

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
Washington, D.C. 20424-0001

OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF TEXAS HOUSTON, TEXAS Respondent	Case No. DA-CA-90561
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3966 Charging Party	

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.34(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.40-2423.41, 2429.12, 2429.21-2429.22, 2429.24-2429.25, and 2429.27.

Any such exceptions must be filed on or before **JULY 24, 2000**, and addressed to:

Federal Labor Relations Authority
Office of Case Control
607 14th Street, NW, 4th Floor
Washington, DC 20424

JESSE ETELSON
Administrative Law Judge

Dated: June 22, 2000
Washington, DC

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
Washington, D.C. 20424-0001

MEMORANDUM
2000

DATE: June 22,

TO: The Federal Labor Relations Authority

FROM: JESSE ETELSON
Administrative Law Judge

SUBJECT: OFFICE OF THE UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF TEXAS
HOUSTON, TEXAS

Respondent

and

Case No. DA-CA-90561

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 3966

Charging Party

Pursuant to section 2423.34(b) of the Rules and Regulations, 5 C.F.R. § 2423.34(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed are the transcripts, exhibits and any briefs filed by the parties.

Enclosures

FEDERAL LABOR RELATIONS AUTHORITY

Office of Administrative Law Judges

Washington, D.C.

OALJ

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OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF TEXAS HOUSTON, TEXAS Respondent	Case No. DA-CA-90561
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3966 Charging Party	

Tiffany A. Foreman, Esquire
Charles M. de Chateauvieux, Esquire
For the General Counsel

Carol L. Catherman, Esquire
For the Respondent

Jeanell Nero-Walker, President
AFGE, Local 3966
For the Charging Party

Before: JESSE ETELSON
Administrative Law Judge

DECISION

Statement of the Case

The Regional Director for the Dallas Regional Office of the Federal Labor Relations Authority (the Authority) issued an unfair labor practice complaint alleging that the Respondent violated sections 7116(a)(1) and (8) of the Federal Service Labor-Management Relations Statute (the Statute) by failing to comply with the Statute's "Weingarten" provision, section 7114(a)(2)(B). Section 7114(a)(2)(B) requires that a labor organization having the status of "exclusive representative of an appropriate unit in an agency" be given the opportunity to be represented at any examination of an employee in the unit by a

representative of the agency in connection with an investigation if (1) the employee reasonably believes that the examination may result in disciplinary action against her or him and (2) the employee requests representation.¹

The complaint, as amended, also alleges that Respondent further violated section 7116(a)(1) of the Statute by making a coercive statement to an employee. Specifically, the complaint alleges that, in violation of section 7116(a)(1), Personnel Management Specialist William (Bill) Smith, acting on behalf of Respondent, demanded that employee Jeanell Nero-Walker attend a labor-management meeting or be disciplined for being insubordinate.² Respondent's answer denies that such a demand occurred.

With respect to the "Weingarten" violation, the complaint alleges that Nero-Walker met with Smith and Executive Assistant U.S. Attorney Albert Ratliff on May 27, 1999, that it was reasonable for Nero-Walker to believe that the "examination" held on May 27 could result in disciplinary action, that Nero-Walker requested representation, and that Respondent denied her request. Respondent's answer, as amended, denies that Smith demanded that Nero-Walker attend a meeting or be disciplined, denies that it was reasonable for Nero-Walker to believe that the discussion held at the May 27 meeting could result in discipline, denies that the discussion was an "examination," and denies that Nero-Walker requested representation. In conclusion, Respondent denies that it failed to comply with section 7114(a)(2)(B) of the Statute and that it committed the alleged unfair labor practices.

A hearing in this case was held in Houston, Texas, on May 10, 2000. Counsel for the General Counsel and for the Respondent filed post-hearing briefs.

Findings of Fact

A. Background

¹

Although section 7114(a)(2)(B) grants the exclusive representative (the labor organization, usually referred to as the union), not the employee, the right "to be represented," it is generally understood that the employee's request for "representation" means a request to have the union provide representation to the employee.

²

Nero-Walker is also the president of the Charging Party (the Union), exclusive representative of the unit of employees in which Nero-Walker is employed.

