

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10, SUBREGION 11**

MOHAWK INDUSTRIES, INC.

and

**Case 10-CA-209405
10-CA-212989**

**WORKERS UNITED, SOUTHERN REGIONAL
JOINT BOARD, AN AFFILIATE OF SEIU, AND
ITS LOCAL 294-T**

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

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, **IT IS ORDERED** that Cases 10 CA-209405 and 10-CA-212989, which are based on charges filed by Workers United, Southern Regional Joint Board, an affiliate of SEIU, and its Local 294-T (collectively Union), against Mohawk Industries, Inc. (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1.

(a) The Union filed the charge in Case 10-CA-209405 on November 7, 2017, and a copy was served on Respondent by U.S. mail on November 7, 2017.

(b) The Union filed an amended charge in Case 10-CA-209405 on November 22, 2017, and a copy was served on Respondent by U.S. mail on November 24, 2017.

(c) The Union filed a second amended charge in Case 10-CA-209405 on April 20, 2018, and a copy was served on Respondent by U.S. mail on April 20, 2018.

(d) The Union filed the charge in Case 10-CA-212989 on January 16, 2018, and a copy was served on Respondent by U.S. mail on January 16, 2018.

(e) The Union filed an amended charge in Case 10-CA-212989 on February 16, 2018, and a copy was served on Respondent by U.S. mail on February 16, 2018.

(f) The Union filed a second amended charge in Case 10-CA-212989 on April 20, 2018, and a copy was served on Respondent by U.S. mail on April 20, 2018.

2.

At all material times, Respondent has been a corporation with an office and manufacturing plant in Eden, North Carolina, and has been engaged in manufacturing and the nonretail sale of carpeting and rugs.

3.

In conducting its operations described above in paragraph 2, Respondent annually sold and shipped from its Eden, North Carolina manufacturing plant goods valued in excess of \$50,000 directly to points outside the State of North Carolina.

4.

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.

5.

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

6.

(a) 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:

Darin Quesinberry	—	Plant Manager
Karen Rabren	—	Human Resources Director
Megan Hall	—	Human Resources Manager
Victoria Petty	—	Area Manager
Aarty Ayers	—	Supervisor
Lawrence Bradley	—	Supervisor
Jesse Freeman	—	Supervisor

(b) At all material times, Joseph Barragan held the position of Communications Specialist for Respondent and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

(c) On about November 1, 2017, Respondent made an employee of Respondent an agent of Respondent within the meaning of Section 2(13) of the Act for the purpose of soliciting employees to sign a decertification petition for Respondent.

7.

During October 2017 and on November 1, 2017, Respondent assisted employees in obtaining signatures for a decertification petition by allowing employees, in violation of Respondent's work rules, to leave their work areas during their scheduled working hours and to wander about the plant to solicit employees to sign the petition.

8.

Respondent, by Victoria Petty, in Respondent's Eden, North Carolina manufacturing plant:

(a) About late October 2017, in the yarn prep department, interrogated its employees as to whether they would sign the decertification petition.

(b) About late October 2017, in the yarn prep department, (i) interrogated its employees as to whether they would sign a decertification petition; (ii) solicited its employees to sign the decertification petition; and (iii) promised benefits to its employees if they signed the decertification petition by telling employees that it would be “in [their] favor in the long run” if they signed the decertification petition for Respondent.

(c) About November 1, 2017, in the yarn prep department, (i) promised its employees benefits if they decertified the Union by telling employees that Respondent would (1) create more jobs and (2) provide more opportunities for cross-training to employees if they decertified the Union; (ii) interrogated its employees as to whether they would sign a decertification petition; and (iii) solicited its employees to sign the decertification petition for Respondent.

(d) About November 1, 2017, in the yarn prep department, (i) promised its employees benefits if they decertified the Union by (1) telling its employees that, if the Union were decertified, Respondent would give raises to everybody and not to only some departments; and (2) that employees would enjoy more job security if they decertified the Union; (ii) interrogated its employees as to whether they would sign the decertification petition; and (iii) solicited its employees to sign the decertification for Respondent.

(e) About October 31 or November 1, 2017, in the yarn prep department, (i) interrogated its employees as to whether they would sign a decertification petition; (ii) solicited its employees to sign the decertification for Respondent; and (iii) threatened its employees with unspecified reprisals by telling employees that Victoria Petty did not understand why employees with lower seniority would not sign the decertification petition for Respondent.

(f) About October 31 or November 1, 2017, in the yarn prep department, (i) interrogated its employees about (1) whether they had signed a decertification petition and (2) whether other employees would sign the decertification petition; (ii) solicited its employees to (1) sign the decertification petition for Respondent and (2) solicit other employees to sign the decertification petition for Respondent; (iii) created the impression among its employees that Respondent was monitoring who signed the decertification petition by telling employees that only 10 more signatures were needed on the decertification petition by 3:00 p.m. that day; and (iv) promised its employees benefits if they decertified the Union by telling its employees that Respondent would not discharge employees if they decertified the Union.

(g) About October 31 or November 1, 2017, in the yarn prep department, on two separate occasions, solicited its employees to sign the decertification petition for Respondent.

