**Southwestern Bell Telephone Company** *and* **Communications Workers of America, Local 12222, AFL-CIO.** Cases 23-CA-9476-1 and 23-CA-9476-3

30 September 1985

## DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS DENNIS AND JOHANSEN

On 12 July 1984 Administrative Law Judge Leonard M. Wagman issued the attached decision. The Respondent filed exceptions and a supporting brief, the Charging Party filed a brief in support of the judge's decision, and the General Counsel filed a brief in support of the judge's decision and an answering brief to the Respondent's exceptions.[1]

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions[2] and to adopt the recommended Order.

[1] The Respondent excepts to the judge's finding that the Respondent untimely raised the issue of deferral to the grievance and arbitration mechanism of the parties' collective-bargaining agreement We find no merit to this contention because the Respondent has not affirmatively agreed, either at the hearing or in its exceptions, to waive any timeliness provisions of its grievance-arbitration clause or, indeed, to arbitrate this dispute at all See *United Technologies Corp*, 268 NLRB 557, 560 fn 2 (1984), *Garland Distributing Co*, 234 NLRB 1275, 1280 (1978)

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

[2] Our dissenting colleague argues that "special circumstances" privileged the Respondent's removal of the "Definition of a Scab" from the Union's bulletin boards The Respondent alleges that the notice was disruptive but cites only evidence that the employees were "milling around" or "talking in huddles" instead of working independently at their stations as they normally did Their supervisors, however, did not tell the employees to go back to work We cannot conclude that this "unusual" employee behavior reasonably signaled a serious threat to discipline, especially without some indication that the Respondent asked employees to return to their seats See *Portage Plastics Co*, 163 NLRB 753, 759 (1967) The supervisors who were responsible for the removal of the notices also tried to justify their actions on the basis that they had each been told by a single employee that there was something distasteful on the bulletin board An employer, however, does not prove "special circumstances" merely by reference to the sensibilities of one or two employees

Our dissenting colleague presumes animosity between employees arising from the decision of a number of employees to cross the picket line during the recent strike in finding that a notice critical of the nonstrikers was likely to provoke a confrontation, citing *United Aircraft Corp*, 134 NLRB 1632 (1961) *United Aircraft* is distinguishable, as there, unlike here, the strike was accompanied by mass picketing and violence prompting the General Counsel to obtain a 10(j) injunction Nor can we, as the dissent does, equate maintaining a notice on a bulletin board with wearing a pin bearing a slogan, the danger of "confrontation" in the two situations is entirely different

We also find *Southwestern Bell Telephone Co.*, 200 NLRB 667 (1972), cited by the judge, to be distinguishable. There, unlike here, the slogan at issue could be construed, and was construed, as obscene

276 NLRB No. 110

## ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Southwestern Bell Telephone Company, Houston, Texas, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

CHAIRMAN DOTSON, dissenting.

The judge concluded that the Respondent violated Section 8(a)(1) of the Act by removing Jack London's "Definition of a Scab" from two union bulletin boards, by informing an employee it had removed the notice, and by threatening to discipline the same employee if she reposted it and another employee if he refused to remove it. The Respondent argues that under the circumstances its efforts to ensure that the notice was removed and was not reposted were not unfair labor practices. I agree.

It is well established that unions have no statutory right to post notices on an employer's premises. See *Container Corp. of America*, 244 NLRB 318 fn. 2 (1979). The Act protects such posting of union notices to the extent that where, as here, an employer allows a union unrestrained access to its bulletin boards for the posting of notices, the employer violates Section 8(a)(1) if it removes a notice it merely finds distasteful. E.g., *Tempco Mfg. Co.*, 177 NLRB 336, 342 fn. 20, 348 (1969); *Container Corp. of America*, supra.