Ms. Nero-Walker is employed by Respondent as a debt collection agent. She has been the president of the Union since 1992. Over the years, she had held meetings concerning labor-management matters with various representatives of management, including, on some occasions, Mr. Smith. Smith had been a labor relations specialist before becoming a personnel management specialist with the Respondent.

In April 1999, Supervisor Doris Davis sent an e-mail message to the bargaining unit employees she supervised indicating that she had observed some employees arriving to work late, leaving early, and taking more than the allotted time for lunch, thereby being unavailable for extended periods of time when Davis tried to locate them. The message reminded employees of the expectation that they be at their workstations during all of their duty hours.

On April 23, Nero-Walker responded to Davis' message by sending an e-mail message to U.S. Attorney Mervyn Mosbacker, the head of Respondent agency. On behalf of the Union, Nero-Walker characterized Davis' e-mail message as a "destructive, demoralizing . . . threat rather than a constructive reminder about policy and procedures." Nero-Walker's response went on to note the importance "for all supervisory personnel to set the example by NEVER abusing the regulations governing time and attendance themselves" She stated that it is just as necessary for non-supervisory personnel to know where supervisory personnel are at all times as it is for the converse to obtain. The message concludes:

Mr. Mosbacker, the Union ponders whether Ms. Davis' E-mail is retaliatory, since persons whom she supervises have observed her regular abuse of the regulations governing time and attendance and have commented among themselves about that abuse.

Mr. Mosbacker passed Nero-Walker's message on to Albert Ratliff, his Executive Assistant. On May 27, 1999, at 10:14 a.m., Mr. Ratliff sent Nero-Walker the following message:

Let us meet today with Bill Smith in the Admin conference room at 2:00 p.m. to discuss some management concerns.

At 10:44 a.m., Nero-Walker responded to Ratliff as follows:

I need to know the agenda for the meeting.
I would like to be prepared so that we can use the

time efficiently and effectively. If the meeting concern[s] the Union then Vice-President Margie McQueen need[s] to be present because [there] will be two management representatives present.

As an alternative I will be happy to meet with you alone.

Sometime between 10:44 a.m. and 1:33 p.m., Nero-Walker learned that the request for leave for Vice-President McQueen to attend the meeting had not been approved. At 1:33 p.m. she addressed an e-mail message to Administrative Officer Richard Kelly, who had disapproved the request for "official time" for McQueen, and to Mr. Ratliff. The message recited Nero-Walker's learning of the disapproval and proceeded:

As the Union President I will not attend any meeting with two representatives of management present without being provided the same type of representative present to discuss management concerns.

In the alternative I will be happy to meet with you alone, Albert Ratliff alone[,], or Bill Smith alone if you all designate Bill Smith to handle management concerns.

B. Versions of Pre-meeting Conversation and the Meeting

1. Nero-Walker's Conversation with Bill Smith

According to Nero-Walker, after she had "refused to attend" the meeting, Smith came into her work area and started talking loudly about her attendance. Nero-Walker told him that she was not going to the meeting because it was a labor relations meeting and that, as the Union president, she chose not to go. Smith told her that her attendance was mandatory and that if she did not go she would be written up for insubordination. Nero-Walker called the national office of the Union's parent organization, the American Federation of Government Employees, and talked to National Representative Leo Mencio, who advised her to go to the meeting. (Tr. 20-21, 33.)

According to Smith, he went to Nero-Walker's workstation shortly before 2:00 p.m., after learning from Richard Kelly's secretary that Nero-Walker had told her that she was not going to attend the meeting. Smith asked Nero-Walker why she had decided not to attend. Nero-Walker answered that, if McQueen was not going, she was not going either. (Tr. 73-74.)

As Smith's account of the conversation continued, he told Nero-Walker that the meeting had been requested with her and that he felt that she should attend. When Nero-Walker continued to resist, he advised her in words to the effect of, "You know, I think if the executive assistant to the U.S. Attorney requested to have a meeting with you, I think that you should attend." (Tr. 74-75.)

Nero-Walker was not persuaded by this, so Smith, as he testified, said, "Well, why don't you call your national rep in Washington and he will probably tell you that you should attend this meeting." Nero-Walker responded that she had already called the national office. (Tr. 75-76.)