(h) About November 1, 2017, in Victoria Petty's office, (i) interrogated its employees as to whether they would sign a decertification petition; (ii) solicited its employees to sign the decertification petition for Respondent; and (iii) told its employees that Respondent "really needed" employees to sign the decertification for Respondent.

(i) About November 1, 2017, in Victoria Petty's office, (i) interrogated its employees as to whether they had signed a decertification petition; (ii) solicited its employees to sign the decertification petition for Respondent; and (iii) directed an employee to solicit other employees to sign the decertification petition.

9.

(a) About November 1, 2017, Respondent, by Victoria Petty, in Victoria Petty's office in Respondent's Eden, North Carolina manufacturing plant, directed its employee described above in paragraph 6(c) to solicit on Respondent's behalf other employees to sign a

decertification petition for Respondent and, by that conduct, made the employee an agent of Respondent for that purpose.

(b) About November 1, 2017, Respondent, by its employee-agent, in the weave room of Respondent's Eden, North Carolina manufacturing plant, solicited employees to sign the decertification petition for Respondent.

10.

Respondent, by Joseph Barragan, in Respondent's Eden, North Carolina manufacturing plant:

(a) About mid-October 2017, in an upstairs office, (i) interrogated its employees (1) as to whether they would sign a decertification petition and (2) whether other employees had signed the decertification petition; and (ii) solicited its employees to sign the decertification for Respondent.

(b) About the end of October 2017 or November 1, 2017, by the employees' time clock, (i) interrogated its employees about their union support and sympathies; and (ii) by telling employees that the Union did not give employees anything and that it was Respondent who did, told its employees that it would be futile to support the Union and to oppose decertification of the Union.

(c) About the end of October 2017 or November 1, 2017, in the yarn prep department, (i) interrogated its employees as to whether they would sign a decertification petition; (ii) solicited its employees to sign the decertification for Respondent; (iii) solicited its employees to assist other employees with the decertification petition for Respondent; (iv) promised its employees benefits if they decertified the Union by (1) telling employees they could have better positions at work if not for the Union, and (2) telling employees they would "be

allowed to speak” if they decertified the Union; (v) told its employees that Respondent would discharge a supervisor who had provided the Union with information about Respondent’s unlawful assistance to employees circulating the decertification petition; and (vi) threatened to discharge employees who supported and assisted the Union.

11.

About mid-to-late October 2017, Respondent, by Megan Hall, in the wave room in Respondent’s Eden, North Carolina manufacturing plant, (i) interrogated employees as to whether they would sign the decertification; (ii) solicited employees to sign the decertification for Respondent, and (iii) created the impression among its employees that Respondent was monitoring who signed the decertification petition by telling employees that “they needed just a couple more signatures” on the decertification petition.

12.

(a) Beginning about early November 2017, Respondent posted messages on its E-signs throughout its Eden, North Carolina facility, stating the following:

National Labor Relations Board
NOTICE OF PETITION FOR ELECTION

WHAT IS THIS PETITION ABOUT?

The petition provides all Eden “bargaining unit” employees with a right to vote in a secret ballot election.

The election gives you a choice:
Work together directly to resolve concerns by speaking for yourself
OR
Continue to have the union to make decisions for you

To see the entire petition, ask your supervisor or view it at the time clocks.

(b) By its conduct described above in subparagraph (a), Respondent led its employees to believe that the Board supported its decertification effort.

13.

(a) From October 28 until November 1, 2017, Respondent transferred its employee Tia Lemon from a dayshift to a nightshift.

(b) Respondent engaged in the conduct described above in subparagraph (a), to assist its employees in circulating a decertification petition, to obtain additional employee signatures on the decertification petition for Respondent, and to allow its employee Tia Lemon to solicit employees she had not previously solicited to sign the decertification petition.

14.

By the conduct described above in paragraphs 7 through 12, 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.

15.

By the conduct described above in paragraph 13, 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) and (3) of the Act.

16.

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

REMEDIES

As part of the remedy for the unfair labor practices set forth above in paragraphs 7 through 13, General Counsel seeks an order requiring Respondent

- To post the Notice to Employees on all of its E-signs throughout Respondent's Eden, North Carolina manufacturing plant, and

- At a meeting or meetings scheduled to ensure the widest possible attendance, Respondent's representative Darin Quesinberry, in the presence of the Respondent's supervisors and agents described above in paragraph 6(a), to read the notice to the employees in English and in other languages if the Regional Director decides that it is appropriate to do so, on worktime in the presence of a Board agent. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board Agent read the notice to employees during worktime in the presence of Respondent's supervisors and agents identified above in paragraph 6(a).

The General Counsel further 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 14, 2018, or postmarked on or before May 13, 2018.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties. An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than two hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission

could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a PDF document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a PDF file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within 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, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **September 10, 2018, at 10:00 a.m., in the Paris Favors Jr. Hearing Room, National Labor Relations Board, Region 10, Subregion 11, 4035 University Parkway, Suite 200, Winston-Salem, North Carolina**, and on consecutive days 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 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: April 30, 2018

John D. Doyle Jr.
Regional Director
National Labor Relations Board
Region 10, by



Scott C. Thompson
Officer-In-Charge
National Labor Relations Board
Subregion 11
4035 University Pkwy Suite 200
Winston Salem, NC 27106-3275

Attachments