The Supreme Court has recognized, however, that employers have an "undisputed right . . . to maintain discipline in their establishments" which under some circumstances may limit the exercise of the employee rights guaranteed by Section 7. *Republic Aviation Corp. v. NLRB*, 324 U.S. 793, 797–798 (1945). Accordingly, the Board has found "special circumstances" to exist privileging an employer's ban on otherwise protected activity in the workplace where objective evidence supports the employer's belief that the ban was necessary to maintain decorum and discipline among its employees. *Midstate Telephone Corp.*, 262 NLRB 1291, 1292 (1982). I find that the Respondent has urged facts in its exceptions and brief that are supported by the record and constitute "special circumstances" privileging its response to the posting of the "Definition of a Scab."

In *United Aircraft Corp.*, 134 NLRB 1632 (1961), an employer, in an effort to promote harmony in its plant, banned the wearing of "Club 9" pins signifying that the wearer had stayed away from work for the entire 9 weeks of a recent, embittered strike during which two-thirds of the employees eventually crossed the picket line. The Board con-

cluded that the ban on the pins and the suspension of an employee until he agreed not to wear one did not violate Section 8(a)(1) because the circumstances of the strike rendered entirely reasonable the employer's apprehension that the pins would promote disorder and engender further divisiveness between strikers and nonstrikers. Id. at 1634–35. Here, also, the employees of the departments in which the "Definition of a Scab" was posted and removed had recently gone out on strike, and between one-third and one-half of these employees had crossed the picket line. That this would cause animosity between strikers and nonstrikers is a well-known fact of labor-management relations. *United Aircraft*, 134 NLRB at 1639. The "Definition of a Scab" was posted at both locations within a few days of the end of the strike, allowing little time for ill will to dissipate.

Although the Respondent presents no evidence that the strike here was marked by picket line violence like the strike in *United Aircraft*, there is another significant circumstance present here but not present in that case which fortifies the Respondent's belief that the removal of a "Definition of a Scab" was necessary to maintain discipline. Unlike the innocuous "Club 9" pin, the "Definition of a Scab" is on its face provocative and inflammatory.

In *Caterpillar Tractor Co.*, 113 NLRB 553 (1955), the Board held unlawful an employer's ban on "Don't be a Scab" buttons worn by union members during a membership drive because the employer's fear that the buttons would be so offensive to nonunion employees that violence or disruption of discipline could reasonably be expected to result from their display was not a "special circumstance" justifying infringement on employee Section 7 rights. The Seventh Circuit denied enforcement of the Board's decision, finding that the employer's anticipation that the "Scab" button would prove disruptive of employee harmony and discipline was fully justified. *Caterpillar Tractor Co. v. NLRB*, 230 F.2d 357 (7th Cir. 1956). The court explained its holding as follows:

> [I]n its application to organizational activities, the protective mantle of Section 7 is tempered by the employer's right to exact a day's work for a day's pay and to maintain discipline, and does not reach activities which inherently carry with them a tendency toward, or a likelihood of, disturbing efficient operation of the employer's business. Perhaps no greater disruptive force can be found in the field of labor relations than that innate in the application of the term "scab" to one employee by his fellow workman. [Id. at 358, 359.]

The Board based its decision in *Caterpillar Tractor* on its opinion that the word "scab" has more than one meaning and when used in the context of a membership drive was no more opprobrious than other slogans permitted by the respondent, such as "Don't be a Free Rider." Here, in contrast, the text of "Definition of a Scab" leaves no doubt that the word is meant to convey its most insulting and opprobrious meaning. (As the text is printed in toto in the judge's decision, it is unnecessary to repeat it here.) It takes no more than common sense to conclude that the "Definition of a Scab" was likely to provoke confrontations between striking and nonstriking employees and to prolong ill will between the two groups.[1]

The General Counsel argues that the Respondent's "business justification" defense must fail because it did not prove that actual confrontation, disturbance, or violence occurred as a result of the posting of the "Definition of a Scab." To the contrary, the Respondent was entitled to prevent the deleterious consequences the posting might reasonably be expected to produce under the circumstances. *Maryland Drydock Co. v. NLRB*, 183 F.2d 538, 541 (4th Cir. 1950). It "was under no compulsion to wait until resentment piled up and the storm broke before it could suppress the threat of disruption by exercising its right to enforce employee discipline." *Southwestern Bell Telephone Co.*, 200 NLRB at 671 (quoting *Caterpillar Tractor Co.*, 230 F.2d at 359). To conclude that "special circumstances" exist only where actual confrontation or breakdown of discipline has already occurred is not a proper accommodation of the employer's right to maintain discipline in its establishment. *Virginia Electric & Power Co. v. NLRB*, 703 F.2d 79, 83 (4th

