Lafayette Park Hotel, a Limited California Partnership *and* Hotel Employees, Restaurant Employees and Bartenders Union, Local 2850, Hotel Employees and Restaurant Employees International Union, AFL–CIO. Case 32–CA–15314

August 27, 1998

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS FOX, LIEBMAN, HURTGEN, AND BRAME

Upon a charge filed by Hotel Employees, Restaurant Employees and Bartenders Union, Local 2850, Hotel Employees and Restaurant Employees International Union, AFL–CIO (the Union) on March 19, 1996, the General Counsel of the National Labor Relations Board issued a complaint and notice of hearing on August 20, 1996, alleging that the Respondent, Lafayette Park Hotel, a Limited California Partnership, violated Section 8(a)(1) of the National Labor Relations Act.[1] The Respondent filed a timely answer denying the commission of any unfair labor practices.

On November 12, 1996, the General Counsel, the Respondent, and the Union filed with the Board a Motion to Transfer Proceedings to the Board and a Stipulation of Facts. On December 12, 1996, the Executive Secretary, by direction of the Board, issued an order granting the parties' motion, approving the stipulation, and transferring the proceeding to the Board. Thereafter, the General Counsel, the Union, and the Respondent each filed briefs.

On the entire record in the case, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a California partnership, with an office and place of business in Lafayette, California, has been engaged in the operation of a hotel and restaurant. During the 12 months preceding the issuance of the complaint, the Respondent, in the course and conduct of its business operations, derived gross revenues in excess of $500,000, and purchased and received goods or services valued in excess of $5000 which originated outside the State of California. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. We further find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The complaint alleges that the Respondent violated Section 8(a)(1) of the Act by maintaining "unacceptable conduct" rules in its employee handbook. The alleged unlawful rules are set forth below.[2]

The General Counsel does *not* contend that the rules were initiated in response to any union and/or protected concerted activity or that any employee has been disciplined under the rules for engaging in union and/or protected concerted activity. The General Counsel's theory of the violation is that by maintaining the rules the Respondent has violated and continues to violate Section 8(a)(1) because the rules interfere with, restrain, and coerce employees in the exercise of rights guaranteed in Section 7 of the Act.

A. Facts

At all material times, the Respondent has maintained the following rules and standards of conduct as set forth in its employee handbook:

STANDARDS OF CONDUCT

. . . .

The following conduct is unacceptable:

. . . .

6. Being uncooperative with supervisors, employees, guests and/or regulatory agencies or otherwise engaging in conduct that does not support the Lafayette Park Hotel's goals and objectives.

. . . .

17. Divulging Hotel-private information to employees or other individuals or entities that are not authorized to receive that information.

18. Making false, vicious, profane or malicious statements toward or concerning the Lafayette Park Hotel or any of its employees.

. . . .

31. Unlawful or improper conduct off the hotel's premises or during non-working hours which affects the employee's relationship with the job, fellow employees, supervisors, or the hotel's reputation or good will in the community.

. . . .

The following rules are also enforced:

. . . .

6. Employees are not permitted to use the restaurant or cocktail lounge for entertaining friends or guests without the approval of the department manager.

[1] The Union filed a first amended charge on October 8, 1996.

[2] In brief, these rules prohibit, inter alia, the following kinds of employee activity: "conduct that does not support [the Hotel's] goals and objectives"; "divulging Hotel-private information" to unauthorized individuals; making "false" statements concerning the Hotel or its employees; "unlawful or improper conduct off the Hotel's premises or during nonworking hours"; use of the restaurant or lounge for entertaining guests without prior approval; fraternizing with hotel guests on hotel property; and remaining on the premises after the completion of the employee's shift.

> 7. Employees are not allowed to fraternize with hotel guests anywhere on hotel property.
>
> . . . .
>
> *SCHEDULING AND ATTENDANCE*
>
> . . . .
>
> [Paragraph 4] Employees are required to leave the premises immediately after the completion of their shift and are not to return until the next scheduled shift.

The employee handbook is distributed by the Respondent to each of its employees at the time of hire[3] and each employee must sign an acknowledgment of receipt.[4] The Respondent has an open door policy to the general manager if an employee has a complaint, wants to be critical of a policy of the hotel, or has a complaint against an employee. The Respondent's employees receive a 50-percent discount at the hotel restaurant.

