UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF ADMINISTRATIVE LAW JUDGE
WASHINGTON, D.C. 20424

UNITED STATES CUSTOMS SERVICE, WASHINGTON, D.C. Respondent and NATIONAL TREASURY EMPLOYEES UNION Charging Party	Case No. 8-CA-80171

Lorrie Gray, Esquire
Andrew R. Krakoff, Esquire (On Brief)
For the Charging Party

Stephanie J. Dick, Esquire
For the Respondent

Deborah S. Wagner, Esquire
For the General Counsel

Before: WILLIAM B. DEVANEY
Administrative Law Judge

DECISION

Statement of the Case

This proceeding, under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the United States Code, 5 U.S.C. § 7101, et seq.1/, and the Rules and Regulations issued thereunder, 5 C.F.R. § 2423.1, et seq., concerns whether an agency can compel a union representative, under threat of discipline, to divulge statements made by the employee to his representative. For reasons set forth hereinafter, I conclude that statements by

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1/ For convenience of reference, sections of the Statute hereinafter are, also, referred to without inclusion of the initial "71" of the statutory reference, e.g., Section 7116 (a)(1) will be referred to, simply as "§ 16(a)(1)".

an employee to his, or her, designated union representative are privileged and that Respondent violated § 16(a)(1) by compelling disclosure.

This case was initiated by a charge filed on January 14, 1988 (G.C. Exh. 1(a)) which alleged violation of §§ 16(a)(1) and (8) of the Statute. The Complaint and Notice of Hearing (G.C. Exh. 1(b)) issued on May 17, 1988, and set the hearing for July 20, 1988. By Order dated June 24, 1988 (G.C. Exh. 1(d)), the hearing was rescheduled for August 19, 1988, pursuant to which a hearing was duly held on August 19, 1988, in Los Angeles, California, before the undersigned. All parties were represented at the hearing, were afforded full opportunity to be heard, to introduce evidence bearing on the issues involved and were afforded the opportunity to present oral argument which all parties waived. At the close of the hearing, September 19, 1988, was fixed as the date for mailing post-hearing briefs, which time was subsequently extended, on timely motion of the Charging Party, for good cause shown, to October 19, 1988. Charging Party, Respondent and General Counsel each timely mailed an excellent brief, received on, or before, October 24, 1988, which have been carefully considered. Upon the basis of the entire record, I make the following findings and conclusions:

Findings

The facts as concerns this case are not in dispute and arose in a disciplinary proceeding of Senior Customs Inspector Melvyn Mueller. The merits of Mr. Mueller's case are not before me, but the events and circumstances of the Mueller case as background information is necessary to understand the interrogation. Understandably, each of the parties views the facts of the Mueller case somewhat differently. Since these differences concern only the merits of the Mueller case such differences are not material to this case. Accordingly, I have followed, in the main, the statement of facts set forth in Respondent's Brief.

1. The National Treasury Employees Union (hereinafter, "NTEU") is the exclusive representative of all non-professional employees of the United States Customs Service (hereinafter, "Respondent") in a nation-wide consolidated bargaining unit, including those employees assigned to Respondent's Los Angeles Airport facilities. (G.C. Exhs. 1(b) and (c)).

2. In the early morning of June 6, 1986, Mr. Paul D. Beaulieu, Group Supervisor, U.S. Customs Service, Office of

Internal Affairs, Los Angeles, California (Tr. 34), received information from Supervisory Customs Inspector Caroll Daunis that Mr. Mueller had been seen leaving the international terminal at the Los Angeles International Airport2/ at about 2:00 a.m. with two bags under suspicious circumstances. Ms. Daunis told Mr. Beaulieu that she, Inspector Randy Karavanich and Mr. Mueller had departed TBIT together, about fifteen minutes earlier, at the end of their overtime shifts. Mr. Mueller had bid her and Mr. Karavanich good night in the parking lot across the street. Daunis and Karavanich chatted for a few more minutes and, from the parking lot, saw Mr. Mueller go back into TBIT. A short time later, they saw Mr. Mueller emerge from TBIT carrying two bags, one a long white object that looked like a white ski bag and the other a dark handcarry bag. Mr. Mueller proceeded to cross the street as to walk to the parking structure. When, about to the curb, he noticed Inspectors Daunis and Karavanich watching him and he stopped, turned around, and went back into TBIT. When he re-emerged a few minutes later he was empty-handed. When confronted by Ms. Daunis, Mr. Mueller claimed he had gone back to TBIT to lock a security gate and that the bags he had been seen carrying contained office supplies which he had planned to take to another office the next day,3/ but that he had changed his mind and returned then to the terminal. After Mr. Mueller left, Daunis and Karavanich, who thought Mr. Mueller's behavior strange, returned to the terminal and located two bags, similar to what they had seen Mr. Mueller carrying. One was a Costa Rican mail bag, and the other was a black nylon carry-on bag. Although Mr. Mueller had claimed that he returned the "office supplies" to the supply room, that is not where the two bags were found. The security gate which Mr. Mueller said he had gone back to lock was not locked. At that point, Ms. Daunis contacted Internal Affairs. Mr. Beaulieu came to the airport at about 0445 and talked to Ms. Daunis and Mr. Karavanich (Res. Exh. 1; Tr. 35-36).