[1] That the notice was construed as offensive by employees is borne out by the testimony of the supervisors who presided over its removal Supervisor Bayarena testified that the notice was first called to his attention by employee Chasen, who told him there was a notice on the bulletin board that was causing animosity among the clerks Supervisor Vienneau testified that he decided to observe the effect of the notice on the work force on the complaint of an employee that there was something on the bulletin board that should not be there, and that he took steps to see that the notice was removed only after hearing a group of employees agreeing that it was "against God's will" and "nobody should say those things" Both supervisors testified that the notice caused an unusual stir among the employees

I find that *Letter Carriers v Austin*, 418 U S 264 (1974), cited by the judge in support of his decision, is inapposite The Court's discussion of the "Definition of a Scab" in that case concerned whether it was actionable as defamation on the theory that it was a falsehood uttered knowingly or with reckless disregard of the truth In *Cambria Clay Products Co*, 106 NLRB 267 (1953), cited by the Court in the course of its discussion as establishing that the Board has held that the use of the "Definition of a Scab" is permissible under Federal law, the Board merely rejected an employer's claim that the circulation of this "scurrilous" literature justified its refusal to reinstate striking employees That the Board has held that the "Definition of a Scab" is not per se unprotected because of its scurrilous content has no bearing on whether it is likely to disrupt production and discipline

Cir. 1983). Accord: *R. H. Macy & Co. v. NLRB*, 462 F.2d 364, 371 (5th Cir. 1972).

To summarize, I find that the provocative and inflammatory nature of the notice itself coupled with its introduction into an atmosphere of naturally strained employee relations resulting from the decision of a substantial number of employees to cross the picket line during a recent strike constitutes special circumstances justifying the Respondent's removal of the notice. Cf. *R. H. Macy & Co. v. NLRB*, 462 F.2d at 368–369 (provocative nature of union campaign button and atmosphere of tension between pro- and antiunion factions substantiated management's fear that the button was likely to cause conflict between employees).

Accordingly, I would dismiss the complaint.

*John A. Ferguson, Esq.*, of Houston, Texas, for the General Counsel.
*Mark Johnson* and *James M. Shatto, Esqs.*, of Houston, Texas, for the Respondent.
*Robert W. Rickard, Esq. (Wheat & Rickard)*, of Houston, Texas, for the Charging Party.

## DECISION

### Statement of the Case

Leonard M. Wagman, Administrative Law Judge. On original charges filed by the Communications Workers of America, Local 12222, AFL–CIO (the Union), in Cases 23–CA–9474 and 23–CA–9476–1 on September 30 and in Case 23–CA–9476–3 on October 3, 1983, and an amended charge filed in Case 23–CA–9474 on November 2, 1983, the Regional Director of the National Labor Relations Board (the Board) for Region 23 issued an order consolidating cases, a consolidated complaint and a notice of hearing dated November 7, 1983. The complaint alleges that the Company, Southwestern Bell Telephone Company, violated Section 8(a)(1) of the National Labor Relations Act by removing Jack London's "Definition of a Scab" from the Union's bulletin boards, warning that it did not belong there, directing employees to remove it from the Union's bulletin boards, threatening to enforce company rules more strictly, threatening suspension of employees, and threatening two employees with disciplinary action, all because the employees distributed, posted, and reposted Jack London's "Definition of a Scab" on union bulletin boards located on company premises.[1] As amended at the hearing, the complaint alleges that the Company violated Section 8(a)(1) of the Act by removing "Definition of a Scab" from the Union's bulletin boards, warning employees that that commentary did not belong on the Union's bulletin boards, and directing employees to remove that commentary from the Union's bulletin boards and threatening employees with discipline if they posted or reposted "Definition of a Scab" on the Union's bulletin boards. In its answer, the Company denied commission of the alleged unfair labor practices. I heard these cases at Houston, Texas, on February 14, 1984.

