

**Merryweather Optical Company and Local 853, Optical Workers Union, Retail, Wholesale and Department Store International Union, AFL-CIO. Case 13-CA-17181**

March 6, 1979

**DECISION AND ORDER**

BY CHAIRMAN FANNING AND MEMBERS PENELLO  
AND TRUESDALE

Upon a charge filed on January 9, 1978, by Local 853, Optical Workers Union, Retail, Wholesale and Department Store International Union, AFL-CIO (hereinafter Union), the General Counsel of the National Labor Relations Board, by the Regional Director for Region 13, issued a complaint on January 31, 1978, and an amendment to complaint on June 30, 1978, against Merryweather Optical Company (hereinafter the Respondent). The complaint and amendment to the complaint allege that the Respondent engaged in certain unfair labor practices in violation of Section 8(a)(5) and (1) of the National Labor Relations Act, as amended. The Respondent filed an answer to the complaint in which it admitted certain of the allegations but denied the commission of any unfair labor practices.

On June 30, 1978, the Respondent, the General Counsel, and the Union entered into a stipulation of facts and filed a motion to transfer this proceeding directly to the Board. All parties to the stipulation waived the usual proceedings before an Administrative Law Judge, agreed that the charge, complaint, amendment to the complaint, and answer, in addition to the stipulation of facts and exhibits attached thereto, would constitute the entire record herein, and requested the Board to make findings of fact and conclusions of law and to issue the appropriate Decision and Order. On August 1, 1978, the Board issued an order which transferred the proceeding to the Board, approved the stipulation of facts, and set a date for the filing of briefs by the parties. Thereafter, the General Counsel filed a brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record herein, as stipulated by the parties, including the briefs, and makes the following:

**FINDINGS OF FACT**

**I. THE BUSINESS OF THE RESPONDENT**

The Respondent, a corporation with its office and place of business located at 6 North Michigan Avenue, Chicago, Illinois, is engaged in the business of grinding eye lenses for sale at wholesale. During the past calendar year, a representative period, the Respondent purchased and received at its facility in the State of Illinois, materials valued in excess of \$50,000 which were transported directly from States other than the State of Illinois. The Respondent admits, and we find, that the Respondent is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Board will effectuate the purposes of the Act to assert jurisdiction herein.

**II. THE ALLEGED UNFAIR LABOR PRACTICES**

**A. Stipulated Facts**

The Union and the Respondent have engaged in collective bargaining for over 30 years. The most recent collective-bargaining agreement, covering 13 optical shopworkers employed by the Respondent, is effective from June 1, 1977, to May 31, 1979. Article XXI of that agreement requires the Respondent to withhold dues from the paychecks of bargaining-unit employees who signed dues-deduction authorizations, and to forward said dues to the Union. Article XIX of that agreement requires the Respondent to contribute \$59 per month per employee to the Illinois Optical Workers Insurance Trust. Article XXII of that agreement incorporates a supplemental agreement requiring the Respondent to contribute \$74.53 per month per employee to the Union and Industry Pension Fund.

Since on or about November 1, 1977, and continuing to date, the Respondent has failed to make its required contributions to the Union and Industry Pension Fund, without notifying or bargaining with the Union. Since on or about December 1, 1977, and continuing to date, the Respondent has failed to make its required contributions to the Illinois Optical Workers Insurance Trust, without notifying or bargaining with the Union. Finally, although the Respondent withheld the dues from its employees' paychecks for the month of December 1977, in the amount of \$165, it did not properly tender said dues to the Union because the check sent to the Union for the dues did not clear the Respondent's checking account at its bank. The Respondent has since failed to cover the amount of the check and has continued to

hold the amounts withheld from its employees' paychecks for December, without notifying or bargaining with the Union.

On the evening of December 29, 1977, Armon Kaplan, an agent and supervisor of Respondent, decided to close Respondent's business and cease all further operations. His decision was motivated by economic considerations, since there were insufficient funds on hand to maintain the Respondent's day-to-day operations. On December 30, 1977, Jack Kastrul, the Respondent's manager, informed those employees who reported for work as scheduled that the Respondent was closing and that there would be no more work for the employees. The Respondent paid those employees in cash for all time actually worked which was due to them, and did the same for those employees who had not been scheduled to work on December 30, 1977. However, the Respondent failed to comply with articles IV and XIII of the collective-bargaining agreement by failing to give all laid-off employees 1 week's notice prior to permanent layoff and by failing to pay all laid-off employees 1 week's pay plus a portion of the vacation pay owed them.