Smith could not remember what happened next, but "eventually" he told Nero-Walker, "You know, . . . if Albert [Ratliff] wanted to, . . . he could direct you to attend this meeting" Then Smith reiterated that she should call her national office. Before leaving, he told Nero-Walker that he was going downstairs for the meeting. He denied that either he or Nero-Walker brought up the subject of discipline. (Tr. 76-77.)

Nero-Walker denied that Smith had suggested that she call the national office, or that she contact anyone else, about attending the meeting (Tr. 33).

2. Nero-Walker's Meeting with Ratliff and Smith

a. Nero-Walker's Version

In Nero-Walker's account of the meeting, she began by indicating to Ratliff and Smith that Vice-President McQueen had to be there since this was a labor relations meeting. Smith then informed her that he had two issues about which he wanted to talk to her. The first was the e-mail message she had sent to Mr. Mosbacher, which, Smith said, had embarrassed Supervisor Davis and disrupted the work area. Smith said that people had been reprimanded for less than what Nero-Walker had done, and that she was no different from anyone else. (Tr. 22).

Nero-Walker responded to this by stating that "I need a union representative. I see where this is going." However, Smith continued, telling her that he had another issue that he needed to talk to her about--the abuse of official time. Nero-Walker asked him what he was talking about, since she never abused official time and had always gotten all the official time she had requested. Smith responded with the example of someone coming to her desk and

starting to gripe about a problem. "[T]hat's official time," he said. (Tr. 22-23.)

Nero-Walker then said, "Now wait a minute, Bill. I need a union representative." In response to Smith's statement about employees griping to Nero-Walker in her work area, she also told him, "That's idle chitchat and gossiping like you come to my desk and do." (Tr. 23.)³

Smith returned to the issue of her e-mail message to Mosbacker and asked her whether she had anything to substantiate that message. She responded by telling him that she received her information from bargaining unit employees and that they could be contacted and talked to then if Smith wanted to substantiate the information. (Tr. 23-24.)

Smith then reiterated that sending the message in question to Mosbacker was disruptive and that people had been disciplined for less. He suggested that, in the future, she might instead contact "the people that [she had] been dealing with[,]" (presumably referring to the management officials with whom she dealt on labor relations matters). (Tr. 24)

Nero-Walker responded that Mosbacker had recently indicated that he had an open-door policy, that, as the Union president since 1992, she had sent e-mails directly to U.S. Attorneys, and that she had never been discouraged from doing so. Then she asked Smith whether Mosbacker had indicated to Smith that he "handle me" and "for me not to send [Mosbacker] . . . e-mail[.]"

At that point, Smith said, "Well, let's go on with the questioning. Do you have anything to substantiate the allegations you made about the supervisor?" Nero-Walker responded, "Bill, I need a union representative." (Tr. 24-25.)

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Nero-Walker testified that Smith continued his "questioning" after she made her request for a representative (Tr. 23). However, it is not clear whether her testimony is that he continued questioning her by raising the issue of abuse of official time after she requested a representative in response to Smith's raising the e-mail issue or that he continued questioning her about official time after she made a second request in response to his first example of abuse. Thus, her further testimony (Tr. 23) either quotes him as elaborating on the example of "griping" at her desk or represents her own reference back to Smith's statement of that example of official time.

Asked whether Mr. Ratliff said anything during the meeting, Nero-Walker testified that Smith and she "kind of went on[,]" then Smith "got up and shouted out and stomped out of the office and Albert [Ratliff] was still sitting there[.]" Then:

Albert asked of me did I have a problem with any of the concerns that I may have with maybe sending him the e-mail before I made any contact with anybody else. And I told him, I said, "Well, Albert, it's something that I could consider and think about, but are you saying that it's something wrong with me sending an e-mail to the U.S. Attorney?" And he indicated no, he didn't see anything wrong."