B. Discussion

Resolution of the issue presented by the contested rules of conduct involves "working out an adjustment between the undisputed right of self-organization assured to employees under the Wagner Act and the equally undisputed right of employers to maintain discipline in their establishments. . . . Opportunity to organize and proper discipline are both essential elements in a balanced society." *Republic Aviation* v. *NLRB*, 324 U.S. 793, 797–798 (1945). In determining whether the mere maintenance of rules such as those at issue here violates Section 8(a)(1), the appropriate inquiry is whether the rules would reasonably tend to chill employees in the exercise of their Section 7 rights.[5] Where the rules are likely to have a chilling effect on Section 7 rights, the Board may conclude that their maintenance is an unfair labor practice, even absent evidence of enforcement. See *NLRB* v. *Vanguard Tours*, 981 F.2d 62, 67 (2d Cir. 1992), citing *Republic Aviation*, supra, 324 U.S. at 803 fn. 10.

Although we all agree with the standard to be applied, we do not agree in its application. Thus, a majority of the Board[6] finds that standards of conduct 6, 17, and 31 and hotel rules 6 and 7 would not reasonably tend to chill the exercise of Section 7 rights. A different majority[7] finds that standard of conduct 18 would reasonably tend to chill employees in the exercise of Section 7 rights. The Board is unanimous in finding that the maintenance of scheduling and attendance rule, paragraph 4 violates Section 8(a)(1).

1. Standards of conduct 6, 17, and 31; rules 6 and 7[8]

a. Standard of conduct 6

Standard of conduct 6 provides that the following conduct is unacceptable:

> Being uncooperative with supervisors, employees, guests and/or regulatory agencies or otherwise engaging in conduct that does not support the Lafayette Park Hotel's goals and objectives.

The General Counsel and the Union contend that the maintenance of the prohibition against engaging in conduct that does not support the Hotel's "goals and objectives" is unlawful. They reason that because the handbook does not define the Respondent's "goals and objectives," employees could reasonably assume that a "goal" of the hotel is to remain nonunion. Thus, the General Counsel and the Union argue that employees may reasonably believe that it is unacceptable to actively support union organizing, and that the rule prohibits them from participating in protected activities. They further maintain that any ambiguities in the rule should be construed against the Respondent, the promulgator of the rule, and that the mere maintenance of this rule, without enforcement against union or protected concerted activity, violates the Act because the rule has a reasonable tendency to chill employees' exercise of their Section 7 rights.

The Respondent argues that the rule does not expressly prohibit protected activity and there is no evidence that any employee has actually been prevented, discouraged, or restrained in any manner from exercising rights protected by Section 7. Absent such evidence, the Respondent contends that any chilling effect is speculative.

We conclude that the mere maintenance of this rule would not reasonably tend to chill employees in the exercise of their Section 7 rights. In this regard, the rule, in providing that it is unacceptable for employees to engage in conduct that does not support the Respondent's "goals and objectives," addresses legitimate business concerns, including, as the rule specifically states, being "uncooperative with supervisors, employees, guests and/or regulatory agencies." We find no ambiguity in this rule as written. Rather, any arguable ambiguity arises only through parsing the language of the rule, viewing the phrase "goals and objectives" in isolation, and attributing to the Respondent an intent to interfere with employee rights. We are unwilling to place such a strained construction on the language, and we find that employees would not reasonably conclude that the rule as written prohibits Section 7 activity.

[3] The parties stipulated that the Respondent has hired 60 employees since April 8, 1996.

[4] The acknowledgments are maintained in employees' files.

[5] Member Hurtgen would not so limit the inquiry. If a rule reasonably chills the exercise of Sec. 7 rights, it can nonetheless be lawful if is justified by significant employer interests (e.g., a rule against solicitation during working time chills Sec. 7 exercise for that period. But, the rule is valid because the employer has a significant interest in having worktime set aside for work.)

[6] Chairman Gould and Members Hurtgen and Brame (Members Fox and Liebman dissenting).

[7] Chairman Gould and Members Fox and Liebman (Members Hurtgen and Brame dissenting).

[8] Members Fox and Liebman do not join in this section of the decision.

