Hedison Manufacturing Company *and* Rhode Island Workers Union, Local 76, AFL-CIO, affiliated with Service Employees International Union, AFL-CIO. Cases 1-CA-16694, 1-CA-16885, and 1-CA-17038

March 2, 1982

DECISION AND ORDER

BY MEMBERS FANNING, JENKINS, AND ZIMMERMAN

On June 30, 1980, Administrative Law Judge Charles M. Williamson issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the General Counsel filed a statement of limited exception and a memorandum of law to the Administrative Law Judge. Subsequently, Respondent and the Charging Party Union (hereinafter referred to as the Union) filed a joint motion to modify the recommended Orders of the Administrative Law Judges in this case and in Case 1-CA-15206, *et al.* The General Counsel filed a response to that motion.

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,[1] and conclusions of the Administrative Law Judge. The Board has considered the joint motion to modify the Administrative Law Judge's recommended Order, and the General Counsel's response thereto, indicating that he does not oppose the motion, and has decided to grant the motion and to adopt the Administrative Law Judge's recommended Order as modified herein.

In their joint motion, Respondent and the Union assert that, subsequent to the court's enforcement of the Board's bargaining order in the earlier case involving these parties,[2] they have engaged in collective bargaining with respect to both current wages, hours, and working conditions, as well as with respect to Respondent's unilateral layoffs and changes in wages, hours, and working conditions which the Administrative Law Judge found to be unlawful in the instant case. Specifically, the Union has retroactively agreed with Respondent to the elimination of incentive rates, and they have further agreed that such elimination did not result in substantial detriment to unit employees. Additionally, Respondent and the Union have agreed that the layoffs in this case were based solely upon economic factors, and that no employment opportunities existed at the time of the layoffs for the employees who were laid off. Respondent and the Union have also agreed that the laid-off employees need not now be reinstated, and that no backpay is due them.

Accordingly, Respondent and the Union jointly move the Board to modify the Administrative Law Judge's recommended Order by deleting paragraphs 2(c) and (d) thereof.[3]

In his response to the joint motion, the General Counsel:

> [D]oes not oppose the parties' Motion . . . and agrees that, in light of the developments recited in the Joint Motion, modification of the recommended orders as jointly moved will serve to effectuate the purposes and policies of the Act, and will not detract from the appropriateness of the remedy in the circumstances of these cases.

Thus, the General Counsel withdrew its limited exception in the instant case, having to do with an aspect of the remedy, on the grounds that, if the joint motion is granted, the remedial issue raised by the General Counsel's exception will be moot.

By their joint motion, Respondent and the Union have, in effect, reached a settlement agreement in resolution of certain remedial matters in this case. The General Counsel has, in effect, endorsed that settlement agreement. Accordingly, we hereby grant the joint motion of Respondent and the Union, and the Administrative Law Judge's recommended Order is hereby modified accordingly.

[1] The record establishes that Christine Marcil was one of the employees whom Respondent unlawfully laid off on January 7, 1980. However, apparently through inadvertence, Marcil's name does not appear on Appendix A to the Administrative Law Judge's Decision. Accordingly, that appendix is hereby amended to add the name Christine Marcil to the list of employees laid off on January 7, 1980.

[2] The Administrative Law Judge, as fully discussed in his attached Decision, concluded that Respondent violated Sec. 8(a)(1) and (5) of the Act by making certain unilateral changes in terms and conditions of employment, without first notifying the Union and giving it an opportunity to bargain with Respondent about such changes. In determining that Respondent had an obligation to bargain with the Union about such matters, the Administrative Law Judge relied on an earlier proceeding involving these parties, in which the Administrative Law Judge therein recommended, *inter alia*, the issuance of a bargaining order against Respondent under the authority of *N.L.R.B.* v. *Gissel Packing Co., Inc.*, 395 U.S. 575 (1969). At the time of the Administrative Law Judge's drafting of his instant Decision, the earlier Decision was before the Board on exceptions from both Respondent and the General Counsel. The Board has subsequently rendered its decision in that case, affirming, *inter alia*, the Administrative Law Judge's finding therein that the Union has been the exclusive collective-bargaining representative of the employees in question since January 12, 1978, and adopting his recommendation for issuance of a *Gissel* bargaining order against Respondent. *Hedison Manufacturing Company*, 249 NLRB 791 (1980), enfd. 643 F.2d 32 (1st Cir. 1981).