The Respondent did not inform the Union of its decision to cease operations prior to the day of closing. John Disselhorst, president of the Union, was informed on December 30, 1977, of the closing by one of the Respondent's employees. Disselhorst unsuccessfully attempted to call the Respondent but, during the afternoon of December 30, the Respondent called Disselhorst and informed him that it was closing its operations and that he would receive a letter explaining this.

On January 3, 1978, Disselhorst received a letter dated December 30, 1977, from Dr. S. S. Hollender, owner of the Respondent, stating that "This is to inform you that Merryweather Optical Co. has terminated its operation effective as of this date."

Immediately following the receipt of this letter, Disselhorst telephoned Armon Kaplan, asking him the reasons for the closing and why the Respondent had not given the Union advance notice of the closing. Kaplan replied that the Respondent had just run out of money. Disselhorst again asked Kaplan why the Respondent had not given the Union some advance notification of the Respondent's problems and of the possibility of closing, but Kaplan did not reply. Disselhorst then told Kaplan that the Respondent had an obligation to discuss any decision to close in advance of the decision, and that the Respondent had an obligation to bargain over the effects of the closing. Kaplan responded that he did not have time for that. Disselhorst then informed Kaplan that, if the Respondent did not have time to

negotiate, Disselhorst would have to file charges with the National Labor Relations Board. Kaplan replied, "You do what you have to do, I'll do what I have to do." Disselhorst said, "okay," and the conversation ended.

Since January 3, 1978, the Union has had no further contact with the Respondent. The Respondent refused to bargain over the effects of its closing until February 27, 1978, when it stated in its answer to the complaint in the instant proceeding that "Respondent stands willing to bargain over the effects of said closing."

### *B. Contentions of the Parties*

The General Counsel contends that the Respondent violated Section 8(a)(5) and (1) of the Act by : (1) unilaterally failing to tender dues withheld from employees' paychecks for the month of December 1977 to the Union as required by the collective-bargaining agreement; (2) unilaterally failing to make contributions to the Illinois Optical Workers Insurance Trust as required by the collective-bargaining agreement from December 1, 1977, to the present; (3) unilaterally failing to make contributions to the Union and Industry Pension Fund as required by the collective-bargaining agreement from November 1, 1977, to the present; and (4) failing and refusing to bargain with the Union over the effects of its closing of business on December 30, 1977, until February 27, 1978, when it stated in its answer to the complaint that it stood ready to bargain over the effects of said closing.

To remedy the Respondent's unlawful conduct, the General Counsel requests that the Respondent be ordered to make the required contributions to the Union and Industry Pension Fund and to the Illinois Optical Workers Insurance Trust; to remit to the Union the dues it withheld but has failed to forward to the Union; and to make its employees whole for all losses suffered as a result of its refusal to bargain over the effects of its closing.

### *C. Analysis and Conclusions*

It is clear from the record evidence that the Respondent closed its entire operation on December 30, 1977, without giving notice to the Union and without affording the Union an opportunity to bargain about the effects on the employees of the Respondent's decision to close. It is equally clear that the Respondent was motivated solely by economic considerations in closing its operations, and that the closure resulted in the termination of the Respondent's existence as a business entity. It is well established Board law that a

decision to close which involves a "significant investment or withdrawal of capital" as to "affect the scope and ultimate direction of the enterprise" is completely within the prerogative of the employer.<sup>1</sup> However, it is equally well established that, even under the circumstances of a complete cessation of business, the employer is obligated to afford the union an opportunity to discuss the impact and effect of the closing on bargaining-unit employees.<sup>2</sup> Accordingly, we conclude that the Respondent, by failing to afford the Union an opportunity to bargain about the effects of its closing on bargaining-unit employees, violated Section 8(a)(5) and (1) of the Act.

