General Business Supply, d/b/a Tech Valley Printing, Inc. *and* New York Typographical Union, CWA Local 14156. Case 3–CA–26521

April 30, 2008

DECISION AND ORDER

BY CHAIRMAN SCHAUMBER AND MEMBER LIEBMAN

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge filed by the Union on December 18, 2007, the General Counsel issued the complaint on February 21, 2008, against General Business Supply, d/b/a Tech Valley Printing, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the Act. The Respondent failed to file an answer.

On March 14, 2008, the General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on March 19, 2008, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

Ruling on Motion for Default Judgment[1]

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively states that the answer must be received by the Regional Office on or before March 6, 2008, and that if no answer was filed, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. By letter dated March 6, 2008, the Respondent's counsel notified the Regional Director that the Respondent had ceased its operations, and that it was not in a position to respond to the complaint.[2] To date no answer has been filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a corporation with an office and place of business in Watervliet, New York, herein called the Watervliet, New York facility, has been engaged in the business of commercial printing. During the 12-month period preceding the issuance of the complaint, the Respondent, in conducting its business operations described above, purchased and received goods and materials valued in excess of $50,000 directly from points located outside the State of New York.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that New York Typographical Union, CWA Local 14156, the Union, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act.

John Smith	President
Nancy Fitorre	Chief Financial Officer

The following employees of the Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All pre-press operations, including but not limited to all forms of desk top publishing and/or typesetting, including make-up and design; the operation of computers, software and related printers and/or copiers; the proofing, correcting, and/or imposing of electronic text files;

[1] Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Schaumber and Member Liebman constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act.

[2] Although no further reminder was sent to the Respondent after service of the complaint, no such reminder was needed in light of the notification to the Regional Director from the Respondent's counsel that the Respondent had ceased operations and was not in a position to file an answer. Moreover, the failure to send a reminder letter does not warrant the denial of a motion for default judgment. See, e.g., *Superior Industries*, 289 NLRB 834, 835 fn. 13 (1988).

> the operations of cameras, plate-making equipment, film processors and image setters; the paste-up of camera-ready copy and stripping; the storage, retrieval and record keeping of customer films and flats (otherwise known as vault operations); the assembling, ordering and/or proofing of material for all production work. Also included are all clerical and general office work associated with the day to day operations of the business employed by Respondent at its Watervliet, New York facility, excluding all other employees.

At all material times, the Union has been the designated exclusive collective-bargaining representative of the unit and the Union has been recognized as the representative by the Respondent. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from July 1, 2006 through June 30, 2009.

At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

Since about June 18, 2007, the Respondent failed to remit to the Union dues that have been deducted from employees' wages, as required by article 3, section A of the 2006–2009 collective-bargaining agreement.

Since around early December 2007, the Respondent unilaterally changed the pay date for unit employees.

The subjects set forth above relate to wages, hours and other terms and conditions of employment of the unit and are mandatory subjects for the purpose of collective bargaining. The Respondent engaged in the conduct described above without prior notice to the Union and without affording the Union an opportunity to bargain with the Respondent with respect to this conduct and the effects of this conduct.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(5) and (1) by failing since June 18, 2007, to remit to the Union all dues that have been deducted from employees' wages, as required by article 3, section A of the Respondent's 2006–2009 collective-bargaining agreement, we shall order the Respondent to forward the dues deducted from employees to the Union as required by the 2006-2009 agreement, with interest, as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

In addition, having found that the Respondent violated Section 8(a)(5) and (1) by unilaterally changing the pay date for the employees in the unit around early December 2007, we shall order the Respondent to rescind the unilateral change on request and make the unit employees whole for any loss of earnings and other benefits they may have suffered as a result of the Respondent's unlawful conduct, in the manner set forth in *Ogle Protection Service,* 183 NLRB 682 (1970), enfd. 444 F.2d 502 (6th Cir. 1971), with interest, as prescribed in *New Horizons for the Retarded*, supra.

Finally, in view of the fact that the Respondent has ceased operations at its Watervliet, New York facility, we shall order the Respondent to mail a copy of the attached notice to the Union and to the last known addresses of the unit employees who were employed by the Respondent since June 18, 2007, in order to inform them of the outcome of this proceeding.

ORDER

The National Labor Relations Board orders that the Respondent, General Business Supply, d/b/a Tech Valley Printing, Inc., Watervliet, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to bargain collectively and in good faith with New York Typographical Union, CWA Local 14156, as the exclusive collective-bargaining representative of the employees in the unit set forth below by unilaterally changing the pay date for the employees in the unit:

> All pre-press operations, including but not limited to all forms of desk top publishing and/or typesetting, including make-up and design; the operation of computers, software and related printers and/or copiers; the proofing, correcting, and/or imposing of electronic text files; the operations of cameras, plate-making equipment, film processors and image setters; the paste-up of camera-ready copy and stripping; the storage, retrieval and record keeping of customer films and flats (otherwise known as vault operations); the assembling, ordering and/or proofing of material for all production work.

Also included are all clerical and general office work associated with the day to day operations of the business employed by Respondent at its Watervliet, New York facility, excluding all other employees.

(b) Failing to remit to the Union dues that were deducted from employees' wages as required by article 3, section A of the 2006–2009 collective-bargaining agreement.

(c) 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) On request, rescind the unlawful unilateral change of the pay date for the employees in the unit.

(b) Make whole the employees for any loss of earnings and other benefits resulting from the unlawful unilateral change around early December 2007 of the pay date for the unit employees, with interest, in the manner set forth in the remedy section of this decision.

(c) Remit to the Union all dues that have been deducted from employees' wages, as required by article 3, section A of the 2006–2009 collective-bargaining agreement that have not been remitted since June 18, 2007, with interest, in the manner set forth in the remedy section of this decision.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, duplicate and mail, at its own expense and after being signed by the Respondent's authorized representative, copies of the attached notice marked "Appendix"[3] to the Union and to all unit employees who were employed by the Respondent at any time since June 18, 2007.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

Dated, Washington, D.C. April 30, 2008

Peter C. Schaumber, Chairman

Wilma B. Liebman, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
MAILED 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 Federal labor law and has ordered us to mail and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT FAIL to bargain collectively and in good faith with New York Typographical Union, CWA Local 14156, as the exclusive collective-bargaining representative of the employees in the unit set forth below by unilaterally changing the pay date for the employees in the unit:

All pre-press operations, including but not limited to all forms of desk top publishing and/or typesetting, including make-up and design; the operation of computers, software and related printers and/or copiers; the proofing, correcting, and/or imposing of electronic text files; the operations of cameras, plate-making equipment, film processors and image setters; the paste-up of camera-ready copy and stripping; the storage, retrieval and record keeping of customer films and flats (otherwise

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

known as vault operations); the assembling, ordering and/or proofing of material for all production work. Also included are all clerical and general office work associated with the day to day operations of the business employed by us at our Watervliet, New York facility, excluding all other employees.

WE WILL NOT fail to remit to the Union dues that were deducted from employees' wages, as required by article 3, section A of the 2006–2009 agreement.

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.

WE WILL, on request, rescind our unlawful unilateral change of the pay date for the employees in the unit and WE WILL make whole our employees for any loss of earnings and other benefits resulting from our unlawful unilateral change around early December 2007 of the pay date for the unit employees, with interest.

WE WILL remit to the Union all dues that have been deducted from employees' wages, as required by article 3, section A of the 2006–2009 collective-bargaining agreement that have not been remitted since June 18, 2007, with interest.

GENERAL BUSINESS SUPPLY, D/B/A TECH VALLEY PRINTING, INC.