2/ Generally known as "LAX"; however, the international terminal, the Major Tom Bradly International Terminal, is referred to hereinafter as "TBIT".

3/ As noted above, Mr. Mueller is a Senior Customs Inspector which is a bargaining unit position; however, on June 5 and 6, 1986, when the incident occurred, he was detailed to a Supervisory Customs Inspector position for 120 days (Res. Exh. 1, p. 21).

3. A few days after this incident, Mr. Mueller checked into a substance abuse treatment program and was unavailable for interview by Mr. Beaulieu until July 17, 1986. At that time, Mr. Mueller claimed that he was an alcoholic subject to "functional blackouts" and was unable to recall anything pertinent to the two bags or his conversation with Inspectors Daunis and Karavanich. (Res. Exh. 1; Tr. 36-38).

4. Agent Beaulieu's investigation was completed on August 26, 1986. On October 6, 1986, the District Director of Customs proposed Mr. Mueller's removal on charges of dishonest conduct, failure to account for property, and attempted theft. For reasons unrelated to this proceeding, Mr. Mueller's oral reply did not take place until October 28, 1987, over a year after the notice of proposed termination.

5. Mr. Carl Rizzo, a Senior Inspector and President of NTEU Chapter 111, was contacted by Mr. Mueller in October, 1986, either just before or just after the notice of proposed removal was issued (Res. Exh. 5, p. 5), and asked to represent him. Mr. Rizzo undertook the representation of Mr. Mueller and requested a copy of Agent Beaulieu's final report (also known as the "Red Book"). In November, 1986, Mr. Rizzo met with Mr. Mueller to discuss what had occurred on the night of June 5 or early morning of June 6, 1986. After reviewing the Red Book, Mr. Mueller seemed to recall that he had taken a white canvas bag with Mylar folders from the Supply Room with the intention of taking them to the Cargo Room the next day; but changed his mind and put the bag back in the Supply Room (Tr. 23-23). Mr. Rizzo immediately insisted that they go to the airport and search the Supply Room to see if the bag could be found. At the airport, they got a supervisor to accompany them and unlock the Supply Room where they found a white canvas bag with Mylar folders inside a locked "cage" behind some boxes (Tr. 24). After some additional probing of Mr. Mueller's memory, after several attempts he indicated that the other bag in question, a dark hand carried bag, might be in a locked credenza (Tr. 24). The Supervisor unlocked the credenza and inside were some dark, hand carry pieces of Canvas bags that contained enforcement team supplies (Tr. 24).

6. At the oral presentation (Res. Exhs. 2 and 3), Mr. Rizzo inter alia, contended, and Mr. Mueller concurred, that Mr. Mueller now remembered some of the events of June 5 and 6, 1986, and described them in some detail. Mr. Rizzo also presented the two bags, discussed in Paragraph 5, above, as the bags Inspectors Daunis and Karavanich had seen Mr. Mueller carrying.