I said, "Well, Albert, I'll consider it. I think I could probably work something out where I could send the e-mail to you."

b. Ratliff's Version

Nero-Walker made some opening comments about the denial of the request for official time for McQueen to attend the meeting. Ratliff brought up for discussion (although he did not specify when) the suggestion that "in the future issues like [those addressed in the e-mail message] were better addressed through the administrative officer or with me as opposed to involving the agency head [the U.S. Attorney] immediately." (Tr. 44-45.)⁴

Ratliff considered himself to be the "main speaker on behalf of management," and Smith to have been present as "somewhat of a technical advisor" (Tr. 57). Nevertheless, there was "a robust exchange of strong opinions" between Nero-Walker and Bill Smith. "I think they might have been discussing heatedly the contents of the e-mail that was sent to Mr. Mosbacher." Ratliff was unable to testify about what remarks Smith made to Nero-Walker, because "I kind of tune out when they get into those little heated discussions." (Tr. 46-47.) However, he testified that neither he nor Smith made any reference to discipline, nor did Nero-Walker. Nero-Walker mentioned a union representative only in regard to protesting the denial of the earlier request for Vice-President McQueen to attend the meeting. She made no reference to seeking representation for herself in an individual capacity. (Tr. 48-9, 51.)

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Ratliff could not remember exactly how the meeting started or whether he or Smith began the discussion. (Tr. 65).

Ratliff thought that he was paying enough attention to the discussion between Nero-Walker and Smith as not to have "tune[d] out" that type of request (Tr. 59).

The meeting "concluded on a fairly positive note[,] " as Nero-Walker concurred that it might be a good idea to address her concerns with the administrative officer or Ratliff initially as opposed to going directly to the U.S. Attorney (Tr. 49-50).

Ratliff testified initially that Nero-Walker was the first to leave the meeting and that Ratliff and Smith then left together. Later he acknowledged that Nero-Walker "may [have been] correct" in stating that "Bill Smith jumped up and ran out [of] the meeting yelling and still talking . . . at the door[.]" (Tr. 60-61, 64.)

There were no communications or discussions following up on the May 27 meeting. No disciplinary action against Nero-Walker was proposed for sending the e-mail message or for anything related to the May 27 meeting. (Tr. 49-50.)

c. Smith's Version

At the outset, Nero-Walker objected to Smith being at the meeting, as she had done on previous occasions when Smith accompanied management officials at meetings with her. Smith engaged in a debate with Nero-Walker over the subject of his presence. However, Smith did not recall her objection to his presence as being related to the absence of McQueen. (Tr. 77-80.)

The subject of discipline did not arise, nor did Nero-Walker say anything about having representation at the meeting (Tr. 80-81). The meeting concluded by Nero-Walker "looking at Albert with a little small smile and she said, 'Albert, from now on when he have a meeting like this, why don't just the two of us get together. We don't need Bill here.' Those were her exact words" (Tr. 81-82).

Although Smith knew, before he attended the meeting, that the "management concerns" that Ratliff had referenced in his message to Nero-Walker scheduling the meeting involved her April 23 e-mail to Mosbacker (Tr. 85-86), he did not testify as to anything that was said at the meeting concerning that subject. He did, however, deny that he asked Nero-Walker any questions or that he mentioned anything in reference to abuse of official time or disruptive behavior (Tr. 94).

C. Resolution of Material Conflicts in the Testimony

1. Pre-meeting conversation between Nero-Walker and Smith

According to Nero-Walker, Smith told her specifically that if she did not go to the meeting she would be written up for insubordination. According to Smith, he told her that she "should" attend and that Ratliff "could direct you to attend."

Memory is fickle, and is greatly influenced and rearranged by one's overall impression of the events or statements in question. I do not believe that either Nero-Walker or Smith was able to recall accurately exactly what words were said at the crucial parts of their conversation. Although I am not persuaded that Smith, an experienced labor relations professional, was so blatant as to tell Nero-Walker that "she would be written up for insubordination," I find that he used words that were sufficient to give her the impression that management was requiring her, as an employee, to attend the meeting under the conditions management had set forth -- that is -- to meet alone with Ratliff and Smith.

2. The meeting with Ratliff and Smith

As Nero-Walker and Ratliff agree, Nero-Walker continued to protest McQueen's absence as the meeting began. Then, at some point, there was a "robust exchange of strong opinions" between Nero-Walker and Smith on the subject of the e-mail message that Nero-Smith had sent to the U.S. Attorney. The question remains as to the nature of this "robust exchange."

Ratliff testified that he "tune[d] out" during most of that "heated discussion." Smith did not address this discussion in his testimony but denied that he asked Nero-Smith any questions. I credit Nero-Walker to the extent that Smith challenged the statements she made about Davis in her e-mail message, and that, whether or not he put anything in the form of a question, Smith made statements that placed her in the position of having to defend her action.