On the entire record in this case, on my observation of the witnessess, and on consideration of briefs filed by the General Counsel, the Charging Party, and the Company, I make the following

### Findings of Fact

#### I. The Company's Business

The Company is, and has been at all times material herein, a Missouri corporation with its principal office located in St. Louis, Missouri, and is a communications common carrier providing telephone service and other communications services in the States of Texas, Arkansas, Oklahoma, Kansas, and Missouri. During the past 12 months, a representative period, the Company, in the course and conduct of its business operations, received revenues in excess of $100,000. The Company admits, and I find, that it is now, 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

#### II. The Labor Organization Involved

The Company admits, and I find, that the Union is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

#### III. The Request for Deferral to Arbitration and Contractual Grievance Procedures

Citing the Board's decision in *United Technologies Corp.*, 268 NLRB 557 (1984), the Company contends that the issues raised by the complaint are matters which should be resolved under the grievance procedure established in its contract with the Union. The Company, however, made no affirmative plea in its answer to the complaint that the Board should defer these issues to arbitration and did not raise the issue of deferral at the trial. The Company waited until its brief to me to raise deferral for the first time. I find, in accordance with established Board policy, that the Company's request is untimely. *Conval-Ohio, Inc.*, 202 NLRB 85, 87 (1973). Accordingly, the Company's request is denied.

#### IV. The Alleged Unfair Labor Practice[2]

##### A. *The Facts*

On August 6, 1983,[3] the collective-bargaining agreement between the Company and the Union expired. Two days later, the Union called a strike at the Company's facilities, including those at 3303 Weslayan, in Houston, Texas. The strike ended on August 28 with the signing of a new 3-year agreement. The following day, employees began returning to work. During the strike, a sub-

[1] At the hearing, I granted the General Counsel's motion to withdraw the allegations of the complaint in Case 23–CA–9474 which alleged that the Company violated Sec. 8(a)(1) of the Act by threatening to enforce its rules more strictly and suspend employees who distributed copies of "Definition of a Scab"

[2] Except as noted below, no issues of credibility were raised The essential facts are not disputed

[3] All dates referred to occurred in 1983.

stantial number of bargaining unit employees at 3303 Weslayan continued to work behind the Union's picket line.

On September 2, the Union distributed material to its stewards for posting on its bulletin boards at the Company's facilities including the following commentary by Jack London:

> DEFINITION OF A SCAB
>
> After God finished the rattlesnake, the toad, and the vampire, he had some awful substance left with which he made a SCAB. A SCAB is a two-legged animal with a corkscrew soul, a water-logged brain, and a combination backbone made of jelly and glue. Where others have hearts, he carries a tumor of rotten principles.
>
> When a SCAB comes down the street men turn their backs and angels weep in Heaven, and the devil shuts the gates of Hell to keep him out. No man has the right to SCAB, so long as there is a pool of water deep enough to drown his body in, or a rope long enough to hang his carcass with. Judas Iscariot was a gentleman . . . compared with a SCAB; for betraying his master, he had the character to hang himself—a SCAB hasn't.
>
> Esau sold his birthright for a mess of pottage. Judas Iscariot sold his Savior for thirty pieces of silver. Benedict Arnold sold his country for a promise of a commission in the British Army. The modern strikebreaker sells his birthright, his country, his wife, his children and his fellow men for an unfulfilled promise from his employer, trust or corporation.
>
> Esau was a traitor to himself. Judas Iscariot was a traitor to his God. Benedict Arnold was a traitor to his country.
>
> A strikebreaker is a traitor to himself, a traitor to his God, a traitor to his country, a traitor to his family and a traitor to his class.
>
> THERE IS NOTHING LOWER THAN A SCAB

Union Steward Cora Duncan immediately posted "Definition of a Scab" along with another article praising the strikers and criticizing those who worked behind the picket line, entitled "From Bessie's Desk," on a union bulletin board in the computer terminal room, adjacent to Room 1002 at the Company's 3303 Weslayan facility. A chief steward, employee Anita Miller, left the articles for Duncan with a note requesting that she post them.

