Computed Time Corporation *and* International Association of Machinists and Aerospace Workers, AFL–CIO. Cases 16–CA–6473 and 16–RC–7138

April 7, 1977

DECISION AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS FANNING AND JENKINS

On October 6, 1976, Administrative Law Judge Joel A. Harmatz issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief.[1] The General Counsel filed a brief in support of the Administrative Law Judge's Decision.

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 record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,[2] and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Computed Time Corporation, Arlington, Texas, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order.

IT IS FURTHER ORDERED that Case 16–RC-7138 be severed and remanded to the Regional Director for Region 16 for the purpose of opening and counting the ballots of voters whose challenges have been overruled and issuing a revised tally of ballots to the parties, and the appropriate certification based thereon.

[1] Respondent also has filed a request for review in Case 16–RC–7138 which we have treated as part of its exceptions

[2] Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc*, 91 NLRB 544 (1950), enfd 188 F.2d 362 (C A. 3, 1951) We have carefully examined the record and find no basis for reversing his findings.

DECISION

STATEMENT OF THE CASE

JOEL A. HARMATZ, Administrative Law Judge: Upon an original charge filed on February 20, 1976, a complaint was issued on April 23, 1976, which, as amended, alleges that Respondent violated Section 8(a)(1) of the Act by various coercive expressions on the part of named supervisors, surveillance of union activity, and the maintenance of a discriminatory no-solicitation rule, and, further, that Respondent violated Section 8(a)(3) and (1) of the Act by, on or about February 16, 1976, effecting the permanent layoff of 20 employees, and by discharging another employee on March 3, 1976. In its duly filed answer, Respondent denied that any unfair labor practices were committed.

Pursuant to a representation election petition filed in Case 16–RC–7138 on March 1, 1976, and a Decision and Direction of Election issued by the Acting Regional Director for Region 16 on April 12, 1976, an election by secret ballot was conducted on May 14, 1976, in the employee unit found to be appropriate. The results of that election showed that, of approximately 197 eligible voters, 204 valid ballots were cast, of which 83 were for Petitioner, 90 against, with 31 determinative challenges. No objections to conduct interfering with the election were filed. On June 2, 1976, the Regional Director for Region 16 issued a "Supplemental Decision, Order Consolidating Cases and Notice of Hearing" in which he concluded that all challenges raised issues best resolved by a hearing, and since issues concerning some 12 challenges were common to issues involved under the pending complaint in Case 16–CA–6473, the Regional Director ordered that said cases be consolidated for hearing.

Pursuant thereto, a consolidated hearing was conducted before me in Fort Worth, Texas, on June 14–17, 1976. After close of the hearing, briefs were filed by the General Counsel, the Respondent Employer, and the Charging Party Petitioner.

Upon the entire record in this proceeding,[1] including my observation of the witnesses while testifying, and consideration of the posthearing briefs, I find as follows:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Respondent Employer is a Texas corporation with a place of business located in Arlington, Texas, from which it is engaged in the assembly, sale, and distribution of electronic digital watches. During the calendar year preceding issuance of the complaint, a representative period, Respondent manufactured, sold, and distributed from said facility products valued in excess of $50,000, which were shipped directly therefrom to States of the United States other than the State of Texas.

[1] Respondent, on August 5, 1976, after submission of posthearing briefs, moved that the record be reopened to receive data as to the actual monthly units produced by Respondent during the first half of 1976. The General Counsel opposed said motion, asserting, *inter alia,* that the proffered data failed to qualify as either newly discovered or previously unavailable evidence The General Counsel's position is technically sound but, having examined the material offered by Respondent, and having had opportunity to consider it against the entire record, it is my conclusion that Respondent's motion, while not prejudicial to the General Counsel, includes matters of considerable aid to a just resolution of the primary issue presented in this case Accordingly, the record is hereby reopened to receive Respondent's submission, which is marked as Resp. Exh 12

The complaint alleges, the answer admits, and I find that Respondent Employer is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

The complaint alleges, the answer admits, and I find that the International Association of Machinists and Aerospace Workers, AFL–CIO, herein called the Union, is, and at all times material herein has been, a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The Issues*

1. Whether Respondent, through its agents and supervisors, interfered with, restrained, and coerced employees in the exercise of their Section 7 rights in violation of Section 8(a)(1) of the Act by coercively interrogating employees concerning union activity, by maintaining surveillance of a union meeting, by threatening to obtain a list of union supporters who would be the subject of adverse action, by soliciting employees to withdraw their support of the Union, and by maintaining and discriminatorily enforcing an invalid no-solicitation rule.

2. Whether Respondent, on February 16, 1976, violated Section 8(a)(3) and (1) of the Act by permanently laying off 20 employees in reprisal for union activity.

3. Whether Respondent violated Section 8(a)(3) and (1) of the Act by discharging Hoye Morris on March 3, 1976, because of his union activity.

B. *Background*

Computed Time Corporation is a wholly owned subsidiary of the Armin Corporation and operates from a single facility from which it is engaged in the design, manufacture, and sale of electronic digital watches. The entire production output of Computed Time is sold to another subsidiary of Armin Corporation, known as the E. Gluck Corporation.

Arthur W. Cruse is the president and founder of Computed Time Corporation. Production of digital watches by Respondent did not commence until the fall of 1974. Initially, consumer response to the new digital watch was most positive. Computed Time shared the market place success of this new product as is evidenced by the constant expansion of production it experienced during 1975. In November of that year, the Arlington plant turned out some 47,000 units, a new high in monthly output. As of January 1976, Computed Time's least expensive watch was produced at a cost of $32–$33 per unit, while retailing at a minimum price of $75. However, in January 1976 consistent with earlier reports, forecasting a downward trend in retail price levels of digital watches,[2] Texas Instrument (TI), the firm largely responsible for the revolution in price levels with respect to pocket calculators, announced the development and proposed sale of solid state digital watches at $19.95 retail, with delivery to commence in the second quarter of 1976.

Thereafter, in early February,[3] a representative of the Union made an initial contact with certain employees of Computed Time. This meeting was followed by a meeting on February 10, with some 10 employees attending. All present on that occasion signed cards and obtained authorization cards for circulation among fellow employees. The effort to broaden employee support of the Union commenced immediately after this meeting.

Nathaniel Jones, Respondent's vice president in charge of manufacturing, admits to his having received reports of union activity in the plant on Friday, February 13.