Furthermore, the Respondent has not by other actions led employees reasonably to believe that the rule prohibits its Section 7 activity. Thus, the Respondent has not enforced the rule against employees for engaging in such activity, and there is no evidence that the Respondent promulgated the rule in response to union or protected concerted activity or that those employees even engaged in any such activity. Moreover, there is no evidence that the Respondent exhibited antiunion animus. In these circumstances, to find the maintenance of this rule unlawful, as do our dissenting colleagues, effectively precludes a common sense formulation by the Respondent of its rule and obligates it to set forth an exhaustively comprehensive rule anticipating any and all circumstances in which the rule even theoretically could apply. Such an approach is neither reflective of the realities of the workplace nor compelled by Section 8(a)(1).

We find that the General Counsel has not met his burden of showing that the maintenance of this rule would reasonably chill employees in the exercise of their Section 7 rights. Accordingly, we find that the mere maintenance of this rule in the employee handbook has no more than a speculative effect on employees' Section 7 rights, which is too attenuated to warrant a finding of an 8(a)(1) violation. We shall dismiss the complaint as to this rule.

b. Standard of conduct 17

Standard of conduct 17 states that the following conduct is unacceptable:

> Divulging Hotel-private information to employees or other individuals or entities that are not authorized to receive that information.

The General Counsel and the Union contend that the maintenance of this rule in the employee handbook is unlawful. They reason that, because the term "Hotel-private" is not defined in the handbook, employees could reasonably believe that the rule prohibits discussions among employees concerning wages, benefits, and other terms and conditions of employment.

The Respondent argues that it has the right to keep its business records confidential and may validly maintain a rule which forbids employees from disclosing confidential information. The Respondent claims that there is no ambiguity in this rule which does not on its face cover employee wage discussion, but merely prohibits the disclosure of private information. We agree with the Respondent and find that the maintenance of this rule does not violate Section 8(a)(1).

Our dissenting colleagues state that discussion of wages is part of organizational activity[9] and employers may not prohibit employees from discussing their own wages or attempting to determine what other employees are paid.[10] We agree. "But to concede this point lends nothing to the analysis in this case, because the rule in question in no way precludes employees from conferring . . . with respect to matters directly pertaining to the employees' terms and conditions of employment." *Aroostook County Ophthalmology v. NLRB*, 81 F.3d 209, 212 (D.C. Cir. 1996).[11] We do not believe that employees would reasonably read this rule as prohibiting discussion of wages and working conditions among employees or with a union.[12] Clearly, businesses have a substantial and legitimate interest in maintaining the confidentiality of private information, including guest information, trade secrets, contracts with suppliers, and a range of other proprietary information. Although the term "hotel-private" is not defined in the rule, employees in our view reasonably would understand that the rule is designed to protect that interest rather than to prohibit the discussion of their wages. Thus, just as employees would not reasonably construe the rule as precluding them from disclosing their wage information in the normal course of events to banks, credit agencies and similar entities, they also would not reasonably construe the rule as precluding them from discussing their wage information with other employees. Our dissenting colleagues recognize the legitimacy of the confidentiality interest but in this case would find the rule unlawful by speculating both that it prohibits conduct not addressed by the rule and that such conduct includes Section 7 activity. We choose not to engage in such speculation. Rather, we conclude that the rule reasonably is addressed to protecting the Respondent's interest in confidentiality and does not implicate employee Section 7 rights. Accordingly, we dismiss this allegation.

c. Standard of conduct 31

Standard of conduct 31 states that the following conduct is unacceptable:

> Unlawful or improper conduct off the hotel's premises or during non-working hours which affects the employee's relationship with the job, fellow employees,

[9] *International Business Machines Corp*., 265 NLRB 638 (1982).

[10] See *Waco, Inc*., 273 NLRB 746, 748 (1984); *Pontiac Osteopathic Hospital*, 284 NLRB 442, 465 (1987); *International Business Machines Corp*., supra.

[11] In *Aroostook County Opthalmology*, 317 NLRB 218 (1995), the Board found unlawful the promulgation and enforcement of an overly restrictive rule limiting the right of employees to discuss office business with spouses, families or friends. The employer argued that the "rule—when read in context—is designed only to prevent employees from discussing *patient medical information* with persons outside of the office." In denying enforcement, the court agreed, concluding that the rule on its face was not unlawful and finding that, absent evidence that the employer was imposing an "unreasonably broad interpretation of the rule upon employees, the Board's determination to the contrary is unjustified." 81 F.3d at 212–213.

[12] Unlike the cases cited by the dissent, the rule here does not bar discussions of "terms and conditions of employment" or "employee problems."

supervisors, or the hotel's reputation or good will in the community.