7. Based upon this new evidence and the apparent recovery of Mr. Mueller's memory, Agent Beaulieu interviewed Mr. Mueller again on November 19, 1987 (Res. Exh. 4). Mr. Mueller was represented at this interview by Mr. Ray Laing, NTEU attorney, and Mr. Rizzo was not present (Tr. 27-28). Again, Mr. Mueller was unable to recall specific details of the night in question. In fact, he was unable to recall having had a conversation with Inspector Daunis, although he recalled that Daunis was near the parking lot but he was uncertain whether she was alone; he did not recall a conversation with either Inspector Daunis or Inspector Karavanich; he remembered he carried two bags; that he walked toward the parking lot, possibly out of the building, but he thought to a carousel in the public area of TBIT outside the Customs area; that he did not remember whether he had checked the security gate before his last departure from TBIT; he could not recall if he was carrying anything when he saw Inspector Daunis, nor did he recall returning the bags to the Supply Room or anywhere else; that he did not recall placing the green bag in the cabinet or the white bag on the shelf in the supply room (Tr. 39-40; Res. Exh. 4). Agent Beaulieu showed Inspectors Daunis and Karavanich the two bags Messrs. Rizzo and Mueller had found in the Supply Room and each was unequivocal in stating that those were not the bags they had seen Mr. Mueller carrying on June 6, 1986 (Tr. 40). Inspector Daunis stated that, "The white bag was the wrong size and shape and had handles, whereas the bag Mueller was carrying over his shoulder did not. The green bag was too small to have been the other bag . . . ." (Res. Exh. 4, p. 5) and Inspector Karavanich said, ". . . the green bag was too small and the white one was both too small and of the wrong size. He repeated his earlier statement that the white bag Mueller had been carrying immediately reminded him of a bag used to carry skis because of its shape." (Res. Exh. 4, p. 6).

8. Because it appeared to agent Beaulieu that there was a great discrepancy between what Mr. Mueller remembered when he spoke with Mr. Rizzo, based on representations made at the oral reply, and what he remembered when interviewed by Mr. Beaulieu, he sought advice from Regional Counsel and labor relations staff as to the propriety of interviewing Mr. Rizzo to ascertain what Mr. Mueller had told his representative, Mr. Rizzo (Tr. 41-42; Res. Exh. 5, p. 2). Authorization was given; but before proceeding, Agent Beaulieu spoke to Mr. Andred R. Krakoff, NTEU National Counsel. Mr. Krakoff objected but did not provide any legal authority as to why Mr. Rizzo could not be interviewed (Tr. 43). Accordingly, the interview of Mr. Rizzo took place on December 11, 1987.

9. At the interview of December 11, 1987 Mr. Rizzo was accompanied by NTEU attorney Jim Bailey. The interview was recorded and transcribed and introduced as Respondent's Exhibit 5. At the outset, Agent Beaulieu cautioned Mr. Rizzo that he was required to disclose any information in his possession pertaining to the investigation of Inspector Mueller and warned that, "You may be subject to disciplinary action for your failure or refusal to answer proper questions relating to the performance of your duties as an employee of the U.S. Customs Service. You may also be subject to criminal prosecution for any false answer you give to any of my questions." (Res. Exh. 5, p. 1). Agent Beaulieu stated,

> ". . . My purpose for interviewing you today is focused on what Mel Mueller told you with respect to the events of June 5 and 6, 1986, and I guess, obviously then the extension of that would be the events of November 24, or thereabouts, during the alleged discovery of the two bags in the supply room . . . ."
> (Res. Exh. 5, p. 2) (Emphasis supplied).

Mr. Bailey stated that Mr. Rizzo, ". . . is here because he was told to come here, and it's not voluntary on his part . . . NTEU's position in this matter, is that whenever you call in a Union representative who has made an oral reply or represented an employee in a disciplinary action and you're going to ask questions about what that employee told you in an attempt to investigate possible misconduct on that employee's part, that's inherently coercive . . . ."4/

4/ Mr. Bailey continued,

> ". . . and that in order for this not to be an unfair labor practice you must have a reasonable basis to believe or reasonable cause to believe that you will gain information from the union representative, in this case, Mr. Rizzo, that Mr. Rizzo will provide you information that will support or maybe lead to a finding of wrong doing on the part of the employee represented."
> (Res. Exh. 5, p. 3).

This inane and asinine statement is not the allegation of the charge (G.C. Exh. 1(a)), nor the complaint (G.C. Exh. 1(b)) and it is not the position of the Union in this case (Tr. 20).

(Res. Exh. 5, pp. 2-3). Mr. Rizzo also stated, "And I'll state for the record, I'll reiterate what Mr. Bailey said, that I'm here mandatorily and not voluntarily." (Res. Exh. 5, p. 4).