It is further alleged that the Respondent failed to make its required contributions to the Union and Industry Pension Fund for the months of November and December 1977, and to the Illinois Optical Workers Insurance Trust for the month of December 1977. It is also alleged that the Respondent withheld dues from unit employees for the month of December 1977 and failed to properly tender said dues to the Union. The Respondent admits that it has failed to make these contributions and to properly remit the dues. It is well established Board law that an employer's refusal to make required payments to an insurance or trust fund established by a collective-bargaining agreement,<sup>3</sup> or to refuse to properly tender dues withheld from employee paychecks under a valid dues-checkoff authorization,<sup>4</sup> constitutes a unilateral change in terms and conditions of employment in violation of Section 8(a)(5) and (1) of the Act. Accordingly, since the record is clear that the Respondent failed and refused to make required contributions under the collective-bargaining agreement and failed and refused to properly tender dues to the Union which it had withheld from its employees' paychecks, without notifying or bargaining with the Union, we conclude that the Respondent violated Section 8(a)(5) and (1) of the Act.

Although neither alleged in the complaint nor asserted by the General Counsel as a separate viola-

tion, the parties stipulated that the Respondent failed to comply with articles IV and XIII of the collective-bargaining agreement following the closing of its operations on December 30, 1977. Article IV, section 6, states that:

An employee who is terminated because of death, layoff, voluntary quitting or discharge (other than because of a criminal act), will be paid part of the vacation pay to which he would have been eligible in the next vacation period.

Article XIII states, *inter alia*, that:

The Employer shall be required to give one (1) week's notice to the employee before layoff or discharge, for other than a criminal act or discharge for misconduct upon the part of the employee. The Employer shall have the option of having the employee work out the week's notice or paying for the week and not having him work.

The Board has repeatedly held that it is not precluded from finding a violation of the Act based upon a failure to allege the conduct as violative of the Act either in the complaint or at the hearing, as long as the allegation was fully litigated at the hearing.<sup>5</sup> In the instant case, there was no hearing. However, all the parties, including the Respondent, entered freely and voluntarily into a stipulation of facts containing the statement that "Respondent failed to comply with Articles IV and XIII . . . in that it failed to give employees one week notice prior to its permanent layoff, and did not pay employees one week's pay plus vacation pay owed them." Respondent has provided no explanation for its failure to comply with those articles, as it filed no brief in the instant case. Therefore, we conclude that the Respondent's failure to comply with articles IV and XIII of the collective-bargaining agreement was fully litigated by the parties and, thus, that we are not precluded from considering that conduct as a possible violation of the Act.

Article IV, section 6, clearly requires that, when an employee is "laid off," he is entitled to some portion of his vacation pay which he would have been eligible to take but for the layoff. Article IV, section 7, provides the calculations needed to determine proportionate vacation pay in cases of termination. There is nothing in the collective-bargaining agreement to indicate that article IV, sections 6 and 7, is inapplicable to a layoff of the Respondent's entire work force. Accordingly, we conclude that the

<sup>1</sup> See *General Motors Corporation, GMC Truck & Coach Division*, 191 NLRB 951, 952 (1971). (Chairman Fanning does not agree; see his dissenting opinion at 952. However, it is his position that that decision is not controlling here.) See also *Fibreboard Paper Products Corp. v. N.L.R.B.*, 379 U.S. 203, 233 (1964).

<sup>2</sup> See *Siagg Zipper Corp.*, 222 NLRB 1249 (1976); *Automation Institute of Los Angeles, Inc., d b a West Coast Schools*, 208 NLRB 725 (1974); *Triplex Oil Refining Division of Pentac Corporation*, 194 NLRB 500 (1971); *Interstate Tool Co., Inc.*, 177 NLRB 686 (1969).

<sup>3</sup> See *New York-Keansburg-Long Branch Bus Co., Inc.*, 228 NLRB 1172 (1977); *Liberly Cleaners, et al.*, 227 NLRB 1296 (1977); *Home Refining Co., Inc.*, 211 NLRB 910 (1974).

<sup>4</sup> *Supreme Equipment & Systems Corporation*, 235 NLRB 244 (1978); *Western Block Company, A Subsidiary of American Hoist & Derrick Company*, 229 NLRB 482 (1977); *Pacific Grinding Wheel Co., Inc.*, 220 NLRB 1389 (1975); *Cavalier Spring Company*, 193 NLRB 829 (1971).

<sup>5</sup> *Medman Food Industries, Inc.*, 234 NLRB 698 (1978); see *Tamper, Inc.*, 207 NLRB 907, fn. 2 (1973). See also *American Boiler Manufacturers Association v. N.L.R.B.*, 366 F.2d 815, 821 (8th Cir. 1966), and the cases cited therein.

