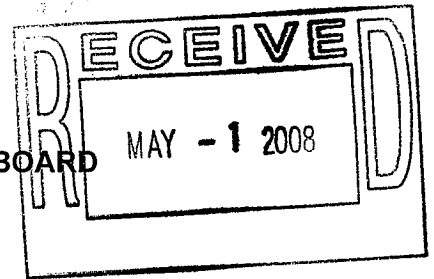


UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12



ELBERTA CRATE & BOX CO.

Cases 12-CA-25604  
12-CA-25618  
12-CA-25622  
12-CA-25633  
12-CA-25676  
12-CA-25722  
12-CA-25742

and

INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE WORKERS,  
DISTRICT LODGE W2, AFL-CIO

**ORDER CONSOLIDATING CASES,  
CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

International Association of Machinists and Aerospace Workers, District Lodge W2, AFL-CIO, herein called the Union, has charged in Cases 12-CA-25604, 12-CA-25618, 12-CA-25622, 12-CA-25633, 12-CA-25676, 12-CA-25722 and 12-CA-25742, that Elberta Crate & Box Co., herein called Respondent, has been engaging in unfair labor practices affecting commerce as set forth in the National Labor Relations Act, 29 U.S.C. § 151 et seq., herein called the Act. Based thereon, and in order to avoid unnecessary costs or delay, the General Counsel, by the undersigned, pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, ORDERS that these cases are consolidated.

These cases having been consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the Board, issues this Order Consolidating Cases, Consolidated Complaint and Notice of Hearing and alleges as follows:

1.

(a) The original charge in Case 12-CA-25604 was filed by the Union on October 24, 2007, and a copy was served by regular mail on Respondent on the same date.

(b) The first amended charge in Case 12-CA-25604 was filed by the Union on November 5, 2007, and a copy was served by regular mail on Respondent on November 6, 2007.

(c) The second amended charge in Case 12-CA-25604 was filed by the Union on December 28, 2007, and a copy was served by regular mail on Respondent on December 31, 2007.

(d) The original charge in Case 12-CA-25618 was filed by the Union on November 1, 2007, and a copy was served by regular mail on Respondent on November 2, 2007.

(e) The first amended charge in Case 12-CA-25618 was filed by the Union on November 5, 2007, and a copy was served by regular mail on Respondent on November 6, 2007.

(f) The second amended charge in Case 12-CA-25618 was filed by the Union on December 28, 2007, and a copy was served by regular mail on Respondent on December 31, 2007.

(g) The third amended charge in Case 12-CA-25618 was filed by the Union on February 6, 2008, and a copy was served by regular mail on Respondent on February 7, 2008.

(h) The fourth amended charge in Case 12-CA-25618 was filed by the Union on February 29, 2008, and a copy was served by regular mail on Respondent on March 4, 2008.

(i) The original charge in Case 12-CA-25622 was filed by the Union on November 7, 2007, and a copy was served by regular mail on Respondent on November 8, 2007.

(j) The first amended charge in Case 12-CA-25622 was filed by the Union on December 28, 2007, and a copy was served by regular mail on Respondent on December 31, 2007.

(k) The charge in Case 12-CA-25633 was filed by the Union on November 19, 2007, and a copy was served by regular mail on Respondent on November 20, 2007.

(l) The charge in Case 12-CA-25676 was filed by the Union on December 28, 2007, and a copy was served by regular mail on Respondent on December 31, 2007.

(m) The charge in Case 12-CA-25722 was filed by the Union on February 4, 2008, and a copy was served by regular mail on Respondent on February 5, 2008.

(n) The charge in Case 12-CA-25742 was filed by the Union on February 19, 2008, and a copy was served by regular mail on Respondent on February 20, 2008.

2.

(a) At all material times, Respondent, a Georgia corporation, with its principal office and place of business located in Bainbridge, Georgia, and with places of business located in Warrenton, North Carolina and in Avon Park, Florida, herein called its Avon Park plant, has been engaged in the manufacture, sale and distribution of wirebound wood crates and boxes.