Duncan has been responsible for posting material on the union bulletin board in the computer terminal room since she became the union job steward in 1982. Duncan had previously posted campaign literature of candidates for union office, notices of union meetings, and articles from union newsletters on this bulletin board. She has also removed comic strips from the bulletin board. Prior to September 2, no company supervisor had ever told Duncan what she could or could not post on the Union's bulletin board. Nor had any company supervisor ever removed anything from this board prior to September 2.

At the hearing, I accepted a stipulation that company counsel were not aware of any company rules concerning the posting of literature on the Union's bulletin boards on the Company's premises. The testimony of the Company's supervisors reflected the absence of any such rules. The collective-bargaining agreements in effect since 1980, covering the Company's employees, contain no provisions regarding the Union's bulletin boards at the Company's facilities.

During the afternoon of September 2, Company Supervisor Joe Bayarena saw several employees near the bulletin board, apparently reading the posted articles. He removed the "Definition of a Scab" and deposited it in a garbage can. Duncan noticed the article had been removed, and asked Bayarena where it was. Bayarena told her he had removed it, balled it up, and thrown it into the garbage can.

Duncan took the sheet from the can, then got another copy from her desk and hung it on the board. Bayarena promptly snatched this copy down, telling Duncan "this mess [isn't] going to hang up here." He then specifically prohibited her from posting another copy and warned her of disciplinary action if she did so.[4] Duncan called Chief Steward Miller, who spoke to Bayarena and requested that he leave the literature on the bulletin board. Bayarena told Miller that the "Definition of a Scab" had no business on the board and was causing animosity among the clerks.

A half-hour later, Supervisor Linda Trevino informed Duncan that Second Line Supervisor Ralph Cochran wanted to see her. Cochran had a copy of "Definition of a Scab" in his hand as he told Duncan, "We're not going to have this mess hanging in this office," in the presence of Trevino and Bayarena. Cochran also warned Duncan that Bayarena could discipline her "for insubordination." Duncan asked to be excused and upon returning to her desk called Miller again.

Fifteen minutes later, Trevino told Duncan, "We would like to see you for five minutes." Duncan told Trevino that she did not want to go back to Cochran's office. However, she complied upon Trevino's assurance that the return to Cochran's office would take only 5 minutes, long enough to receive an apology. Cochran then asked Duncan to tell her side of the incident. Cochran apologized as did Bayarena for the way Bayarena had treated Duncan in front of the employees. Cochran did not retract his support for Bayarena's action in removing the article and preventing its reposting.

On September 1, Union Job Steward Milton Musgrove posted a copy of "Definition of a Scab" on a union bulletin board located in a breakroom next to Rooms 208–209, the switching control center at the Company's 3303 Weslayan facility. Employee Musgrove was responsible for posting material on this bulletin board from 1980 through November 1983. As a matter of practice, Musgrove posted on the same board notice of union meetings, listings of job vacancies provided by the Union, lists of

[4] Contrary to Duncan's testimony, Bayarena specifically denied mentioning "insubordination" in his remarks to her. However, this denial did not cast any doubt upon the remainder of her testimony that he warned her "If you put up another one up there, I'll get you"

union officers' names, announcements for an employee charitable organization, and the campaign material of candidates for union office. Occasionally, Musgrove removed from the board cartoons which had been posted by employees. Prior to September 1, no supervisor had ever told Musgrove what he could or could not post on the union bulletin board.

"Definition of a Scab" remained on the union bulletin board in the switching control center breakroom until about 4 p.m., September 1. About that time, Company Supervisor Wesley Vienneau directed Musgrove to remove the "Definition of a Scab." Musgrove said he did not wish to do as directed. Vienneau removed it as Musgrove watched.