Respondent's failure to comply with article IV of the collective-bargaining agreement when it laid off its employees on December 30, 1977, was a unilateral change in terms and conditions of employment in violation of Section 8(a)(5) and (1) of the Act.

Article XIII clearly requires that, when an employee is "laid off," he is entitled to 1 week's notice, plus pay for that 1 week, whether it is worked or not. The Respondent did not give any notice of layoff to its employees until December 30, 1977, the day it ceased all operations and laid off all of its employees. The laid-off employees were paid only for time actually worked prior to the closing. Again, there is nothing in the collective-bargaining agreement to indicate that article XIII is inapplicable to a layoff of the Respondent's entire work force. Accordingly, we conclude that the Respondent's failure to comply with article XIII of the collective-bargaining agreement when it laid off its employees on December 30, 1977, was a unilateral change in terms and conditions of employment in violation of Section 8(a)(5) and (1) of the Act.

### III. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent set forth in section II, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

### IV. THE REMEDY

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

We have found that the Respondent failed to make required contributions to the Union and Industry Pension Fund for November and December 1977, and to the Illinois Optical Workers Insurance Trust for December 1977, and failed to remit to the Union the dues it had withheld from its employees' paychecks in December 1977, which conduct constituted unilateral changes in terms and conditions of employment in violation of Section 8(a)(5) and (1) of the Act. In order to dissipate the effect of these unfair labor practices, we shall order the Respondent to make whole its employees by transmitting the required contributions to the Union and Industry Pension Fund for the months of November and Decem-

ber 1977, and to the Illinois Optical Workers Insurance Trust for the month of December 1977, as well as to remit to the Union the dues it withheld from its employees' paychecks for the month of December 1977,<sup>6</sup> with interest on the dues to be computed in the manner prescribed in *Florida Steel Corporation*, 231 NLRB 651 (1977).<sup>7</sup>

We have also found that the Respondent failed to give its employees 1 week's notice prior to its permanent layoff of all employees and failed to pay to its employees 1 week's pay plus vacation pay owed them, which conduct constituted unilateral changes in terms and conditions of employment in violation of Section 8(a)(5) and (1) of the Act. In order to dissipate the effects of these unfair labor practices, we shall order the Respondent to make its employees whole by paying each employee who was laid off on December 30, 1977, 1 week's pay at the rate of his or her normal wages when last in the Respondent's employ, plus that part of the vacation pay to which the employee would have been eligible in the next vacation period after December 30, 1977, the latter to be calculated pursuant to article IV, section 7, of the collective-bargaining agreement. Interest on all such sums shall be paid in the manner prescribed in *Florida Steel Corporation*, *supra*.

We have further found that the Respondent failed to afford the Union an opportunity to bargain about the effects of its closing on bargaining-unit employees in violation of Section 8(a)(5) and (1) of the Act. In order to effectuate the purposes of the Act, we shall order the Respondent to bargain with the Union concerning the effects of closing on all bargaining unit employees. However, under the present circumstances, a bargaining order alone is an inadequate remedy, since the Respondent's unlawful failure to bargain at the time of the shutdown denied the employees an opportunity to bargain at a time when there would have been some measure of balanced bargaining power. In order to create an atmosphere

<sup>6</sup> See *Supreme Equipment & Systems Corporation*, 235 NLRB 244 (1978); *Siebler Heating & Air Conditioning, Inc., et al.*, 225 NLRB 1044 (1976); *Freeman G. Gaffney, Inc.*, 205 NLRB 1012 (1973); *Ivo H. Denham and Geraldine A. Denham, d/b/a The Denham Company*, 187 NLRB 434 (1970). See also *N.L.R.B. v. Strong, d/b/a Strong Roofing & Insulating Co.*, 393 U.S. 357 (1969).

<sup>7</sup> See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

Because the provisions of employee benefit fund agreements are variable and complex, the Board does not provide at the adjudicatory stage of a proceeding for the addition of interest at a fixed rate on unlawfully withheld fund payments. We leave to the compliance state the question of whether Respondent must pay any additional amounts into the benefit funds in order to satisfy our "make-whole" remedy. These additional amounts may be determined, depending upon the circumstances of each case, by reference to provisions in the documents governing the funds at issue and, where there are no governing provisions, to evidence of any loss directly attributable to the unlawful withholding action, which might include the loss of return on investment of the portion of funds withheld, additional administrative costs, etc., but not collateral losses.

under which meaningful bargaining can be assured, we must restore some measure of economic strength to the Union. Therefore, we shall accompany our order to bargain over the effects of the closing with a limited backpay requirement designed to make the employees whole for losses suffered as the result of the Respondent's failure to bargain, as well as to recreate to some degree a situation in which the parties' bargaining positions are not entirely devoid of economic circumstances for the Respondent.