(b) During the past 12 months, Respondent, in conducting its business operations described above in paragraph 2(a), purchased and received at its Avon Park, Florida facility, goods valued in excess of \$50,000 directly from points outside the State of Florida.

(c) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

3.

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4.

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

Gregg McNeil	-	Plant Manager, Avon Park plant
Tom Simmons	-	Chief Executive Officer and President

5.

(a) At all material times, Tony Torres has been an agent of Respondent within the meaning of Section 2(13) of the Act.

(b) Since on or about September 17, 2007, Tony Torres has held the position of leaderman and production supervisor of Respondent, and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act.

6.

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

All full-time and regular part-time production and maintenance employees employed by Respondent at its Avon Park, Florida facility; excluding: all other employees, office clerical employees, confidential employees, guards and supervisors as defined in the Act.

(b) On September 14, 2007, a representation election was conducted among the employees in the Unit and, on September 26, 2007, the Union was certified as the exclusive collective-bargaining representative of the Unit.

(c) At all times since September 14, 2007, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

7.

Respondent, by Gregg McNeil, at its Avon Park facility:

(a) On or about dates in late August and early to mid-September 2007, more precise dates being presently unknown to the undersigned, promised employees wage increases, sick leave, more lenient hours of work, improved working conditions, and unspecified benefits to induce them to abandon their activities on behalf of and support for the Union.

(b) On or about dates in early to mid-September 2007, more precise dates being presently unknown to the undersigned, told employees that their wage rates were frozen because the Union had petitioned to represent them.

(c) On or about dates in early to mid-September 2007, more precise dates being presently unknown to the undersigned, threatened employees that it would be futile to select the Union as their collective-bargaining representative.

(d) On or about dates in early to mid-September 2007, more precise dates being presently unknown to the undersigned, interrogated employees about their membership in, activities on behalf of, and sympathies for the Union.

(e) On or about September 11, 2007, solicited employees to urge other employees to oppose the Union.

(f) On or about September 12, 2007, threatened to discharge employees if they talked about the Union at work.

(g) On or about September 17, 2007, threatened to enforce attendance and discipline rules more strictly against employees because its employees selected the Union as their exclusive collective-bargaining representative.

(h) On or about September 25, 2007, threatened to suspend employees because they selected the Union as their exclusive collective-bargaining representative.

(i) On or about October 31, 2007, directed employees not to talk to other employees about working conditions.

8.

Respondent, by Tom Simmons, at its Avon Park facility:

(a) On or about a date in late August to early September 2007, a more precise date being presently unknown to the undersigned, threatened employees that it would be futile to select the Union as their collective-bargaining representative.

(b) On or about dates in early to mid-September 2007, more precise dates being presently unknown to the undersigned, promised employees improved working conditions and unspecified benefits to induce them to abandon their activities on behalf of and support for the Union.

(c) On or about a date in early to mid-September 2007, a more precise date being presently unknown to the undersigned, told employees that their wage rates were frozen because the Union had petitioned to represent them.

9.

Respondent, by Tony Torres, at its Avon Park facility:

(a) On or about dates in August and early September 2007, more precise dates being presently unknown to the undersigned, threatened employees that it would be futile to select the Union as their collective-bargaining representative.

(b) On or about September 12, 2007, interrogated employees about their membership in, activities on behalf of, and sympathies for the Union.

10.

Since on or about June 29, 2007, Respondent has maintained the following rules prohibiting employees from engaging in the conduct described below as part of its disciplinary policy:

2. Engaging in unauthorized activity such as solicitation ..... in areas where work is being performed.

4. ....distribution or circulation of unauthorized notices, posters, and placards on company premises.

11.

(a) On or about September 25, 2007, Respondent suspended its employee, Shirley Robinson.

(b) On or about September 25, 2007, Respondent suspended its employee, Nicole Stephenson.

(c) On or about October 1, 2007, Respondent discharged its employee, Nicole Stephenson.