[3] Requiring Respondent to reinstate laid-off employees, and to make them whole for any loss of earnings they may have suffered as a result of the layoff, and also requiring Respondent to make whole any employees affected by the elimination of incentive wage rates.

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, as modified herein, and hereby orders that the Respondent, Hedison Manufacturing Company, Lincoln, Rhode Island, its officers, agents, successors, and assigns, shall take the action set forth in said recommended Order, as so modified:

1. Delete paragraphs 2(c) and (d), and reletter the subsequent paragraphs accordingly.

2. Substitute the attached notice marked Appendix B for that of the Administrative Law Judge.

APPENDIX B

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

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

WE WILL NOT lay off employees without notifying the Union and bargaining with the Union respecting such layoffs and their impact and implementation.

WE WILL NOT stop paying incentive payments without notifying the Union and bargaining with the Union respecting the decision to stop paying incentive payments and the impact and implementation of such decision.

WE WILL NOT establish new reporting time policies for employees unless we give notice to, and bargain with, the Union.

WE WILL NOT in any other manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

HEDISON MANUFACTURING COMPANY

DECISION

STATEMENT OF THE CASE

CHARLES M. WILLIAMSON, Administrative Law Judge: Pursuant to charges and amended charges, filed on October 15, 1979, *et seq.*, by Rhode Island Workers Union, Local 76, AFL-CIO, affiliated with Service Employees International Union, AFL-CIO, herein designated the Charging Party, a consolidated complaint was issued by Region 1 of the National Labor Relations Board on February 14, 1980, alleging that Hedison Manufacturing Company, herein designated Respondent, violated Section 8(a)(1), (3), (4), and (5) of the National Labor Relations Act, herein designated the Act, by the discharge and layoff of certain of its employees, by its individual bargaining with employees by its refusal to provide information to the Charging Party relevant to its collective-bargaining tasks, and by its unilateral changes in the working conditions of its employees.

The hearing took place in Boston, Massachusetts, on April 23, 1980.

Upon the entire record, including my observation of the demeanor of the witnesses, and after due consideration of the brief filed by the General Counsel[1] and the oral argument of Respondent's counsel, I make the following:[2]

FINDINGS OF FACT

I. JURISDICTION

Respondent has been, at all times material herein, a corporation organized under the laws of the State of Rhode Island. At all times material herein, Respondent has maintained its principal office and place of business in Lincoln, Rhode Island, where it is engaged in the manufacture, sale, and distribution of jewelry and related products. Respondent annually receives directly, from points and places outside the State of Rhode Island, goods having a value in excess of $50,000. During the same period of time, Respondent ships goods valued in excess of $50,000 directly to points and places outside the State of Rhode Island. Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATION

Respondent admits, and I find, that the Charging Party is a labor organization within the meaning of Section 2(5) of the Act.

III. THE REPRESENTATIVE STATUS OF THE CHARGING PARTY

To show the representative status of the Charging Party, the General Counsel relies on a Decision issued on May 18, 1979, by Administrative Law Judge Benjamin Schlesinger in Cases 1-CA-14050, 1-CA-14085, 1-CA-14086, 1-CA-14273, 1-CA-14274, 1-CA-14600, and 1-RC-15542 (249 NLRB 791, 799-832). In that case, Administrative Law Judge Schlesinger determined that an order to bargain was necessary to remedy Respondent's violations of the Act. The unit found appropriate[3] was:

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[1] This term is used to designate counsel for the General Counsel.