On Monday, February 16, a management decision to lay off 20 members of its work force was implemented by Jones.[4] This layoff is alleged by the complaint to have violated Section 8(a)(3) and (1) of the Act.

On March 1, the Union filed an RC petition in Case 16–RC–7138, seeking a unit of all production and maintenance employees.

On March 3, Hoye Morris was discharged following a confrontation with his supervisor, and his termination is set forth in the complaint as an additional act of unlawful discrimination.

Obviously, the most significant allegation in the complaint in terms of remedy and its impact on the question concerning representation is that involving the 20 employees laid off on or about February 16, 12 of whom cast challenged ballots in the election. Respondent contends that this layoff was based upon economic considerations, resulting from the announcement by TI of its production of a $19.95 digital watch. According to Respondent this required a downward revision of production schedules during a period in which significant changes had to be effected if its product were to remain competitive. Respondent claims that those responsible for the decision to effect the cutback in personnel had no knowledge of union activity. The General Counsel asserts that the layoff was in reprisal for union activity and, in the alternative, argues that, even if the layoff were found to be economically based, the selection of certain union supporters (Ann Hickey, Sally Buck, Soloma Gates, Darlene Webster, and Marge Peterson) was discriminatory and violative of Section 8(a)(3) and (1) of the Act.

C. *Interference, Coercion, and Restraint*

1. The no-solicitation rule

The Computed Time Corporation "Employee Handbook" includes the following:

> Soliciting employees for membership in organizations, sale of tickets, asking for donations, and similar acts are not permitted without the specific approval from management.

[2] The issue of "Business Week" dated October 27, 1975, contains an article entitled "Digital Watches, Bringing Watch Making Back to the U.S." Within that article was a statement to the following effect, "At the rate that U S production capacity is increasing, the $30 digital watch is a certainty next year, just as a $20 watch is in 1977."

[3] All dates referred to 1976 unless otherwise indicated.

[4] The employee handbook appearing in evidence as Resp. Exh. 9 states that the payroll period begins on Thursday and ends on Wednesday.

The General Counsel claims that this rule was maintained and discriminatorily enforced in violation of Section 8(a)(1).

Under established principles, the broad restriction embodied in the above rule is presumptively violative of Section 8(a)(1). The provision in question does not specifically exclude the solicitation of membership in a labor organization and quite reasonably would be understood by employees as including such activity, even if conducted on an employee's own time. Absent special circumstances, an employee's right to utilize nonworking time to engage in solicitation on behalf of a labor organization is guaranteed by the Act, and "an employer cannot predicate upon its own authorization the employee's exercise of the right under Section 7 to self-organization."[5] The limitation of the type involved here "must be presumed to be unreasonable impediment to self-organization and therefore discriminatory in the absence of evidence that special circumstances make the rule necessary in order to maintain production or discipline."[6] As Respondent has presented no evidence that special considerations justified such a broadly stated restriction on employee organizational rights, I find that Respondent violated Section 8(a)(1) of the Act by maintenance of the rule in question.[7]

2. Surveillance

On February 23, nonemployee union organizers handbilled the plant to announce a meeting scheduled for that evening.

Marty Johnston, a departmental supervisor, attended that meeting.[8] At the outset of the meeting, Union Representative Christian told those present "to be on the lookout for any person that is in management that might be spying on the meeting or in the meeting." At this point, Johnston was singled out. He asked if there was anything wrong with his attending the meeting. Christian indicated that there was, that it was a violation of the law, but that since he had seen everybody in the room, Johnston was told that the damage was done, and that as far as Christian was concerned nothing further would take place to be kept from the Company. Christian then asked employees if the presence of Johnston made anyone nervous. When a number responded in the negative, Johnston was permitted to remain.

In defense of the 8(a)(1) allegation, Respondent does not claim that Johnston's attendance at the meeting was privileged by any special justification. Instead, it is argued that the General Counsel's proof does not show that the presence of Johnston had a coercive impact upon employees in attendance and, further, that the evidence, viewed in its entirety, warrants a finding that Johnston "was invited" to attend the meeting. There is no merit in these contentions. The presence of management representatives at union functions has an inherent tendency to impede employees in the exercise of their self-organization rights. Such management activity violates Section 8(a)(1) of the Act, "regardless of what the actual effect of these activities by Respondent proved to be upon the employees."[9] It is true that the Board has held that attendance by a supervisor at an organizational meeting of employees "with their knowledge and consent" does not constitute unlawful surveillance.[10] However, contrary to Respondent, the evidence does not establish that Johnston's initial appearance at the meeting, which allowed the opportunity to observe employees having an early interest in concerted activity, was pursuant to any specific invitation by employee protagonists of the Union,[11] or by the Union.[12] When discovered at the meeting, his presence was in no sense condoned by the Union for, as Christian at that time stated, the damage had already been done. The fact that he was permitted to remain, under circumstances in which employees did not object, fails to alter the legal consequences of his initial appearance, and I find that Johnston's attendance thereat violated Section 8(a)(1) of the Act.[13]

[5] See *Fasco Industries, Inc*, 173 NLRB 522, 524 (1968); see also *Wagner Electric Corporation*, 216 NLRB 392, 393 (1975)

[6] See *Peyton Packing Company, Inc.*, 49 NLRB 828, 843–844 (1943). See also *Republic Aviation Corporation* v. *N.L.R.B*, 324 U.S. 793, 803–804 (1945)

[7] The General Counsel apparently abandoned the initial claim that said rule was *promulgated* in violation of Sec. 8(a)(1). The only evidence on this matter consisted of testimony by Nathaniel Jones that the rule was initially published in March or April 1975 On this testimony the promulgation issue would be time-barred by Sec 10(b) of the Act, since an event occurring more than 6 months prior to the filing of a charge.