That is, although Ratliff's may have intended only to address future communications, Smith took the opportunity to rebuke her for her past communication. Moreover, Ratliff's tuning out and Smith's silence on the subject leave substantially uncontested Nero-Smith's testimony that Smith referred to other people having been reprimanded for less than what she had done. I credit this testimony, taking as incompletely responsive Ratliff's testimony that no one made any reference to discipline. Such testimony could reasonably be construed to mean that he heard neither the

word "discipline" nor specific reference to action that would be taken against Nero-Walker. Moreover, there is no particular reason that Ratliff would have suddenly "tuned in" to Smith's reference to other people being reprimanded.

Similarly, although Smith denied that he made any reference to "abuse of official time," I credit Nero-Walker's testimony that he characterized as "official time" instances in which an employee came to her desk and started griping about a problem. I think more likely than not that, at some point, he referred to this as "abuse of official time," but there is no evidence that he pursued this with any indication that discipline might result. It appears to have been addressed to Nero-Walker in her capacity as Union president, not as an employee, as fragile as such a distinction might be.

Now we reach the final element in the General Counsel's case on the factual side -- the request for representation. Neither Smith, who was, in Nero-Walker's, account the direct addressee of her requests, nor Ratliff, who thought he was paying enough attention so as not to have tuned out such a request, acknowledges hearing such a request. Ratliff acknowledges hearing Nero-Walker continuing her request to have McQueen present as a second Union representative for what was supposed to have been a labor relations meeting. Smith, unfortunately, appears to have been so focused on Nero-Walker's objection to his presence that he failed to take note, or so he testified, of the immediate reason for her objection.

Notwithstanding the handicaps under which each of the Respondent's witnesses placed himself with respect to this question, I find it highly unlikely that, as Nero-Walker's testimony would have it, she made clear requests for representation for herself, that both Smith and Ratliff completely ignored them, that Smith continued "questioning" her, and that Nero-Walker permitted this to continue. But if not all of these things occurred, what did?

Had Nero-Walker made it clear that she was requesting a representative for herself, one would have expected, most likely, an acknowledgment of the requests and a discussion of whether or not management was required to honor that request. If, on the other hand, Smith and Ratliff had simply ignored her requests, it seems unlikely that this experienced Union president would have failed to insist at

least on their addressing the issue of her right to representation.⁵

Nero-Walker, to take her at her word, believes that she asked for a representative. I find that she did refer on one or more occasions after Smith began discussing the e-mail message, to her desire to have McQueen there. However, I do not find that she made it clear to Smith or Ratliff that her request was no longer for a co-representative for collective bargaining purposes but for what are now commonly referred to as "*Weingarten*" purposes.⁶ I am not even sure that, at the time, she was clear in her own mind that the purpose of her request had changed. That might account for her acquiescence when her requests were ignored. Although she attributes this to being intimidated and I do not dismiss that as at least a contributing factor, I do not believe that it shows that there was a clear request for the kind of representation envisioned in section 7114(a)(2)(B).

Discussion and Conclusions

A. Smith's Pre-meeting Statements

As the issue regarding Nero-Walker's attendance was the imbalance she perceived in being outnumbered by management in the absence of McQueen, Nero-Walker could reasonably have felt coerced by being told that she was required to attend the meeting with Ratliff and Smith alone. This impinged on her free choice as Union president as to whether to attend

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I have been able to find only one published case in the Authority's history in which a management representative *ignored* an employees' request for representation. That incident occurred in 1979. Even there, the supervisor at least responded at one point that he understood that the employee was only entitled to representation at a later time. *U.S. Department of Navy, U.S. Marine Corps, Marine Corps Logistics Base, Albany, Georgia*, 4 FLRA 397, 403-05 (1980).

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In the unfair labor practice charge that initiated this case, Nero-Walker stated, and verified her belief in the truth of the statement, that her request to Ratliff and Smith was that "Vice-President Maggie McQueen needed to be in attendance for this investigation" Nero-Walker made this statement only a few days after the incident, at a time when her memory was relatively fresh. Consistent with the statement she made in the charge, the words she spoke to Smith, in Ratliff's presence, might have been to the effect of, "Bill, I need Maggie McQueen here for this."

the meeting in those circumstances. The tendency of such statements to coerce, rather than the subjective perceptions of the employee or the intent of the employer, determines whether they violate section 7116(a)(1) of the Statute. *Department of the Air Force, Scott Air Force Base, Illinois*, 34 FLRA 956, 962 (1990). Nero-Walker could reasonably have construed Smith's statements to mean that, although as Union president she thought it unwise to attend the meeting alone, she could be in trouble as an employee if she failed to attend. This carried the requisite coercive tendency and resulted in a violation of section 7116(a)(1).