[2] Case 1-CA-16885 was severed from its companion cases by my ruling at the hearing. Immediately following severance, Respondent and the Charging Party entered into an out-of-Board settlement with the approval of the Regional Office. I therefore do not make any findings with regard to the discharge of employee Marilyn Jellison, alleged to have been in violation of Sec. 8(a)(1), (3), and (4) of the Act, nor with regard to Respondent's failure to provide the Charging Party with certain information regarding Jellison's discharge, alleged to have been in violation of Sec. 8(a)(1) and (5) of the Act. These allegations directly involved pars. 8-11 and 18-20 of the consolidated complaints and, indirectly, portions of conclusionary pars. 22-26.

[3] Taken from the "Notice to Employees" attached as an appendix to the Board's Decision. (See 249 NLRB 791.)

> All full-time and regular part-time production and maintenance employees employed by us at our 11 Wellington Road, Lincoln, Rhode Island and 116 Chestnut Street, Providence, Rhode Island facilities, including leadpersons-floor ladies and plant clerical employees, but excluding all office clerical employees, technical employees, professional employees, salespersons, seasonal employees, guards, foremen, assistant foremen and all other supervisors as defined by the National Labor Relations Act.

Administrative Law Judge Schlesinger found the collective-bargaining obligation to have arisen on January 12, 1978, the date on which the Charging Party attained majority status. Respondent had already "embarked on a clear course of unlawful conduct" by that date. (249 NLRB 791.) Administrative Law Judge Schlesinger's Decision is presently before the Board on Respondent's exceptions. The Board has not, as of the time this Decision is being written, ruled on the validity of Administrative Law Judge Schlesinger's findings.

IV. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Piece Rate Wages and the Layoffs*

The parties entered into the following stipulations at the hearing:

> (1) On Thursday, August 2, 1979, "Respondent eliminated its incentive program involving the paying of piece rate wages in addition to hourly rate wages. The departments affected by the elimination of this program are as follows: Cardage, wrapping, linking/gluing, press, stringing and racking, joyal soldering, torch soldering, torch soldering setup, oven soldering setup and fusion department . . . prior to the change all employees involved had a base hourly rate and could earn a percentage incentive rate based on production above a minimum set hourly production rate which was set for each operation within each department. After the change employees were paid on the basis of an hourly wage rate alone. The hourly rates of all employees affected by the change were adjusted after the change by the Respondent to partially compensate for the elimination of the piece rate wages . . . the elimination of the piece rate wages was done without notifying the Union or giving the Union an opportunity to bargain over the change or its effects."
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> (2) The parties stipulated "that as indicated on Joint Exhibit[s] 1, 2 and 3, on January 2, 1980, January 7, 1980, and January 8, 1980, Respondent laid off approximately, a total of approximately 77 employees as listed by departments in the Joint Exhibits. . . . That this was out of a total number of employees in the unit prior to the layoff of approximately 215 employees. That this was done by Respondent by reverse order of seniority within the departments. That Respondent hired no new employees in the departments affected by the layoff between January 2, 1980, and January 9, 1980. That General Counsel is not contending that the January 2, January 7 or January 8, 1980, layoffs were other than economically motivated and that the layoffs were done by Respondent without notifying the Union or affording the Union the opportunity to bargain about the layoffs including the method of implementation or its impact prior to instituting the layoffs."

B. *Starting Time*

The General Counsel presented witnesses Joseph Pine and Marilyn Jellison to testify concerning an alleged change by Respondent in the morning time employees were required to be at their work stations. Pine testified that around the beginning of August 1979 Supervisor Donald Banks called the employees in the plating department to a meeting. Pine stated that Banks told the employees that "because employees were being late getting to their departments that we had to be in our departments 5 minutes ahead of schedule, because of people being late getting to the departments." Following Banks' announcement, Pine testified, an additional bell was rung at 7:25 a.m., 5 minutes ahead of the previous 7:30 a.m. starting time bell. After the institution of this system, the employees, who had normally lingered in the plant cafeteria until the 7:30 a.m. bell, started leaving the cafeteria at the 7:25 a.m. bell.[4]