(d) Respondent engaged in the conduct described above in paragraphs 11(a) through 11(c) because the employees named therein joined and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

12.

(a) On or about September 25, 2007, the Union, by letter sent by facsimile and certified mail, requested that Respondent meet and bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(b) From on or about September 25, 2007, to on or about December 18, 2007, Respondent failed and refused to meet and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

13.

(a) On or about September 25, 2007, the Union, by letter sent by facsimile and certified mail, requested that Respondent furnish the Union with the following information:

I. A detailed breakdown of labor costs and hours for bargaining unit employees for the three most recent years, including:

- (a) total straight-time pay and total hours worked
- (b) total overtime pay and total number of overtime hours worked
- (c) totals for the different types of differential pay and total number of hours worked by type of differential (such as holiday, shift and skill differentials)
- (d) totals of the different types of paid time off and number of hours of paid time off for holidays, vacations, sick leave, bereavement, and any other paid time off
- (e) total payments by category for labor costs outside the payroll (such as pensions, medical insurance, dental insurance, vision insurance, life insurance, cash bonuses, profit/productivity sharing payments, etc.)
- (f) a breakdown for any insurance premiums (such as medical, dental, vision, life, accident, etc.) by type of coverage (such as single, one dependent, family, etc.), including details on per employee premium costs, number of employees by type of coverage, and any employee share of these insurance premiums

II. A current, detailed breakdown by bargaining unit employee for the three most recent years showing the following:

- (a) pay/occupation grade or level (i.e. pay grade 5)

- (b) job title
- (c) straight-time hourly rate
- (d) earnings as reported on W-2 (including any pre-tax deferrals)
- (e) shift primarily assigned to
- (f) age and date of birth
- (g) seniority and date of hire
- (h) gender
- (i) total hours paid during year
- (j) total overtime hours paid during year
- (k) indicate if he/she is part-time

III. For the entire bargaining unit for the three most recent years:

- (a) total number of employees, average hourly rate, average seniority, and average age
- (b) number of employees and average wage by pay/occupation level
- (c) number of employees and average differential by each shift, skill premium, or other differential
- (d) number of employees at each level of the vacation schedule
- (e) average number of days used per bargaining unit member for paid sick leave, paid personal days, paid jury duty, paid bereavement leave, paid military leave, and any other types of paid leave
- (f) plant work rules and disciplinary rules
- (g) attendance records and disciplinary files of all bargaining unit employees
- (h) average annual cost to the employer per employee for pension, life insurance, accidental death and dismemberment, and each other type of insurance benefit
- (i) average hours of overtime work per week per bargaining unit member

IV. For any pension, savings, or stock plan:

- (a) *Form 5500* and all supplements for the past three years
- (b) annual reports and actuarial reports for the past three years
- (c) the most current Summary Plan Descriptions
- (d) the most current plan documents, including all attachments and supplements, and
- (e) the most current IRS determination letter
- (f) for voluntary participation and/or contribution plans, such as *401(k)* plans, the annual average for the past three years for:
  - (1) the number of bargaining unit members participating
  - (2) the average contribution by these participants
  - (3) the number of these participants making the maximum contribution
  - (4) the average employer/match contribution for these participants
  - (5) formula used for determining the level of employer match/contribution
  - (6) the number of these participants with loans from the plan
  - (7) the percent of terminating plan participants rolling over plan assets into other types of tax-deferred savings plans
  - (8) the number of participants taking early withdrawal with tax penalties

V. The most current Summary Plan Descriptions for all other benefits plans not included in Section IV

(b) The information requested by the Union, as described above in paragraph 13(a) is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) From on or about September 25, 2007, to on or about January 18, 2008, Respondent failed and refused to furnish the Union with any of the information requested by it as described above in paragraph 13(a).

(d) From on or about September 25, 2007, to on or about March 4, 2008, Respondent failed and refused to furnish the Union with all of the information requested by it as described above in paragraph 13(a).

14.