10. On March 2, 1988, Mr. Mueller's proposed removal was reduced to a proposed 30 day suspension (G.C. Exh. 2).

Conclusions

Respondent asserts that, "The appropriate standard to be applied to interviews of union officials . . . is whether the agency has a reasonable belief that the Union official has information about employee misconduct which could result in disciplinary action or criminal charges" (Respondent's Brief, p. 7). In the first place, this case does not involve interview of union officials generally, see, National Institute For Occupational Safety and Health, Cincinnati Operations, Cincinnati, Ohio, 22 FLRA 1037 (1986), and the fact that Mr. Rizzo was President of the Union is wholly immaterial. What this case involves, and all that it involves, is whether the designated union representative of an employee in an actual or potential disciplinary action can be examined by management concerning statements made by the employee to his, or her, representative. It is, indeed, whether the relationship between a union representative and an employee is analogous to the attorney-client privilege. In the second place, it is as inane as when the essentially similar statement was made by Mr. Bailey (see, n. 4, supra), but astute on the part of Respondent since it would virtually assure immunity for all coerced disclosures by union representatives. A reasonable belief, or probable cause, standard for a search warrant must be satisfied before there is a search; but would be largely an empty and futile gesture when applied after the fact to an interview.

Clearly, there can be no attorney-client privilege unless the party to whom the communication was made is an attorney. Baird v. Koerner, 279 F.2d 623, 627 (9th Cir. 1960). It is certainly true that privileges are not favored and are not to be granted lightly, Memorial Hospital for McHenry County v. Shadur, 664 F.2d 1058 (7th Cir. 1981). As Mr. Justice White stated in Fisher v. United States, 425 U.S. 391 (1976), with regard to the attorney-client privilege.

> ". . . However, since the privilege has the effect of withholding relevant information from the factfinder, it applies only where necessary to achieve its purpose. Accordingly it

> protects only those disclosures - necessary to obtain informed legal advice - which might not have been made absent the privilege." (425 U.S. at 403) (Emphasis supplied).

The Court, in Memorial Hospital for McHenry County v. Shadur, supra, noted that,

> ". . . in deciding whether the privilege asserted should be recognized, [there, the Hospital's records of disciplinary proceedings against other doctors] it is important to take into account the particular factual circumstances . . . ." (664 F.2d at 1061).

The Court, continuing, further stated that it is necessary to,

> "'. . . weigh the need for truth against the importance of the relationship or policy sought to be furthered by the privilege, and the likelihood that recognition of the privilege will in fact protect that relationship . . .'" (664 F.2d at 1061 - 1062).

Here, § 2 of the Statute gives,

> "Each employee . . . the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right . . . ." (5 U.S.C. § 7102)5/

5/ Section 7 of the National Labor Relations Act, 29 U.S.C. § 157, differs in two respects: First, the Statute does not contain the phrase, ". . . and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection" which appears in this NLRA. Second, the "right to refrain from any or all such activities," which is without limitation in the Statute, is subject to the qualification in § 7 of the NLRA, that "such right may be affected by an agreement requiring membership in a labor organization as a condition of employment authorized in section 8(a)(3)."

The Statute, as does the NLRA (see Section 9(a), 29 U.S.C. § 159(a)), grants to the exclusive representative the right,

> ". . . to act for . . . all employees in the unit . . . ." (§ 14(a)(1), 5 U.S.C. § 7114(a)(1))

and imposes a duty on the exclusive representative to represent,

> ". . . the interests of all employees in the unit . . . ." (§ 14(a)(1), 5 U.S.C. § 7114(a)(1)).

Moreover, the Statute, unlike the NLRA which has no comparable language, provides that the exclusive representative shall be given the opportunity to be represented at --

> "(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practice or other general conditions of employment; or
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> "(B) any examination of an employee6/ in the unit by a representative of the agency in connection with an investigation if --

