediately upon receipt thereof in conspicuous places where notices to members are customarily posted, and be maintained for a period of 60 consecutive days. Reasonable steps shall be taken to ensure that notices are not altered, defaced, or covered by any other material. Respondent Unions will also make additional signed copies of their notice available for the Employer to post with its own notice to ensure that nonmember employees are sufficiently apprised of their rights.

(f) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondents have taken to comply.

[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.''