In the latter part of August 1979, Pine had occasion to speak with Production Manager Don Fontaine about the change in morning reporting. Pine had received a verbal warning for being late and inquired of Fontaine as to the proper procedure and the exact dates on which he had been late. During their conversation, Fontaine stated, "You guys are supposed to be in the plating room 5 minutes ahead of time."[5] No evidence was presented to show that any employee was disciplined or warned for violating the new procedure. The rule was not reduced to writing and was not, therefore, posted on the bulletin boards. Pine testified that the new rule had an appreciable effect on the break time employees had previously enjoyed in the cafeteria.

Marilyn Jellison testified that the change involved a new requirement that employees were to be in their departments "5 minutes before the starting time which was 7:30." Following the change, Jellison stated, employees who had previously lingered in the cafeteria until 7:30 a.m. began leaving at 7:25 a.m.

The parties stipulated that prior to the institution of the new procedure "that at no time . . . was the Union notified or afforded an opportunity to bargain about any change in a report for work time."

Respondent presented William H. O'Brien, Jr., its former vice president of operations, to testify concerning the alleged reporting time change. O'Brien testified that in August 1979 he became concerned because he observed employees lingering in large numbers on the way

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[4] Pine testified that "a few . . . stayed in the cafeteria but mostly everybody went to their departments."

[5] All parties agree that the warnings received by Pine were unrelated to the new procedure for reporting to work. An employee was accounted "late" if he began working more than 3 minutes after 7:30 a.m. The latter rule has not changed.

to work in the morning and congregating in the cafeteria. He stated that this situation had resulted in an increase of reported latenesses. To remedy the situation he instructed Respondent's foremen "to speak to the employees in their departments and bring to their attention that 7:30 was the start of the work day, not of the beginning of breaking up the congregating that was going on in the corridors and the cafeteria. So that employees would be aware of the fact that they should be at their work stations at 7:30 or at the official end of their lunch break, we would put in a 5 minute warning bell to let people know you have 5 minutes to clean up, finish up your gab sessions with your fellow employees and be ready to go to work at the start of the official work day." O'Brien specifically denied that his instructions to the foremen contemplated that employees would have to be in their respective departments 5 minutes prior to the 7:30 a.m. starting time. O'Brien admitted, however, that he did not know of his own knowledge what the foremen may have told the employees. He stated that he had never discussed the matter with the foremen following the initial announcement.[6] Following the institution of the new system, O'Brien testified, the lingering by employees "cut down probably 90 percent immediately."

V. ANALYSIS AND CONCLUSIONS[7]

All parties agree, and I find, that the result in the instant case hinges on the Board's Decision in Case 1-CA-14050, *et al.* If the Board finds in the earlier case that Respondent was obligated to bargain with the Charging Party on and after January 12, 1978,[8] the Charging Party possesses the requisite representative status in this case. If the Board finds in the earlier case that Respondent was not obligated to bargain, then the complaint in the case at bar should be dismissed.

In order to expedite the Decision in this case, I will assume, without deciding, that Administrative Law Judge Schlesinger's Decision in Case 1-CA-14050, *et al.*, is correct. See *Local Union No. 103, International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO, and its agent Charles Tremper (Associated General Contractors of America, Evansville Chapter, Inc.)*, 195 NLRB 980, 981-984 (1972).