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6/ In 1973, the NLRB, quite belatedly, found in the words of § 7, "to engage in . . . concerted activities for . . . mutual aid or protection . . . ." a right of an employee to have a union representative present at an investigatory interview which the employee reasonably believed might result in disciplinary action. J. Weigarten, Inc., 202 NLRB 446 (1973). The Fifth Circuit Court of Appeals held that this was an impermissible construction of § 7 and refusal to enforce the Board's order, 485 F.2d 1135 (5th Cir. 1973). The Supreme Court reversed, 420 U.S. 251 (1975). Indeed, the Board had found the words, i.e., "Employees shall have the right . . . to engage in . . . concerted activity for . . . mutual aid or protection . . ." to apply even in a non-union setting, E. I. Du Pont de Nemours & Company (Chestnut Run), 262 NLRB 1028 (1982), enf't granted, 724 F.2d 1061 (3 d/ Cir. 1983), Board's petition to remand granted, 733 F.2d 296 (3 d/ Cir. 1984), petition to review granted [Bd. decision that original construction was

(footnote continued)

"(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

"(ii) the employee requests representation." (§ 14(a)(2)(A) and (B), 5 U.S.C. § 7114(a)(2)(A) and (B)).

The Sectional analysis of § 14(a)(2) of the bill, which, as amended, became § 14(a)(2) of the Statute, presented by Mr. Udall noted, in part, that,

"The substitute's provisions concerning investigatory interviews reflect the U.S. Supreme Court's holding in National Labor Relations Board v. J. Weingarten, Inc., 420 U.S. 251 (1975) . . .

"The Weingarten right, of course, is tied to the National Labor Relations Act's 'guarantee of the right of employees to act in concert for mutual aid and protection.' Other than this difference in derivation, the substitute's provisions differ from Weingarten only in providing that the employee must be informed of the right of representation prior7/ to the commencement of any investigatory interview concerning misconduct which

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6/ (footnote continued)

impermissible and contrary result compelled by language of the Act, reversed], 794 F.2d 120 (3 d/ Cir. 1986), although, presumably, the Board has, indeed, changed its mind and now holds that extension of Weingarten, supra, to non-union employees was erroneous, Sears, Roebuck and Co., 274 NLRB 230 (1985).

7/ This language "Before any representative of an agency commences any investigatory interview . . . ." was changed in conference, "The conferees agreed to adopt the wording in the House bill with an amendment deleting the House Provision requiring the agency to inform employees before certain investigatory interviews . . . and substituting a requirement that each agency inform its employees annually of the right of representation." (Legislative History pp. 823-824; § 14(a)(3) of the Statute).

could reasonably lead to suspension, reduction in grade or pay, or removal." (124 Cong. Rec. H. 9634-9635, Sept. 13, 1978; Legislative History of the Federal Service Labor-Management Relations Statute, Title VII of the Civil Service Reform Act of 1978, Comm. Print No. 96-7, 96th Cong., 1st Sess., 1979, p. 926).

§ 14(a)(5) of the Statute provides as follows:

> "(5) The rights of an exclusive representative under the provisions of this subsection shall not be construed to preclude an employee from --
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> > "(A) being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any grievance or appeal action; or
> >
> > "(B) exercising grievance or appellate rights established by law, rule, or regulation;
>
> except in the case of grievance or appeal procedures negotiated under this chapter." (5 U.S.C. § 7114(a)(5)).

The right and duty of a Union to represent employees in disciplinary proceedings, and the correlative right of each employee to be represented, demand that the employee be free to make full and frank disclosures to his, or her, representative in order that the employee have adequate advice and a proper defense. Even though the representative is not an attorney, the Statute assures each employee the right to exercise rights granted by the Statute, "freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right . . . ." The subjection of an employee's representative to interrogation concerning statements made by the employee to the representative violates § 16(a)(1) because it directly interferes with, restrains, or coerces the employee in the exercise of rights under the Statute. It further violates § 16(a)(1) by interfering with, restraining, or coercing employee representatives both by inhibiting them from obtaining needed information from employees and by interfering with the employee representative's exercise of his protected right to engage in union activity, "freely and without fear of penalty or reprisal . . . ."