Accordingly, we shall order the Respondent to bargain with the Union, upon request, about the effects on bargaining-unit employees of the closing of the Respondent's operations, and to pay these employees amounts at the rates of their normal wages when last in the Respondent's employ from 5 days after the date of this Decision and Order until the occurrence of the earliest of the following conditions: (1) the date the Respondent bargains to agreement with the Union on those subjects pertaining to the effects of the closing on bargaining-unit employees; (2) a bona fide impasse in bargaining; (3) the failure of the Union to request bargaining within 5 days of this Decision and Order, or to commence negotiations within 5 days of the Respondent's notice of its desire to bargain with the Union;<sup>8</sup> or (4) the subsequent failure of the Union to bargain in good faith. In no event shall the sum paid to any of these employees exceed the amount the employee would have earned as wages from December 30, 1977, the date on which the Respondent closed its operations, to the time he secured equivalent employment elsewhere, or February 27, 1978, the date when the Respondent announced its willingness to bargain, whichever occurred sooner; provided, however, that in no event shall the sum be less than these employees would have earned for a 2-week period at the rates of their normal wages when last in the Respondent's employ.<sup>9</sup> Interest on all such sums shall be paid in the manner prescribed in *Florida Steel Corporation, supra*.

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

#### CONCLUSIONS OF LAW

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

<sup>8</sup> The Respondent's statement of February 27, 1978, contained in its answer to the complaint, that it "Stands willing to bargain over the effects of [the] closing," is insufficient to satisfy this condition.

<sup>9</sup> See *Transmarine Navigation Corporation, and its Subsidiary, International Terminals, Inc.*, 170 NLRB 389, 390 (1968); see also *Interstate Gopher News, d/b/a Gulf and Southern News*, 235 NLRB 851 (1978); *Interstate Tool Co., Inc., supra*, fn. 2 at 687-688.

2. By failing to afford the Union an opportunity to bargain about the effects of the closing of its entire operation on its employees, the Respondent has violated Section 8(a)(5) and (1) of the Act.

3. By failing to make required contributions to the Union and Industry Pension Fund for the months of November and December 1977, the Respondent has violated Section 8(a)(5) and (1) of the Act.

4. By failing to make required contributions to the Illinois Optical Workers Insurance Trust for the month of December 1977, the Respondent has violated Section 8(a)(5) and (1) of the Act.

5. By withholding dues from the paychecks of unit employees for the month of December 1977 and failing to make a proper tender of said dues to the Union, the Respondent has violated Section 8(a)(5) and (1) of the Act.

6. By failing to give its employees 1 week's notice and 1 week's pay prior to its permanent layoff of all employees, as required by article XIII of its collective-bargaining agreement with the Union, the Respondent has violated Section 8(a)(5) and (1) of the Act.

7. By failing to pay to its employees a portion of the vacation pay owing them upon their layoff, as required by article IV of its collective-bargaining agreement with the Union, the Respondent has violated Section 8(a)(5) and (1) of the Act.

8. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

#### ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Merryweather Optical Company, Chicago, Illinois, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Failing and refusing to bargain with Local 853, Optical Workers Union, Retail, Wholesale and Department Store International Union, AFL-CIO, with respect to the effect on its employees of its decision to close its operations.

(b) Failing and refusing to make required contributions to the Union and Industry Pension Fund for the months of November and December 1977 and to the Illinois Optical Workers Insurance Trust for the month of December 1977, as required by the collective-bargaining agreement between it and the Union.

(c) Failing and refusing to remit to the Union the dues it withheld from its employees' paychecks for the month of December 1977, as required by the col-

lective-bargaining agreement between it and the Union.

(d) Failing and refusing to pay 1 week's pay to the employees that it permanently laid off on December 30, 1977, as required by the collective-bargaining agreement between it and the Union.