The stipulations of the parties make it clear that the layoffs of January 1980 and the termination of incentive pay were imposed by Respondent without prior notice to, and bargaining with, the Charging Party. Respondent, by virtue of the bargaining order granted by Administrative Law Judge Schlesinger, was contemporaneously under a duty to bargain with the Charging Party. The failure to do so constituted a violation of Section 8(a)(1) and (5) of the Act because these items involved terms and conditions of employment of employees in the bargaining unit. *N.L.R.B.* v. *Benne Katz, etc. d/b/a Williamsburg Steel Products Co.*, 369 U.S. 736 (1962); *Wellman Industries, Inc.*, 222 NLRB 204, 206 (1976) (layoffs and reductions in pay). That Respondent may have been economically motivated in its decision does not, in this instance, affect its duties under the statute. *Wellman Industries, Inc., supra.*

The situation is less clear as to the morning starting time change. Respondent's position is that starting time remained 7:30 a.m. and that there was no change in the rules governing lateness. The only change to which Respondent admits is the addition of a warning bell at 7:25 a.m. Respondent further argues that there are no sanctions for violation of the supposed new "rule" and that no employee has been disciplined on the basis of the rule. Respondent's position depends, in large measure, on the testimony of O'Brien who was not, in fact, a witness to the announcements to employees concerning this matter by Respondent's lower level supervision. Respondent presented no evidence or witnesses as to the actual announcements made to employees.[9]

> The failure to bring before the tribunal some circumstance, document, or witness when either the party himself or his opponent claims that the facts would thereby be elucidated, serves to indicate as the most natural inference, that the party fears to do so, and this fear is some evidence that the circumstance or document or witness, if brought, would have exposed facts unfavorable to the party. [2 Wigmore, *Evidence* §285 (3d ed. 1940).]

See also *Interstate Circuit, Inc.* v. *United States*, 306 U.S. 208, 226 (1939): "The production of weak evidence when strong is available can lead only to the conclusion that the strong would have been adverse." I find that Respondent's failure to present any supervisory or managerial individual who was involved in making the announcements to employees concerning the reporting time change gives rise to the inference that their testimony would not have been favorable to Respondent.[10] Accordingly, I find, as Pine testified, that Respondent required its employees to be in their departments 5 minutes earlier than had been the practice. Crediting both Pine

[6] Neither Banks nor any other foreman testified about the institution of the new reporting time requirement. Banks, who was no longer in Respondent's employ at the time of the hearing, was contacted during the hearing by counsel for Respondent and the General Counsel. They reported that Banks had no recollection and could not "offer any testimony he knows of."

[7] The General Counsel moved to withdraw par. 16 of the consolidated complaint. This paragraph alleges that Respondent bargained on an individual basis with employees. I granted the General Counsel's motion.

[8] Or at any date prior to the changes outlined in this Decision. Administrative Law Judge Schlesinger found that there was a request to bargain made of Respondent by the Charging Party on January 11, 1978. Respondent refused on January 13, 1978. Cf. *Beasley Energy, Inc., d/b/a Peaker Run Coal Company, Ohio Division*, 228 NLRB 93 (1977).

[9] While Respondent made an effort to contact Banks, the parties agreed that Banks had no recollection of his role in this matter. Under the circumstances, I find Pine's testimony to be undenied and I credit it. The various matters adduced by Respondent on cross-examination of Pine concerning the circumstances of his leaving Respondent's employ are not sufficient to cause rejection of his testimony.

[10] While it might be argued that such individuals were equally available to the General Counsel, such a view appears contrary to the weight authority. "Available" in this sense implies more than mere physical presence or accessibility for service of a subpena. The potential witness' connection with one or another of the parties and a party's superior knowledge of what testimony might be elicited play a role. Here, the supervisory or managerial individual's close connection with Respondent tip the scales in favor of drawing the inference. See 2 Wigmore, *Evidence* §288 (3d ed. 1977 supp.).

and Jellison[11] as to the effect of the new rule on employee practices and habits at the morning hour, I find that the rule had a substantial effect on the employees' working conditions as it substantially diminished their prior practice of relaxation and refreshment in the cafeteria prior to starting work. Whatever O'Brien may have stated to Respondent's supervisors at the meeting to which he testified, it is clear, on this record, that Respondent's supervisors instructed employees to be in their respective departments prior to starting time.[12]