In a similar case8/ the National Labor Relations Board stated, in part, as follows:

> ". . . Whitwell's involvement in the incident arose and continued in the context of his acting as Thompson's representative . . .
>
> "Clearly, . . . Respondent's . . . questioning impinged upon protected union activity. . . . the very facts sought were the substance of conversations between an employee and his steward, as well as notes kept by the steward, in the course of fullfilling his representational functions. Such consultation between an employee potentially subject to discipline and his union steward constitutes protected activity is one of its purest forms. To allow Respondent here to compel the disclosure of this type of information under threat of discipline manifestly restrains employees in their willingness to candidly discuss matters with their chosen, statutory representatives. [footnote omitted] Such actions by Respondent also inhibit stewards in obtaining needed information from employees . . . In short, Respondent's probe into the protected activities of

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8/ Factually, this case, Cook Paint and Varnish Company, 246 NLRB 646 (1979), may be distinguishable. Indeed, Judge Robb, who dissented in part in the decision on appeal, Cook Paint and Varnish Company v. NLRB, 648 F.2d 712 (D.C. Cir. 1981), stated, "In other words Whitwell was interviewed simply as a witness, not as a steward, and the questioning had nothing to do with his activities or functions as a steward . . . ." (648 F.2d at 726). Cf., United States Department of Justice, Bureau of Prisons, Terminal Island, California and American Federation of Government Employees, Local 1680, AFL-CIO, Case No. 8-CA-50115, Administrative Law Judge Dec. Rep. No. 55, December 6, 1985. Nevertheless, the Board on remand, as noted, supra, viewed Whitwell's interrogation as more than simply as a witness.

Nor does the difference in derivation of the right, in the NLRA, through construction of words in § 7, and the specific statutory grant in the Statute, matter in the slightest.

> Whitwell and Thompson has not only interfered with the protected activities of those two individuals but it has also cast a chilling effect over all of its employees and their stewards who seek to candidly communicate with each other over matters involving potential or actual discipline." (Cook Paint and Varnish Company, 258 NLRB 1230, 1232 (1981)) (Emphasis supplied).

Cf., National Institute for Occupational Safety and Health, Cincinnati Operations, Cincinnati, Ohio, 22 FLRA 1037 (1986).

Having found that Respondent violated § 16(a)(1) of the Statute, I recommend that the Authority adopt the following:

ORDER 9/

Pursuant to § 18(a)(7) of the Statute, 5 U.S.C. § 7118(a)(7)(A), and § 2423.29 of the Regulations, 5 C.F.R. § 2423.29, it is hereby ordered that the United States Customs Service, Washington, D.C., shall:

1. Cease and desist from:

(a) Requiring an employee, who is a representative of the National Treasury Employees Union (hreinafter referred to as the "Union"), the exclusive representative of Customs Service employee, to disclose, under threat of disciplinary action, the content or substance of any statement made by an employee to such designated Union representative in the course of an actual or protential disciplinary proceeding.

9/ General Counsel seeks a broader order - one that would protect all information acquired "while engaged in protected activity "(General Counsel's Proposed Order). A broader order, such as proposed by the General Counsel, is not necessary to the decision of this case, i.e., to remedy the unfair labor practice raised herein; whether information acquired through means other than statements made by the employee can or should be protected, any protection afforded must be for other reasons. Nor am I persuaded that all information acquired by Union officials while engaged in protected activity should be protected from disclosure. See, for example, United States Department of Justice, Bureau of Prisons, Terminal Island, California, supra.

(b) In any like or related manner, interfering with, restraining, or coercing any employee in the exercise of his, or her, 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 throughout the United States, including, but not limited to, its facilities at the Los Angeles International Airport, Los Angeles, California, 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 Commissioner and they shall be posted and maintained for 60 consecutive days thereafter, in conpicuous 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 5 C.F.R. § 2423.30, notify the Regional Director, Federal Labor Relations Authority, Region 8, Room 370, 350 South Figueroa Street, Los Angeles, California 90071, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

William B. Devaney

WILLIAM B. DEVANEY
Administrative Law Judge

Dated: June 20, 1989
Washington, D.C.

NOTICE TO ALL EMPLOYEES

AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY

AND TO EFFECTUATE THE POLICIES OF THE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT require an employee, who is a representative of the National Treasury Employees Union (hereinafter referred to as the "Union"), the exclusive representative of our employees, to disclose, under threat of disciplinary action, the content or substance of any statement made by an employee to such designated Union representative in the course of an actual or potential disciplinary proceeding.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce any employee in the exercise of rights guaranteed by the Federal Service Labor-Management Relations Statute.

_____
(Agency or Activity)

Dated: _____ By: _____
(Signature)

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 any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, Region VIII, whose address is: 350 South Figueroa Street, Room 370, Los Angeles, CA 90071, and whose telephone number is: (213) 894-3805.