The General Counsel's claim of discriminatory enforcement is also unsubstantiated by the evidence It does not appear that any employee was disciplined for violation of the rule, or indeed that any supervisor referred employees to this published restriction on the solicitation of union membership. Nor does it not appear that any representative of management made any direct effort to curtail the activities of employees engaged in solicitation on behalf of the Union. There is credible evidence that one lead supervisor, Patsy Green, prior to the layoff, told employees not to sign cards. However, I discredit the testimony of Soloma Gates, an untrustworthy witness, that Patsy Green made such a statement on the basis of management directives I do, on the other hand, credit the testimony of Peggy Wasser that Patsy Green came into her department, advising employees not to sign anything. It was my impression that Green's conduct in this regard was quite independent of the no-solicitation rule and was based on her own apprehension concerning union activity, and general opposition to it Although perhaps unlawful in other respects, I find that the credible testimony concerning Patsy Green is insufficient to establish that Respondent enforced the unlawful rule

[8] Leah Evans, a witness called by the General Counsel and a lead supervisor currently on Respondent's payroll, testified that, on arriving on the site of the meeting, Johnston was observed trying to enter the meeting hall through the front door. She indicated that she and others assisted his entry by directing him to the side door which was open.

[9] See *Gold Circle Department Stores*, 207 NLRB 1005, 1013 (1973).

[10] See *Preiser Scientific, Inc.*, 158 NLRB 1375, 1383 (1966); *J. W. Mays, Inc.*, 147 NLRB 942, 947–948 (1964); *Howard Aero, Inc.*, 119 NLRB 1531, 1534 (1958).

[11] The evidence that union supporters assisted his entry by directing Johnston to an unlocked door was hardly tantamount to an expression that his presence was desired.

[12] Respondent did not call Johnston as a witness.

[13] Other cases cited by Respondent are distinguishable Thus, in *Aldon, Inc*, 201 NLRB 579, 583 (1973), dismissal of the surveillance allegation occurred in a context of an employer's affirmative disavowal and discipline of a supervisor who attended a union meeting contrary to the company's rules In *Eldo-Craft Boat Co., Inc.*, 166 NLRB 280, 283 (1967), a like result was reached in circumstances strongly suggesting that the supervisor was in league with union supporters and that his attendance was at the behest of employees. Contrary to the Respondent these cases impose no burden upon the General Counsel to establish that the supervisor's presence was by instigation or direction of the employer, or that he reported what transpired at the meeting to the employer.

3. Interrogation and threats

a. *By Patsy Green*

The alleged unfair labor practice imputed to Respondent through Patsy Green is limited by the complaint to an instance of interrogation on or about February 16. The sole support for this allegation is derived from the testimony of alleged discriminatee Soloma Gates. While I have no doubt that Green during the period preceding the February 16 layoff told various employees that they should not sign union cards,[14] Gates was an unreliable witness, and I am unwilling to find unfair labor practices based on her uncorroborated testimony that Green questioned her as to her own and the attendance of others at a union meeting. Accordingly, I shall dismiss the allegation that Green coercively interrogated Gates in violation of Section 8(a)(1) of the Act.

b. *By Nathaniel Jones*

The complaint alleges that Respondent, through Nathaniel Jones, violated Section 8(a)(1) of the Act by coercive interrogation, by the solicitation of employees to sign a petition withdrawing their support from the Union, and by coercively threatening to obtain a list of employees who supported the Union.

Employee Shirley Lee testified that on Friday, February 13, at the close of work, Jones spoke to her privately, as she was leaving the plant, questioning her as to whether Lee knew about the cards and what was going on. Lee indicated that she did not know what Jones was referring to. Jones then indicated that he meant "the cards that were being passed out." Lee responded that she did not want to be involved "one way or another." According to Lee, Jones went on to state that he had good workers, and that Lee should tell the employees who had not signed cards to think before doing so and that he "should have had a layoff a long time ago, but he was trying to keep everybody." Lee further testified that Jones informed her that he knew that Sally Buck had signed a card and went on to state that "when the Union filed" he would request a list of names of the people and that he would know who filed or signed a card.

Jones admits to a conversation with Lee on February 13 but, as he could recall, their discussion was confined to Lee's request for additional overtime. Jones admits that Patsy Green had reported having been threatened by Soloma Gates because of her antiunion activity that same day. In connection with the Lee conversation, Jones stated that he had been "shaken" by the news received from Green and, in effect, states that he "may or may not have" referred to the Union in his subsequent conversation with Lee. I credit the testimony of Shirley Lee who at the time of the hearing was still on payroll status, and whose testimony struck me as straightforward and honest. Based thereon, I find that Respondent violated Section 8(a)(1) by Jones' questioning her as to the nature of the union activity, by his threat to obtain a list of union supporters, and, in the context of a layoff that subsequently occurred, by his reference to the fact that he had previously avoided taking such action against employees.[15]

In addition to the foregoing, the General Counsel points to the testimony of Peggy Wasser, a former employee of the Respondent who voluntarily quit, as to a conversation she had with Jones. According to Wasser, Jones advised her that there had been a lot of pressure about the Union and that he had a "secret list of people who had changed their minds about the Union." According to Wasser, Jones went on to state that, if Wasser knew any one that had changed their mind, or who was forced into signing a union card, to tell him and he would put their name on a list, and "when the Union business was over, he would know who was against the Company and who was for it." Jones testified that this conversation originated with and was limited to an inquiry by Wasser who, with another employee, Janie Rush,[16] sought information as to the binding nature of the union cards, and whether a signed card could be revoked. In this instance, I credit Jones over the uncorroborated testimony of Wasser. Wasser was not an impressive witness. It struck me as improbable that, if such a coercive technique had been utilized by Jones, it would have been so isolated that the General Counsel could not produce a single additional witness in corroboration of Wasser's account. Accordingly, having credited Jones, the 8(a)(1) allegation based on soliciting employees to withdraw union support shall be dismissed.

D. *The Alleged Discrimination*

1. The layoff of February 16

As heretofore indicated, following the union meeting of February 10,[17] those who attended began distributing authorization cards to employees at the plant and the organization drive was underway. Nathaniel Jones admits that on Friday, February 13, he received reports of union activity from two sources, namely lead supervisors, Sue Dunn and Patsy Green. Furthermore, I have credited testimony to the effect that Jones immediately after receiving such information engaged in coercive dialogue with subordinates, which included references to the possibility that the Company's no-layoff posture might well be changed, and that union supporters might well be adversely affected thereby.

On the following Monday, February 16, Respondent made the decision to lay off 20 employees. Notification could not be accomplished through a single meeting because all to be included in the layoff were not available. The largest meeting convened for that purpose took place

[14] See testimony of Peggy Wasser and Nathaniel Jones.