While it is true, as Respondent argues, that no sanctions were announced and that there is no evidence that employees have been disciplined because of this change, I do not find that these considerations are dispositive of the issue. Employees must be presumed to place great weight on the express wishes of their employer even in the absence of express sanctions designed to enforce those wishes. Such regard for the employer's wishes inevitably results in such modifications of behavior as exhibited by the employees in the instant case. These employees no longer enjoy the free time previously spent in the cafeteria. The Board has affirmed an Administrative Law Judge's Decision finding a violation of Section 8(a)(1) and (5) under similar circumstances even in the absence of evidence that the rule change was enforced. See *Electri-Flex Company*, 238 NLRB 713 (1978).[13]

Accordingly, I find that Respondent, by its announced change in morning reporting practice, violated Section 8(a)(1) and (5) of the Act.

CONCLUSIONS OF LAW

1. Respondent is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

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

3. All full-time and regular part-time production and maintenance employees of Respondent employed at its 11 Wellington Road, Lincoln, Rhode Island and 116 Chestnut Street, Providence, Rhode Island facilities, excluding all office clerical employees, technical employees, professional employees, salespersons, seasonal employees, guards, foremen, assistant foremen, all other supervisors as defined in Section 2(11) of the Act, constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.

4. On or about January 12, 1978, and at all times material thereafter, the Union represented a majority of employees in the appropriate unit, and has been the exclusive representative of said employees for the purpose of collective bargaining within the meaning of Section 9(a) of the Act.

5. Respondent has violated Section 8(a)(1) and (5) of the Act by unilaterally eliminating incentive payment of piece rate wages in its Cardage, wrapping, linking/gluing, press, stringing and racking, joyal soldering, torch soldering, torch soldering setup, oven soldering setup, and fusion department; unilaterally laying off a total of 77 employees on January 2, 7, and 8, 1980[14]; and unilaterally instituting a new reporting time procedure for its employees.

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

THE REMEDY

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

Having found that Respondent laid off the employees named in Appendix A [omitted from publication] of this Decision in violation of the Act, I shall recommend that it be ordered to offer immediate and full reinstatement to each of them to their former positions, or, if those positions are no longer available, to substantially equivalent positions, without prejudice to their seniority or other rights and privileges. Respondent shall make each of them whole for any loss of earnings[15] which he or she may have sustained as a result of Respondent's unlawful conduct, less interim earnings, if any. The amount of backpay shall be computed in the manner set forth in *F. W. Woolworth Company*, 90 NLRB 289 (1950), together with interest thereon as computed in the manner prescribed in *Florida Steel Corporation*, 231 NLRB 651 (1977).

I find that Respondent's unilateral elimination of incentive payments in its departments named above has caused monetary loss to employees in those departments. Accordingly, I shall recommend that those employees be made whole for such losses in the manner set forth above for employees affected by the January 1980 layoffs.

Having found that Respondent violated Section 8(a)(1) and (5) of the Act by unilaterally establishing a new

[11] Respondent's cross-examination of Jellison regarding her leave of absence does not, in my view, affect the credibility of her testimony. Jellison testified that Lisa Nadeau, floorlady in the press department, told the employees that "Dick Corrigan, the foreman, had told her [Nadeau] to tell us to be there 5 minutes ahead of time." I put no weight on this assertion because floorladies are included in the appropriate unit found by Administrative Law Judge Schlesinger and are, therefore, not supervisors. The statement is hearsay as to Corrigan.

[12] Pine testified, and I credit him, that the change applied to the whole plant.

[13] *Victor Patino and Nydia Patino, Victor Patino and Nydia Patino d/b/a Jean Pier; Richard Erquiaga d/b/a California Sewing*, 241 NLRB 774 (1979), cited by the General Counsel, does appear to be in point because the question of enforcement was not specifically discussed in the opinion by Administrative Law Judge Irving Rogosin.

[14] The employees laid off on these dates are listed in Appendix A [omitted from publication] of this Decision. The appendix is based on Jt. Exhs. 1, 2, and 3.