(a) On or about October 30, 2007, Respondent announced to employees in the Unit that it would enforce restrictions and disciplinary rules regarding the use of employee bathrooms by employees in the Unit more strictly than in the past, and would start assigning certain employees in the Unit to help enforce those restrictions and disciplinary rules.

(b) Since on or about October 30, 2007, Respondent has enforced restrictions and disciplinary rules regarding use of employee bathrooms by employees in the Unit more strictly than in the past, and has assigned certain employees in the Unit to help enforce those restrictions and disciplinary rules.

(c) On or about November 2, 2007, Respondent announced to its employees in the Unit that paychecks would be distributed to them between 3:00 p.m. and 3:30 p.m. on paydays, rather than between 10:00 a.m. and 11:30 a.m. on paydays, as in the past.

(d) From on or about November 2, 2007 to on or about November 30, 2007, Respondent distributed paychecks to employees in the Unit between 3:00 p.m. and 3:30 p.m. on paydays.

(e) The subjects set forth above in paragraphs 12(a) through 12(d) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purpose of collective bargaining.

(f) Respondent engaged in the conduct described above in paragraphs 12(a) through 12(d), without prior notice to the Union and without affording the Union an opportunity to bargain with respect to this conduct, and without reaching a full collective-bargaining agreement with the Union.

15.

By the conduct described above in paragraphs 7(a) through 7(i), 8(a) through 8(c), 9(a), 9(b) and 10, Respondent has been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

16.

By the conduct described above in paragraphs 11(a) through 11(d), Respondent has been discriminating in regard to the hire or tenure or terms and conditions of employment of its employees, thereby discouraging membership in a labor organization, in violation of Section 8(a)(1) and (3) of the Act.

17.

By the conduct described above in paragraphs 12(b), 13(c), 13(d), 14(a) through 14(d), and 14(f), Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees, within the meaning of Section 8(d) of the Act, in violation of Section 8(a)(1) and (5) of the Act.

18.

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

**WHEREFORE**, as part of the remedy for the unfair labor practices alleged above in paragraphs 11(a) through 11(d), the General Counsel seeks an Order requiring Respondent to make whole Shirley Robinson and Nicole Stephenson by payment to them of backpay for any loss of earnings suffered by them as a result of their suspensions and as a result of the lay off of Nicole Stephenson by Respondent, plus quarterly compound interest. Further, as part of the remedy for the unfair labor practices alleged above in paragraphs 12(b), 13(c), 13(d), 14(a) through 14(d), and 14(f), the General Counsel seeks an Order requiring Respondent to bargain in good faith with the Union, on request, for the period required by Mar-Jac Poultry, 136 NLRB 785 (1962), as the certified bargaining representative of the Unit. The General Counsel seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The answer must **be received by this office on or before May 12, 2008, or postmarked on or before May 11, 2008**. Respondent should file an original and four (4) copies of the answer with this office and serve a copy of the answer of each of the other parties.

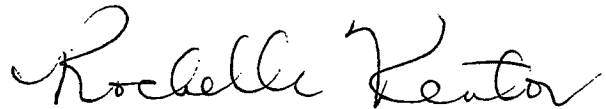
An answer may also be filed electronically by using the E-filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. A failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the website was off-line or unavailable for some other reason. When an answer is filed electronically, an original and four paper copies must be sent to this office so that they are received no later than three business days after the date of electronic filing. Service of the answer on each of the other parties must

still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint are true.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT commencing on **August 4, 2008**, at 10:00 a.m., at the National Labor Relations Board Hearing Room, 201 East Kennedy Blvd., Suite 530, Tampa, Florida, and on consecutive dates thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED at Tampa, Florida, this 28<sup>th</sup> day of April, 2008.



Rochelle Kentov, Regional Director  
National Labor Relations Board, Region 12  
201 E. Kennedy Blvd., Suite 530  
Tampa, FL 33602-5824

Attachments

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Elberta Crate & Box Co.

Cases 12-CA-25604, 12-CA-25618  
12-CA-25622, 12-CA-25633  
12-CA-25676, 12-CA-25722  
12-CA-25742

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; **and**
- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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