[15] Leah Evans, who at the date of the hearing continued in Respondent's employ as a lead supervisor, testified to a somewhat similar encounter with Jones on February 13 At that time, after Jones referred to a report that Evans had been involved in union activity, Jones told Evans that while business was slow everybody was still working, and he didn't have plans for a layoff, "all they had to do was to write for a list and they'd furnish them with one, and those would be the people who were laid off" Jones indicated that he had "no recollection or knowledge" of referring to a list in any way, but I credit Evans as the more reliable witness. The testimony of Evans is corroborative of Shirley Lee and evidences a consistent pattern of conduct on the part of Jones.

[16] Janie Rush was not called by either the General Counsel or Respondent.

[17] Of the 10 employees who attended that meeting, only Lena Parker, Ann Hickey, and Marge Peterson were included in the subsequent layoff

at the close of work on February 16. At that time, it is undisputed that Jones expressed dismay at having to carry out a reduction in force, but stated that, due to the economics of the industry, a reduction in the personnel force was necessary. He further advised the assembled group that they had been selected, and that he would not fight any compensation claims they might make. Also undisputed is the fact that Don Andrews, Respondent's vice president in charge of engineering, mentioned the availability of jobs at certain specific employers in the area who were involved in the electronics industry. In addition to the undisputed accounts of what was said, I find that Jones told the employees, on that occasion, that they could expect recall as work picked up in May or June of that year.[18]

In the period following the layoff, none were recalled. However, Respondent, commencing in the following month, began hiring new employees. During the period between the layoff and June 1976, Respondent hired more than 30 new employees to positions within the collective-bargaining unit. It is also noted that employee Linda Butler, who was actively on payroll status as of the date of the hearing, testified without contradiction that, in early April 1976, she had a conversation with Jim DeLario, her department supervisor, in which DeLario made reference to the amount of work on hand due to people who had quit. Butler indicated that she opined to DeLario that additional help was needed to which DeLario agreed, indicating that they were about "100 people short." Butler then asked why the Company did not begin hiring. DeLario indicated "They're going to as soon as this union matter is settled."

The foregoing *prima facie* substantiates the General Counsel's claim of discrimination. Nonetheless, Respondent contends that the layoff of February 16 was based entirely upon economic considerations and unrelated to any union activity. Specifically, it is argued in support of the defense that said layoff was an aspect of the Company's retrenchment in consequence of the competitive uncertainty created by introduction of the $19.95 TI digital watch. Little doubt can be held as to the complete revolution in the digital watch industry that would result from that announcement made by TI at the Chicago Trade Convention during the week of January 8, 1976. And in the light of recent experience in the pocket calculator field, there is no quarrel with expressions by Respondent as to reluctance on the part of retailers to invest in inventories of digital watches, as they had in the past. But aside from these inherently credible considerations, Respondent's defense rests upon the subjective accounts of Nathaniel Jones, Arthur Cruse, Tom Andrews, and Irving Gutin,[19] testimony which, as a whole, was unconvincing and lacking in support from objective facts.

Turning to the specific aspects of the defense, it is clear that in September 1975 Respondent projected a continued expansion in its output during the first half of 1976. At a meeting between Respondent's officials and representatives of Armin in that month, it was decided that, despite seasonal slacks in demand after Christmas, projected production in January and February 1976 would be 41,000 units in each month. According to Arthur Cruse, representatives of Armin had recommended a cutback in personnel after Christmas 1975 by as much as 40 percent, but he successfully argued against such a step, taking this position out of concern for loss of "trained employees."

Respondent concedes that during the latter part of 1975 those associated with the digital watch industry were aware that Texas Instruments was attempting to develop technology which would enable it to revolutionize the price structure of digital watches, as it had done previously with electronic calculators. Respondent had taken steps to develop a logic chip[20] from a vendor which would enable it to produce a much cheaper watch by the end of 1976. As of the fall 1975, it was generally felt, however, that a $20 digital watch at the retail level was at least a year away.

In early December 1975, separate meetings were conducted by Cruse with rank-and-file employees and supervisors in which he presented a rosy picture for 1976, with increased production, and little concern for competition from other manufacturers.[21]

During the week of January 8, at an electronic product trade show, TI announced it would shortly introduce a digital watch which would sell at $19.95 retail.

In response, on January 26, Cruse again met with representatives of Armin. At that time, they decided to reduce the 1976 production schedule to the level of 35,000 units monthly through May of that year. On January 28, pursuant to that meeting, Jones began communicating with vendors to place outstanding orders for parts in a hold category. Cruse testified that at the January 26 meeting the possibility of the reduction in manpower was discussed, but that no decision was made at that time.

Curiosity is aroused by this latter aspect of his testimony when considered in the light of Cruse's earlier testimony concerning the interrelationship between projected output and manpower levels. Thus, in other phases of his testimony Cruse quite logically explained that planned manpower levels were a function of planned output, indicating that each unit took one man-hour to produce, and creating the distinct impression that an equation existed whereby a rise or decline in monthly levels of output would entail a concomitant adjustment in the size of

[18] I discredit the denials of Jones and Andrews that such a statement was made or that the issue of recall was mentioned to the laid-off employees Their testimony seemed implausible and fit the pattern created by several other inherently unbelievable aspects of Respondent's testimony. The individuals selected for layoff were not informed as to the means of selection, though told that the layoff was based upon economic considerations Some of the individuals that attended that meeting had been employed by Respondent since late 1974, during the period shortly after Respondent commenced production of digital watches At a minimum, considering what transpired at the meeting, it is entirely unlikely that the employees on that occasion would not have raised the question of recall, had Respondent's officials not addressed themselves to that matter. I credit the testimony of Ann Hickey and Marge Peterson over that of Jones and Andrews, and find that those laid off were advised of the possibility of recall

[19] Gutin is the senior vice president of Armin Corporation, whose area of responsibility included Computed Time Corporation.

[20] The logic chip is the computer mechanism which is the basic "movement" in a digital watch.