The following day, before 7 a.m., "Definition of a Scab" again appeared on the bulletin board. Company Supervisor Thelmon (Tom) Davis summoned Musgrove to his office at approximately 8 a.m. and told him to take down the "Definition of a Scab" from the Union's bulletin board. Musgrove protested that he did not put it up and he should not have to take it down. Davis asked for Musgrove's building pass and key, whereupon Musgrove requested permission to make a telephone call. After consulting a union district steward, Musgrove removed the "Definition of a Scab." Musgrove again told Davis it was unfair that he had to remove the article when he had not posted it. Davis told Musgrove that he "didn't want trash like that posted."

### C. *Analysis and Conclusions*

The General Counsel and the Charging Party contend that the Company violated Section 8(a)(1) of the Act by removing "Definition of a Scab" from union bulletin boards and by threatening employees with punishment if they posted or reposted London's commentary. The Company denies that it violated the Act on the ground that the posting of Jack London's pejorative appraisal of nonstriking employees had disrupted the discipline of its employees and thus was beyond the protection of Section 7 and Section 8(a)(1) of the Act.[5]

The Board has recognized "that the use of an employer's bulletin board by a union for union purposes is not generally protected activity under the Act." *Container Corp. of America*, 244 NLRB 318, 321 (1979). However, when an employer provides bulletin board space to a union, the union's use of the board takes on the protection of the Act to the extent that the employer "may not thereafter discriminate against an employee who posts a union notice which meets the employer's rule or standard but which the employer finds distasteful." *Nugent Service*, 207 NLRB 158, 161 (1973). Accord: *Container Corp. of America*, supra. Nor may the employer remove union literature from the bulletin board because it contains insulting material if it is otherwise protected by the Act. Ibid.

The Board has also held that an employer may lawfully request that employees remove offending slogans from their workplace in the interest of "maintaining discipline and harmonious employee-employer relations." *Southwestern Bell Telephone Co.*, 200 NLRB 667, 671 (1972). Thus, the Board has adhered to the principle expressed by the Supreme Court in *Republic Aviation Corp. v. NLRB*, 324 U.S. 793, 797–798 (1945), that the Board is charged with "working out an adjustment between the undisputed right of self-organization assured to employees under [Section 7 of the Act] and the equally undisputed right of employers to maintain discipline in their establishments."

Here, I find that the purpose of posting the "Definition of a Scab" was to tell those unit employees who had deserted the strike that the Union viewed them as having been disloyal to their colleagues. Indeed, a substantial number of employees had continued to work behind the picket line. The Union's interest in strengthening the employees' support for future economic strikes motivated it to praise those who had supported the recently ended economic strike and scorn those who had not.

Prior to the appearance of "Definition of a Scab," the Company had not imposed any limitations on the Union's use of its bulletin boards on the Company's premises. Therefore, the unit employees who supported the Union by posting the "Definition of a Scab" were protected by Section 7 of the Act unless the message in that commentary was likely to precipitate a disruption of discipline. *Southwestern Bell Telephone Co.*, supra.

In *Southwestern Bell*, 200 NLRB at 670, the Board found that the wearing of sweatshirts bearing the slogan "Ma Bell is a Cheap Mother" was unprotected because it was an insult directed at management. The Board went on to find that the constant appearance of this shirt at the workplace was likely to spread discord and bitterness between the employees and their supervisors. Ibid. The facts in the instant case distinguish it from *Southwestern Bell*. Here, the controversial language was not worn on a shirt which would be constantly in view, but was displayed on bulletin boards. More importantly, the language was not directed at the Company or its management. Thus, it was not likely to cause discord and bitterness between employees and supervisors. These factors persuade me that the result in *Southwestern Bell* is not warranted here.