[15] It is possible, as a result of Respondent's economic condition, that no employment opportunity exists or existed for the employees in Appendix A [omitted from publication] and that they have sustained no compensable loss of earnings as a result of the January 1980 layoffs. If this be the case, Respondent will have its opportunity to demonstrate these facts in a compliance proceeding if the parties cannot agree. *Ramos Iron Works, Inc. and Rasol Engineering*, 234 NLRB 896, 906 (1978); *Wellman Industries, Inc., supra.*

policy concerning reporting time, I shall recommend that such policy be rescinded and withdrawn.

I find that Respondent has a proclivity to violate the Act and has engaged in such egregious and widespread misconduct as to demonstrate a general disregard for its employees' fundamental statutory rights. In reaching this conclusion I have taken account of the numerous violations found by Administrative Law Judge Schlesinger in Case 1-CA-14050, *et al.*, as well as the fact that the three violations found in the instant case affect the entire complement of Respondent's employees. I shall therefore issue a broad injunctive order against Respondent. *Hickmott Foods, Inc.*, 242 NLRB 1357 (1979). Cf. *Pier 29, d/b/a The Ark*, 244 NLRB 198 (1979). My use of Administrative Law Judge Schlesinger's Decision in this regard assumes, of course, that exceptions to it have been filed and that the Board will substantially affirm it. See *Brotherhood of Teamsters & Auto Truck Drivers, Local No. 70, etc. (H. A. Carney and David Thompson, Partners, d/b/a C & T Trucking Co.)*, 191 NLRB 11 (1971), affd. *sub nom. Bob's Casing Crews, Inc.* v. *N.L.R.B.*, 458 F.2d 1301 (5th Cir. 1972).

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

ORDER[16]

The Respondent, Hedison Manufacturing Co., Lincoln, Rhode Island, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Laying off employees, or eliminating incentive payments, without first bargaining with the Union about the decision and its effects.

(b) Unilaterally establishing a new reporting time policy without notice to and bargaining with the Union.

(c) Taking any other action affecting the wages, hours, or terms and conditions of employment of employees in the appropriate bargaining unit without first notifying and consulting with the Union.

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

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

(a) Upon request of the Union, rescind the layoffs of January 2, 7, and 8, 1980; the unilateral elimination of incentive payments; and the reporting time policy.

(b) Upon request by the Union, bargain collectively with the Union with respect to the decision to lay off employees; bargain collectively with the Union with respect to the impact and effects of such layoff; bargain collectively with the Union with respect to the decision to eliminate incentive wages and the impact and effect of such decision; bargain collectively with the Union concerning reporting time rules; and, if an understanding is reached with the Union, reduce to writing and sign such agreement, if requested by the Union.

(c) Offer to each employee laid off on January 2, 7, and 8, 1980, if it has not already done so, immediate and full reinstatement to his or her former job, or, if that job no longer exists, to a substantially equivalent job, without prejudice to his or her seniority or other rights and privileges, and make each of said laid-off employee and those employees affected by the elimination of incentive wages whole in the manner provided above in the section of the Decision entitled "The Remedy" for any loss of pay he or she may have suffered from the date of his or her unlawful layoff or the termination of incentive wages.

(d) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, and personnel records necessary to analyze the amount of backpay due under the terms of this recommended Order.

(e) Post at Respondent's places of business in Lincoln and Providence, Rhode Island, copies of the attached notice marked "Appendix B."[17] Copies of said notice, on forms provided by the Regional Director for Region 1, after duly being signed by Respondent's representatives, shall be posted by it immediately upon receipt thereof, and be maintained by Respondent for 60 consecutive days thereafter, in conspicuous places, including Respondent's bulletin boards and any other places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(f) Notify the Regional Director for Region 1, in writing, within 20 days from the date of receipt of this Order, what steps the Respondent has taken to comply with it.

IT IS FURTHER ORDERED that the complaint be dismissed insofar as it alleges violations of the Act other than those here found.[18]

[16] 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.

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

[18] Certain errors in the transcript are hereby noted and corrected.