[21] I credit Cruse's testimony that at such meetings, while he referred to a TI watch and those of other competitors, he had no knowledge at that time that TI was about to introduce a $19.95 watch. To the extent inconsistent with his testimony, I discredit testimony of Marge Peterson

the work force. It is difficult to understand why, on January 26, when Respondent committed itself to reduce output and took firm steps to reduce delivery of raw materials, no decision was made on a cutback in manpower. In my opinion certain other figures supply the answer here, and, indeed, go a long way in convincing me as to the unbelievable nature of the defense. Thus, Cruse testified that the direct work force at the time of the 2-week plant shutdown in December 1975 consisted of about 335 employees.[22] He goes on to relate that in January the size of that work force averaged about 300. Cruse testified that in January 1976 Respondent's output was 41,000 units. However, he was mistaken in this regard, as is evident from Respondent's Exhibit 12, which shows that the actual units produced in that month numbered 31,916. Thus, with the reduction of some 35 employees, in January 1976, Respondent had produced less output than proposed for February (35,000 units) in the revised output projection made at the meeting on January 26. It is difficult to imagine that this information was not available to Respondent through ordinary perpetual bookkeeping procedures prior to February 16. It strongly suggests that no reduction in manpower was contemplated at the January 26 meeting, because the reduction had already taken place through normal turnover.

Also during the month of January, according to Cruse, he contacted TI and successfully negotiated an arrangement whereby Respondent would purchase parts from TI at less cost than was available from existing vendors.[23] Respondent first received samples of the new TI chip on February 6. Cruse goes on to testify, however, that utilization of the new chip required the reengineering and retooling of the module then in production.

On Saturday, February 14, Cruse held a staff meeting with Jones, Perry Bales, Respondent's cost accountant, and Andrews. Cruse relates that at that time no decision was made about a layoff, but states that his staff was instructed to reevaluate all supervisors and employees as to their efficiency and productivity. Jones confirms that Cruse did not specifically talk about layoff at that meeting and, under his version, it appears that Cruse simply reiterated, as he had in the past, that the staff needed continually to be on the alert as to who the outstanding workers and the poor performers were, and to counsel the latter as necessary. Jones, Cruse, and Andrews all denied that Jones, on that occasion, reported his recently acquired knowledge that an organizational campaign was then underway.[24]

Jones testified that he first got instructions regarding a layoff on February 16, when he received a phone call from Cruse advising him to implement a plan whereby production would be reduced to the 35,000-unit monthly rate. Cruse testified that, on February 16, he went to New York City to further discuss the reduction in output program. Gutin allegedly told Cruse that a cutback in personnel of approximately 40 was necessary, and after some discussion Cruse was instructed by Gutin to terminate approximately 20 employees, with the balance of the reduction accomplished by attrition. Gutin and Cruse denied that they had any knowledge of the union campaign at the time of this determination.

According to Jones, upon receipt of the instruction from Cruse on February 16, he met with his departmental supervisors requesting that they submit names of people who were poor producers or not good performers. Jones, who claims to have held exclusive discretion as to the means of selecting those to be laid off, asserts that he did so on the basis of poor production, bad attitudes, absenteeism, etc. The supervisors then left the office, returned to their work area, and later individually returned with names of people in their area whom they considered to be the "poor performers."[25] Although Jones claims that those selected for layoff were poor workers, he concedes that they did not engage in any work derelictions proximate to their termination on February 16, and further admits that they would have remained in Respondent's employ thereafter but for the economic circumstances confronting Respondent.

Respondent's testimony in support of the assertion that the layoff was part of a continuing plan to reduce output was unworthy of belief. I am satisfied that as of February 16, due to the decline in the size of the work force, absences due to illness, the need for output of women's watches, and the high volume of work to be performed in the warranty department,[26] a heavy work burden[27] had been placed on available employees. As of February 16, the work force consisted of 284 employees, reflecting a decline of 51 in the number working at the end of December 1975. As indicated, I am convinced that, as of January 26, when revised production schedules were reached and immediately implemented by letters to vendors curtailing shipments of ordered raw materials, Respondent made no decision to effect a layoff, because its work force had already declined substantially. Other than the lapse of time and the intervening advent of union activity, there is no explanation as to what occurred after January 26 to prompt the sudden adjustment to the size of the work force of February 16, despite Respondent's own testimony that such adjustments are always factors inherent in any shift in planned output. The question left open by the defense is why, if on January 26 a revised production plan for February was adopted reducing planned output in that month by 6000 units, no effort was made to cut the

[22] Respondent curtailed production and closed the plant during the last two weeks of December 1975

[23] As an example of the cost savings resulting from this arrangement, the chips purchased from TI would cost $1 75 as compared to the approximate price of $4 50 for those previously in use.

[24] I was not persuaded by the explanation by Jones as to why he failed to report the union activity to Cruse As shall be seen, *infra,* I regard the testimony of Jones, Cruse, and Andrews that such matters were not discussed as incredible.

[25] Jones testified that five departmental supervisors submitted names for inclusion in the layoff He admits that the supervisors were not informed as to the number to be included in the layoff Coincidentally, however, all 18 names submitted by the supervisors were included in the layoff The figure 20 was reached by Andrews' addition of Marge Peterson and Jones' addition of Sonya Brown

[26] The warranty department is responsible for repairs on malfunctioning watches sold by the Company.

[27] Any interpretation of the testimony of Don Andrews to the effect that the warranty and ladies' watch operation were not hard pressed for overtime work until after the layoff is discredited. I was not impressed with Andrews' demeanor and this part of his testimony was argumentative if not contradictory. Indeed, the last paycheck of Marge Peterson, a lead supervisor on the ladies' watch line, shows that she worked 10-3/4 hours' overtime in the workweek abbreviated by the layoff

employee complement until half that month was history. It is in this context that I consider the testimony of Nathaniel Jones that neither at the staff meeting of February 14 nor at any time prior to the layoff did he inform Cruse as to the existing organizational drive. The testimony of Jones, Cruse, Andrews, and Gutin to the effect that the decision to eliminate 20 employees was made without knowledge of union activity was unworthy of belief.