Looking to the Supreme Court's decision in *Letter Carriers Local 496 v. Austin*, 418 U.S. 264 (1974), I find support for my conclusion that the employees' posting of "Definition of a Scab" on the Union's bulletin boards at the Company's premises was protected under Section 7 of the Act. For after reaffirming its view that the use of "scab" in labor disputes is entitled to the proctection of Section 7 of the Act (id. at 283), the Court commented directly on Jack London's "Definition of a Scab." Id. at 285–286. The Court held:

> Jack London's "definition of a scab" is merely rhetorical hyperbole, a lusty and imaginative expression

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[5] Sec 7 of the Act provides in pertinent part

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection

Sec 8(a)(1) of the Act provides in pertinent part

It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7

> of the contempt felt by union members towards those who refuse to join. . . . Indeed, we note that the NLRB has held that the use of this very "definition of a scab" is permissible under federal law. *Cambria Clay Products Co.*, 106 N.L.R.B. 267, 273 (1953), enforced in pertinent part, 215 F.2d 48 (C.A. 6 1954).

From the foregoing, I find that the Company interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act, and therefore violated Section 8(a)(1) of the Act, when Supervisor Bayarena removed "Definition of a Scab" from the Union's bulletin board, when he told employee Cora Duncan that he had removed it, and when he warned her that she would be disciplined if she again posted that literature on the Union's bulletin board. I also find that Bayarena violated Section 8(a)(1) of the Act when he told Chief Steward Anita Miller that "Definition of a Scab" should not be posted on the Union's bulletin boards. I also find that the Company violated Section 8(a)(1) of the Act when Supervisor Ralph Cochran told employee Cora Duncan, in substance, that he would not permit "Definition of a Scab" to be posted on the Union's bulletin board and warned her of disciplinary action because she had attempted to repost that literature on the Union's bulletin board. I further find that the Company violated Section 8(a)(1) of the Act when Supervisor Wesley Vienneau directed employee Milton Musgrove to remove "Definition of a Scab" from the Union's bulletin boards, and again when Vienneau himself removed that literature. Finally, I find that the Company violated Section 8(a)(1) of the Act when Supervisor Thelmon (Tom) Davis directed employee Milton Musgrove to remove "Definition of a Scab" from the Union's bulletin board, and then threatened Musgrove with suspension when he refused to carry out Davis' direction.

## CONCLUSIONS OF LAW

1. By unlawfully interfering with, restraining, and coercing employees as found in section IV, above, the Company has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

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

## THE REMEDY

Having found that the Company has engaged in unfair labor practices violative of Section 8(a)(1) of the Act, I shall recommend that it cease and desist therefrom and take certain affirmative action in order to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[6]

## ORDER

The Respondent, Southwestern Bell Telephone Company, Houston, Texas, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Removing or directing the removal of "Definition of a Scab" or any other literature protected by Section 7 of the Act from bulletin boards maintained by the Union, Communications Workers of America, Local 12222, AFL–CIO, at the Respondent's facilities.

(b) Prohibiting employees from posting "Definition of a Scab" or any other literature protected by Section 7 of the Act on bulletin boards maintained by the Union at the Respondent's facilities.

(c) Threatening employees with suspension or other disciplinary measures because they post or refuse to remove "Definition of a Scab" or any other literature protected by Section 7 of the Act from bulletin boards maintained by the Union at the Respondent's facilities.

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

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

(a) Post at its facilities at 3303 Weslayan, Houston, Texas, copies of the attached notice marked "Appendix."[7] Copies of the notice, on forms provided by the Regional Director for Region 23, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(b) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[6] If no exceptions are filed as provided by Sec 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[7] If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board"

## APPENDIX

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

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To engage in self-organization
To form, join, or assist any union
To bargain collectively through representatives of their own choice

To engage in activities together for the purpose of collective bargaining or other mutual aid or protection

To refrain from the exercise of any or all such activities.

WE WILL NOT remove "Definition of a Scab" or any other literature protected by Section 7 of the National Labor Relations Act from bulletin boards maintained by the Union, Communications Workers of America, Local 12222, AFL–CIO, at our facilities.

WE WILL NOT prohibit our employees from posting "Definition of a Scab" or any other literature protected by Section 7 of the Act on bulletin boards maintained by the Union at our facilities.

WE WILL NOT threaten employees with suspension or other disciplinary measures because they post or refuse to remove "Definition of a Scab" or any other literature protected by Section 7 of the Act from bulletin boards maintained by the Union at our facilities.

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

SOUTHWESTERN BELL TELEPHONE COMPANY