B. The "Weingarten" Issue

I find that Smith's challenging of Nero-Walker's e-mail message to the U.S. Attorney, in a manner that forced her to defend her conduct, was sufficient to constitute an "examination of an employee in the unit by a representative of management" within the meaning of section 7114(a)(2)(B) of the Statute, whether or not Smith expressed himself in the form of questions. His statements were sufficiently accusatory to make a formal "questioning" unnecessary. Whether this examination is one that the Authority would find to have been "in connection with an investigation" is another question, however, and one to which Authority precedent provides no clear answer. Because I ultimately find that there was not an adequate request for representation in any case, I do not reach out to explore this uncharted territory. See *Department of Labor, Employment Standards Administration*, 13 FLRA 164, 171 (1983).

I do find that Nero-Walker reasonably believed that the examination might result in disciplinary action against her, at least during that part of the meeting when Smith rebuked her for the e-mail message to the U.S. Attorney and referred to reprimands given to other employees "for less than" that.

What is literally the bottom line here, as well as being the bottom-line requirement of section 7114(a)(2)(B), is the question of the request for representation. To be valid, a request need not be made in a specific form. Instead, a request for union representation must be sufficient to put the respondent on notice of the employee's desire for representation. *Norfolk Naval Shipyard, Portsmouth, Virginia*, 35 FLRA 1069, 1074 (1990). As foreshadowed by my findings of fact on this point, I conclude that the General Counsel has not shown by a preponderance of the credible evidence that a valid request was made here. Whatever may have been in Nero-Walker's mind, she did not, in my view, convey to management with

sufficient clarity that the second union representative she wished to have present was to have been there for the purpose of assisting her in her capacity as an employee who believed that the examination might result in disciplinary action against her. Cf. *Social Security Administration, Baltimore, Maryland*, 19 FLRA 748, 758-59 (1985) (request for union representation was not clear or unqualified). I therefore conclude that the alleged "Weingarten" violation has not been established.

In order to remedy the Respondent's independent violation of section 7116(a)(1), I recommend that the Authority issue the following Order:

ORDER

Pursuant to section 2423.41(c) of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute, the Office of the United States Attorney, Southern District of Texas, Houston, Texas, shall:

1. Cease and desist from:

(a) Making statements to employees to the effect that their decisions regarding the manner in which they exercise their right to assist a labor organization may result in detriment to their status as employees.

(b) In any like or related manner, interfering with, restraining, or coercing employees in the exercise of their rights assured by the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Post at its facilities copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the United States Attorney, and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(b) Pursuant to section 2423.41(e) of the Authority's Rules

and Regulations, notify the Regional Director, Dallas Regional Office, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply.

Issued, Washington, DC, June 22, 2000.

JESSE ETELSON
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

POSTED BY ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that the Office of the United States Attorney, Southern District of Texas, violated the Federal Service Labor-Management Relations Statute, and has ordered us to post and abide by this Notice.

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT make statements to employees to the effect that their decisions regarding the manner in which they exercise their right to assist a labor organization may result in detriment to their status as employees.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce bargaining unit employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute.

(Respondent/Agency)

Dated: _____

By:

(Signature)

(U.S. Attorney)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

If employees have any questions concerning this Notice or compliance with its provisions, they may communicate directly with the Regional Director, Dallas Regional Office, whose address is: 525 Griffin Street, Suite 926, Dallas, TX 75202 and whose telephone number is: (214)767-4996.

CERTIFICATE OF SERVICE

I hereby certify that copies of this **DECISION** issued by JESSE ETELSON, Administrative Law Judge, in Case No. DA-CA-90561, were sent to the following parties:

CERTIFIED MAIL & RETURN RECEIPT

CERTIFIED NOS:

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CATHERINE L. TURNER, LEGAL TECHNICIAN

DATED: JUNE 22, 2000
WASHINGTON, DC