Considering the entire record, convincing evidence warrants the conclusion that, as of January 26, no layoff was planned or intended because the required cutback in production was already facilitated by the natural decline in the size of Respondent's direct work force. Credible evidence establishes that, immediately prior to the layoff, Jones made reference to his efforts to avoid such actions in the past under conditions plainly implying to employees that the union activity spelled a change in management's philosophy in this regard. The layoff was made with knowledge of union activity, on a record demonstrating a lack of necessity for such action to accommodate the threat to Respondent's market posed by TI's inexpensive watch. On the entire record, including the inferences heretofore drawn and the testimony credited herein, the conclusion is inescapable that the layoff of February 16 was prompted by management's recently acquired knowledge of the union campaign then in progress.[28] Accordingly, I find that the following employees were terminated in violation of Section 8(a)(3) and (1) of the Act:

Wanda Wyrick	Ann Hickey
Gladys Martin	Lena Parker
Jess Parker	Soloma Gates
Shirley Lambert	Pat Ruckman
Elbie Wynn	Mary Hutchison
Liz Nailon	Barbara Maness
Doris Sanders	Sonya Brown
Sally Buck	Velma Houston
Mary Thomas	Vivian Raleigh
	Darlene Webster

However, the allegations of Section 8(a)(3) and (1) in the case of Marge Peterson shall be dismissed. Marge Peterson at the time of the events here in question occupied the position of lead supervisor or leadlady. At a preelection hearing in Case 16–RC–7138, the sole issue apparently litigated was the eligibility status of leadladies. Marge Peterson attended that hearing, but did not testify. At the time of that hearing, the charge in Case 16–CA–6472 naming her as a victim of discrimination was pending. By Decision and Direction of Election dated April 12, 1976, the Acting Regional Director for Region 16 concluded that the lead supervisors possess and exercise sufficient authority to be supervisors within the meaning of Section 2(11) of the Act. Accordingly, he found that the appropriate bargaining unit consisted of the following employees:

> All production and maintenance employees employed by the Employer at its Arlington, Texas, facility, excluding all lead supervisors (lead ladies), office clerical employees, professional employees, guards, and supervisors as defined in the Act.

Review of that decision was not sought.

At the instant hearing, the General Counsel, over Respondent's objection, was permitted to adduce evidence seeking to establish that Peterson, as a lead supervisor, was a rank-and-file employee. Although Respondent's claim that relitigation of the supervisory issue is foreclosed in the circumstances is lacking in merit, its assertion that the evidence on which the General Counsel relies warrants no difference in result is sustained. Thus, the only additional evidence offered in this proceeding in affirmative support of the claim that Peterson was not a supervisor was through her own testimony. The issue presented is a close one, which has heretofore been resolved by the Acting Regional Director upon a complete record and after an assessment of conflicting testimony. At the same time Peterson was not regarded as a reliable witness. She impressed me as having attempted in self-serving fashion to downgrade her authority, and her overall testimony reflected a tendency toward exaggerated argumentation and a lack of objectivity. Thus, the record made before me supplies no credible supplement to the matters previously heard in Case 16–RC–7138 and no basis exists on this record for reaching a contrary result. Furthermore uncontradicted testimony establishes that Peterson's duties and authority were no different from those possessed or exercised by the class of lead supervisors excluded from the unit by the Decision and Direction of Election in Case 16–RC–7138, and I find that she was a supervisor within the meaning of Section 2(11) of the Act. Accordingly, I shall dismiss the allegation that her termination violated Section 8(a)(1) and (3) of the Act.

2. The discharge of Hoye Morris

Morris was hired on March 20, 1975, and continued to work throughout his employment as a janitor up to his discharge on March 3, 1976.

Morris claims to have attended a union meeting[29] prior to his discharge and it does appear that he executed a union authorization card dated February 24, 1976.

When terminated, Morris was on probation for having on several occasions left the building on personal business on company time. His discharge resulted from a confrontation on March 3 with Dale Moyers, Respondent's maintenance supervisor.

[28] On this record, no different result is impelled by the fact that, of the employees affected by the layoff, direct testimony on this record indicates that only three were known by Respondent to have been engaged in activities on behalf of the Union Neither this nor the absence of any evidence as to whether or not 10 of the laid-off employees supported the Union overrides the convincing evidence which establishes that the layoff was unlawfully prompted by union considerations See, e g , *REA Trucking Company, Inc*, 176 NLRB 520, 525 (1969), enfd 439 F 2d 1065 (C A 9, 1971) *Howard Johnson Company*, 209 NLRB 1122 (1974)

[29] Morris could not recall the date of the union meeting in question, but indicated it was held in Grand Prairie, Texas. The Union conducted two meetings at that location, one on February 23 and a second on March 2 It was the February 23 meeting which opened with discussion as to the presence of Supervisor Marty Johnston Morris could not recall that any such incident occurred at the meeting he had attended Hence, in all probability Morris is speaking of the March 2 meeting. If that were the case, no basis exists for inferring that Respondent, prior to the incident of March 3, was mindful of any union sympathies on his part

Precisely what transpired on that occasion is the subject of a conflict in testimony. Based on the credited account of Supervisor Moyers, I find that, shortly after Morris came to work that morning, Moyers instructed Morris to clean out trash that had accumulated in the A-4 area. Morris continued to do other work and hence did not abide by this instruction. Moyers had been instructed by higher management to clear out the A-4 area and again told Morris that this job had to be done. Morris argued that the A-4 area should have been cleaned out by two part-time custodial employees that worked the previous evening. Moyers agreed but told Morris that he was to clean that area immediately. Morris, instead of proceeding to the A-4 area, obtained a union button from a nearby employee and then approached Moyers, while wearing the badge, stating, "Now I am a union member. I am going to join the Union." Moyers responded, "That's fine. That's your prerogative." Morris never did perform the work requested of him in the A-4 area, and the job was completed only when Moyers assigned two repair and maintenance technicians to that task. Morris reported what had transpired to Tom Andrews, suggesting that Morris be terminated. Andrews submitted that recommendation to Jones who approved and Morris was terminated that afternoon.[30]

Here, the General Counsel has not established by a preponderance of the evidence that Morris was terminated because of his manifestation of union support. The record furnishes no basis for concluding that the instruction given Morris on March 3 involved anything other than a normal supervisory request that he perform duties within the defined scope of his employment. The misconduct evidenced by his defiance of these instructions is not lessened in the eyes of the law through Morris' blandishment of union support in the course of this incident. The record indicates no more than a discharge, based legitimately upon the refusal of an employee to perform, under instruction, his normal duties. Accordingly, I shall dismiss the 8(a)(3) and (1) allegations relevant to the termination of Morris.