(e) Failing and refusing to pay the required portion of vacation pay owed to the employees that it permanently laid off on December 30, 1977, as required by the collective-bargaining agreement between it and the Union.

(f) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of their rights guaranteed under Section 7 of the Act.

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

(a) Make whole its employees by paying those employees who were laid off on December 30, 1977, when the Respondent terminated its operations, normal wages plus interest for the period in the manner set forth in the section of this Decision entitled "The Remedy."

(b) Upon request, bargain collectively with Local 853, Optical Workers Union, Retail, Wholesale and Department Store International Union, AFL-CIO, with respect to the effects on its employees of its decision to terminate its operations, and reduce to writing any agreement reached as a result of such bargaining.

(c) Make whole its employees, in the manner set forth in the section of this Decision entitled "The Remedy," for Respondent's unlawful failure to transmit the contributions to the Union and Industry Pension Fund for the months of November and December 1977, and to the Illinois Optical Workers Insurance Trust for the month of December 1977, as required by its collective-bargaining agreement with the Union.

(d) Remit to the Union the dues it withheld from the paychecks of bargaining-unit employees for the month of December 1977, plus interest, as set forth in the section of this Decision entitled "The Remedy."

(e) Make whole its employees by paying those employees who were laid off on December 30, 1977, when the Respondent terminated its operations, 1 week's pay plus that portion of the vacation pay to which the employee is entitled under article IV, sections 6 and 7, of the collective-bargaining agreement between the Union and the Respondent, plus interest, as set forth in the section of this Decision entitled "The Remedy."

(f) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all

other records necessary to analyze the amount of backpay due under the terms of this Order.

(g) Mail an exact copy of the attached notice marked "Appendix,"<sup>10</sup> to Local 853, Optical Workers Union, Retail, Wholesale and Department Store International Union, AFL-CIO, and to all the employees who were employed at its former place of business at 6 North Michigan Avenue, Chicago, Illinois, on December 30, 1977. Copies of said notice, on forms provided by the Regional Director for Region 13, after being duly signed by the Respondent's authorized representative, shall be mailed immediately upon receipt thereof, as hereinabove directed.

(h) Notify the Regional Director for Region 13, in writing, within 20 days from the date of this Order, what steps have been taken to comply herewith.

<sup>10</sup> In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

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

WE WILL NOT fail and refuse to bargain with Local 853, Optical Workers Union, Retail, Wholesale and Department Store International Union, AFL-CIO, with respect to the effect on our employees of our decision to close our operations.

WE WILL NOT fail and refuse to make required contributions to the Union and Industry Pension Fund for the months of November and December 1977, and to the Illinois Optical Workers Insurance Trust for the month of December 1977, as required by our collective-bargaining agreement with Local 853.

WE WILL NOT fail and refuse to remit to Local 853 the dues we withheld from our employees' paychecks for the month of December 1977 as required by our collective-bargaining agreement with Local 853.

WE WILL NOT fail and refuse to pay 1 week's pay to the employees that we permanently laid off on December 30, 1977, as required by our collective-bargaining agreement with Local 853.

WE WILL NOT fail and refuse to pay the required portion of vacation pay owed to our employees who we permanently laid off on December 30, 1977, as required by our collective-

bargaining agreement with Local 853.

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

WE WILL make our employees whole by paying those employees who were laid off on December 30, 1977, when we closed our operations, normal wages for a period specified by the National Labor Relations Board, plus interest.

WE WILL, upon request, bargain collectively with Local 853, Optical Workers Union, Retail, Wholesale and Department Store International Union, AFL-CIO, with respect to the effects on our employees of our decision to close our operations, and reduce to writing any agreement reached as a result of such bargaining.

WE WILL make whole our employees by trans-

mitting our contributions to the Union and Industry Pension Fund for the months of November and December 1977, and to the Illinois Optical Workers Insurance Trust for the month of December 1977, as required by our collective-bargaining agreement with Local 853.

WE WILL remit to Local 853 the dues we withheld from the paychecks of our employees for the month of December 1977, plus interest.

WE WILL make whole our employees by paying those employees who were permanently laid off on December 30, 1977, when we closed our operations, 1 week's pay, plus that portion of the vacation pay to which the employee is entitled, as determined by article IV, sections 6 and 7 of the collective-bargaining agreement with Local 853, plus interest.

MERRYWEATHER OPTICAL COMPANY