IV. THE ELIGIBILITY QUESTIONS IN CASE 16–RC–7138

Of the 31 challenges consolidated for resolution in this proceeding, as matters developed at the hearing, 14 were removed from dispute and are resolved on the basis of stipulations by the parties. Thus, the following employees who voted subject to challenge by direction of the Acting Regional Director, pursuant to stipulation of the parties, are deemed eligible as plant clericals and the challenges to their ballots are hereby overruled:

Anna Dean	Melba Mitchell
Karen Grigsby	Marie Pallett
Phillis Harwell	Linda Warren
Hellen Haefs	Pam Weaver
Gwendolyn Jarrett	Vera Westbrook

Furthermore, Petitioner, having challenged the ballots of three employees on grounds that they were supervisors within the meaning of the Act, later withdrew said challenges and, based thereon, the challenges to the ballots to the following employees are hereby overruled: Leona Mullins, Janie Rush, and Lucille Stinson.

Also at the hearing, the parties stipulated that *Barbara Stonum,* who had been challenged by the Board's agent because she was not on the eligibility list, was not an employee of Computed Time on the day of the election. Based on that stipulation, I find that Barbara Stonum was not an eligible voter and, accordingly, the challenge to her ballot is sustained.

Of the remaining challenges, that made to the ballot of *Marge Peterson* is sustained on grounds that she was, at all times material, a supervisor and in a class specifically excluded from the appropriate unit.

As I have found that the following employees were discharged on February 16, in violation of Section 8(a)(3) and (1) of the Act, all were eligible and the challenges to their ballots are hereby overruled:

Sonya Brown	Jesse G. Parker
Sally Buck	Lena Parker
Saloma Gates	Doris Sanders
Iglome (Ann) Hickey	Darlene Webster
Mary Hutchison	Wanda Wyrick
Gladys Martin	

Three additional employees *(Christine Holland, Peggy Gibson,* and *Linda Kaulaity),* were challenged by the Employer on grounds that, prior to the election, each had notified the Employer of their resignation. As an aid to resolution of their eligibility, the parties entered the following stipulation of fact:

> That these three employees resigned employment with the Company approximately one week prior to the election held in the subject case; and that their resignation at that time was unconditioned and was to be effective at the close of their shift on the actual election date; and that, in fact, these employees did work on the election date and did, pursuant to their previous resignation, leave work permanently and quit at the end of that particular day. That the three named employees, upon resigning or submitting their resignation, were asked if they would like to make it effective immediately; and that they each stated that they did not want to make it effective immediately and wanted to remain at work until after the representation election was over.

In this connection, the Employer acknowledges Board authority upholding the eligibility of employees who work throughout the eligibility period, despite their intention to quit immediately after the election. Here, however, the employer claims that, as the challenged voters announced their intention to quit 1 week prior to the election, they destroyed the community of interest necessary for their inclusion in the bargaining unit, and thereby forfeited their eligibility. It is apparent from the terms of the stipulation that all three challenged voters satisfied the Board's

[30] I credit Moyers over Morris I was not impressed with Morris' demeanor and he struck me as inclined to invoke deliberately a lack of recollection where straightforward testimony would expose the degree of his misconduct

eligibility test, having actively worked on the eligibility and election dates.[31] Respondent's plea for an exception to the Board's usual rules rests solely on the fact that the three challenged voters notified the employer a week in advance of their intention to quit after the election. Hence, under Respondent's view a distinction ought to exist between voters who quit immediately after casting ballots pursuant to a secretly held intention, and those who convenience the Employer by affording advance notice of their intention to quit. The community of interest, or lack thereof, is not perceptibly different in either case, and no basis exists for a departure from Board precedent herein. Accordingly, I find no merit in Respondent's contention and shall overrule the challenge to the ballots of *Christine Holland, Peggy Gibson,* and *Linda Kaulaity.*

The Petitioner contends that *Linda Yarborough* is ineligible because she is an office clerical. The Employer joins issue here, asserting that Yarborough is assigned to the material control department and, like others in that area, is eligible as a plant clerical.

The facts show that Yarborough is secretary to the material control department supervisor, Bill Reilly. Reilly's authority is limited to Yarborough and the employees heretofore deemed eligible as plant clericals by stipulation of the parties. The material control department is responsible for the ordering, receipt, control, issuance, recording, and logging of parts.

Yarborough has a duty station removed from the immediate work area of the material control employees, which is situated in what may be referred to as the front office area. She is hourly rated but, unlike the material control employees who are subject to the immediate supervision of Betty McWilliams, she is responsible solely to Reilly. Yarborough, unlike the acknowledged plant clericals, wears dress clothes rather than work clothes. The duties of Yarborough almost in their entirety are related to the mission of the material control department. Testimony indicates her primary function is to maintain communication between Computed Time and all vendors concerning tooling of new parts, delivery schedules of old parts, and the incorporating of all new purchase orders into presently effective purchase order language. Her work does result in contacts with other material control employees with Yarborough going into their work area, and vice versa, on a daily basis.

Under Board policy there is no hard and fast rule which enables ready delineation between plant and office clerical employees. Although the issue is not free from doubt, from my understanding of the evidence, taking full account of her mode of dress, the location in which she works, the differences in supervision, and my impression that the clerical aspects of her duties draw, if not exclusively, more heavily on secretarial skills than would be the case of plant clericals, I find that, like the other secretaries in her immediate work area, Yarborough is an office clerical employee, within a specifically excluded category in the appropriate unit. Accordingly, I shall sustain the challenge to her ballot.

[31] *Roy N Lotspeich Publishing Co.,* 204 NLRB 517 (1973), *General Tube Co,* 141 NLRB 411 (1963), enfd. 331 F 2d 751 (C A 6, 1964); *Personal Products Corporation,* 114 NLRB 959 (1955)

The final eligibility question relates to *Bill Lowry,* a draftsman assigned to Respondent's engineering department. Petitioner argues that this challenge be sustained, as Lowry's duties are more closely allied with those of the engineers who are considered to be professional employees. In contrast the Employer, in arguing his eligibility, claims that Lowry is not a technical employee and that, in any event, he has a sufficient community of interest with included employees to warrant his inclusion in the production and maintenance unit.

Lowry is subject to supervision distinct from that of production workers and his work consists of preparing drawings of new parts and tools to scale from predetermined specifications. He is the only draftsman in the plant and obviously is not a professional employee. Although there is reference in the record to the possibility that Respondent employed others, referred to as technicians, who may not have participated in the election, the evidence in this respect was extremely vague and, as far as can be determined from the record, Lowry is the only identified, nonprofessional, nonclerical rank-and-file employee in the plant. In my opinion, his community of interest with employees in the appropriate unit is inherently stronger than with the aforementioned unrepresented categories, and to deny him eligibility might well be to deny him the opportunity for union representation. Accordingly *Lowry* is found eligible to vote and the challenge to his ballot is overruled.

In conclusion, as challenges to the ballots of employees listed below have been overruled, it shall be recommended that these determinative ballots be opened and counted by the Regional Director for Region 16, that a revised tally be furnished the parties, and that an appropriate certification be issued.

Sonya Brown	Hellen Haefs
Sally Buck	Gwendolyn Jarrett
Saloma Gates	Melba Mitchell
Iglome (Ann) Hickey	Marie Pallett
Mary Hutchison	Linda Warren
Gladys Martin	Pam Weaver
Jesse C. Parker	Vera Westbrook
Lena Parker	Leona Mullins
Doris Sanders	Janie Rush
Darlene Webster	Lucille Stinson
Wanda Wyrick	Christine Holland
Anna Dean	Peggy Gibson
Karen Grisby	Linda Kaulaity
Phillis Harwell	Bill Lowry

Conclusions of Law

1. The Respondent Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. The Charging Party Petitioner is a labor organization within the meaning of Section 2(5) of the Act.
3. By discharging and refusing to reinstate the employees named below on or about February 16 in order to

discourage membership in the Union, Respondent has violated Section 8(a)(3) of the Act:

Wanda Wyrick	Ann Hickey
Gladys Martin	Lena Parker
Jess Parker	Soloma Gates
Shirley Lambert	Pat Ruckman
Elbie Wynn	Mary Hutchison
Liz Nailon	Barbara Maness
Doris Sanders	Sonya Brown
Sally Buck	Velma Houston
Mary Thomas	Vivian Raleigh
Darlene Webster	

4. Respondent violated Section 8(a)(1) of the Act by surveillance of a union meeting, by maintaining an unlawfully broad no-solicitation rule, by coercively interrogating employees concerning union activity, and by threatening to obtain a list of union supporters for use in connection with a layoff.

5. Respondent did not violate Section 8(a)(3) and (1) of the Act by discharging Marge Peterson on February 16, 1976, and discharging Hoye L. Morris on March 3, 1976.

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

THE REMEDY

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

It having been found that Respondent discriminatorily laid off the 19 employees named above and thereafter refused to reinstate them in violation of Section 8(a)(3) and (1) of the Act, I shall recommend that Respondent be ordered to offer them reinstatement to their former positions or, if not available, to substantially equivalent positions, without loss of seniority and other privileges, and to make them whole for any loss of pay resulting from the discrimination by payment to each a sum of money equal to the amount they normally would have earned as wages from the date of their discharge to the date of a bona fide offer of reinstatement, less net earnings during that period. Backpay shall be computed on a quarterly basis in the manner prescribed in *F. W. Woolworth Company*, 90 NLRB 289 (1950), and shall include interest at 6 percent per annum as provided in *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

The discriminatory discharges strike at the heart of the rights guaranteed by the Act and, accordingly, a broad order shall be recommended directing Respondent to cease and desist from in any other manner interfering with, coercing, or restraining employees in the exercise of their statutory rights.

Upon the foregoing findings of fact and conclusions of law, upon the entire record in this proceeding, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[32]

The Respondent, Computed Time Corporation, Arlington, Texas, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Maintaining a rule which precludes employees from soliciting on behalf of a labor organization during their nonworking time.

(b) Maintaining surveillance of union activity.

(c) Coercively interrogating employees concerning their own union activity and that of fellow employees.

(d) Threatening to obtain a list of union supporters and implying that such a list might be used in effecting a layoff.

(e) Discouraging membership in a labor organization by discharging, laying off, or in any other manner discriminating against employees because they joined or supported a labor organization.

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

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

(a) Offer the employees listed below immediate and full reinstatement to their former jobs or, if these positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights and privileges, and make them whole for lost earnings in the manner set forth in the section of this Decision entitled "The Remedy."

Wanda Wyrick	Ann Hickey
Gladys Martin	Lena Parker
Jess Parker	Soloma Gates
Shirley Lambert	Pat Ruckman
Elbie Wynn	Mary Hutchison
Liz Nailon	Barbara Maness
Doris Sanders	Sonya Brown
Sally Buck	Velma Houston
Mary Thomas	Vivian Raleigh
	Darlene Webster

(b) 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 recommended Order.

(c) Post at its Arlington, Texas, plant copies of the attached notice marked "Appendix."[33] Copies of said notice, on forms provided by the Regional Director for Region 16, after being duly signed by Respondent's

[32] In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102 48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

[33] In the event the Board's Order is enforced by a Judgment of the 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."

authorized representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director for Region 16, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

IT IS FURTHER ORDERED that Case 16–RC–7138 be severed and remanded to the Regional Director for Region 16 for the purpose of opening ballots of voters whose challenges have been overruled and, thereafter, to issue a revised tally of ballots to the parties and the appropriate certification.

APPENDIX

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

After a hearing in which all sides had the opportunity to give evidence, the National Labor Relations Board has found that we violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

The Act gives all employees these rights:

To engage in self-organization
To form, join, or help a union
To bargain collectively through a representative of your own choosing
To act together for collective bargaining or other mutual aid or protection
To refrain from any or all of these things.

WE WILL NOT do anything that restrains or coerces you with respect to these rights.

WE WILL NOT lay off, discharge, or in any other manner discriminate against employees for joining or supporting International Association of Machinists and Aerospace Workers, AFL–CIO, or any other labor organization.

WE WILL NOT maintain a rule prohibiting you from engaging in solicitation on behalf of any labor organization during your nonworking time.

WE WILL NOT threaten to obtain a list of union supporters for the purpose of taking adverse action against union sympathizers.

WE WILL NOT interrogate our employees concerning their union activities or the union activities of other employees.

WE WILL offer full reinstatement to the employees listed below and give them backpay, plus 6-percent interest.

Wanda Wyrick
Gladys Martin
Jess Parker
Shirley Lambert
Elbie Wynn
Liz Nailon
Doris Sanders
Sally Buck
Mary Thomas
Ann Hickey
Lena Parker
Soloma Gates
Pat Ruckman
Mary Hutchison
Barbara Maness
Sonya Brown
Velma Houston
Vivian Raleigh
Darlene Webster

COMPUTED TIME CORPORATION