Contrary to our dissenting colleagues, we do not believe that this rule can reasonably be read as encompassing Section 7 activity. In our view, employees would not reasonably fear that the Respondent would use this rule to punish them for engaging in protected activity that the Respondent may deem to be "improper." To ascribe such a meaning to these words is, quite simply, far-fetched. Employees reasonably would believe that this rule was intended to reach serious misconduct, not conduct protected by the Act.

We recognize that the Board has stated that the maintenance of a similar rule (which, however, additionally prohibited "unseeming" conduct) is unlawful. See *Cincinnati Suburban Press*, 289 NLRB 966 (1988). That finding, however, was made in the context of the respondent's "actions" in that case. Although, according to the administrative law judge, the case "presented a close 'concerted' activity issue," 289 NLRB at 975, the Board found that the rule had been enforced against union activity in violation of Section 8(a)(3). 289 NLRB at 967–968. Here, there is no such context and no factual basis for reasonable employees to view the rule as prohibiting Section 7 activity. Consequently, that case is distinguishable. Thus, we are left with the language of the rule itself, which, as stated above, a reasonable employee would not believe was intended to reach conduct protected by the Act. Accordingly, we find that the maintenance of the rule does not violate Section 8(a)(1).[13]

d. Hotel rule 6

This rule provides:

> 6. Employees are not permitted to use the restaurant or cocktail lounge for entertaining friends or guests without the approval of the department manager.

The General Counsel and the Union contend that this rule is unlawful because it allows management to select which off-duty employees may use the premises, and can therefore be used to inhibit Section 7 activity. Thus, the General Counsel and the Union theorize that employees may reasonably believe that they must seek employer permission to engage in Section 7 activity in the restaurant or cocktail lounge, and that this belief would chill the employees in the exercise of their Section 7 rights.

Contrary to our dissenting colleagues, we do not believe that this rule reasonably would be read by employees to require them to secure permission from their employer as a precondition to engaging in protected concerted activity on an employee's free time and in nonwork areas. *Brunswick Corp*., 282 NLRB 794, 795 (1987), relied on by our dissenting colleagues, is distinguishable. There, the Board found unlawful a rule which required employees to obtain the employer's permission before engaging in union solicitation in work areas during nonworking time, and required the employer's authorization in order to solicit in the lunchroom and lounge areas during breaks and lunch periods. Thus, in *Brunswick*, union solicitation was directly implicated.

Here, the rule does not mention or in any way implicate Section 7 activity. Rather, it merely requires permission for "entertaining friends or guests." In our view, a reasonable employee would not interpret this rule as requiring prior approval for Section 7 activity. There are legitimate business reasons for such a rule, and we believe that employees would recognize the rule for its legitimate purpose, and would not ascribe to it far-fetched meanings such as interference with Section 7 activity. We therefore find that the mere maintenance of this rule would not reasonably tend to chill employees in the exercise of their Section 7 rights. Accordingly, this allegation is dismissed.

e. Hotel rule 7

This rule provides:

> 7. Employees are not allowed to fraternize with hotel guests anywhere on hotel property.

The General Counsel and the Union contend that the maintenance of this rule is unlawful, reasoning that because the term "fraternize" is not defined, the rule could reasonably be interpreted by employees to prohibit off-duty employees from engaging in protected communications with hotel guests in nonworking areas of the Respondent's property, in an attempt to solicit sympathy or support for the employees' protected activities.

As with the previously discussed rules, we do not believe that employees reasonably would read this rule as prohibiting protected employee communications with customers about terms and conditions of employment. Nor would it be likely to inhibit protected employee communications with customers merely because the term "fraternize" is undefined. Despite this undefined term, the rule is not ambiguous. Employees would recognize the legitimate business reasons for which such a rule was promulgated,[14] and would not reasonably believe that it reaches Section 7 activity. We therefore find that the Respondent's maintenance of this rule in its employee

[13] We note that the respondent did not except to the above finding in *Cincinnati Suburban Press*. However, the Board in fn. 2 of its decision in that case indicated its agreement with the judge's finding that the respondent's maintenance of the rule in question violated Sec. 8(a)(1). To the extent that that footnote can be read as tantamount to a finding that the rule in question is unlawful even in the absence of the activity with which it was viewed in context, *Cincinnati Suburban Press* is overruled.

[14] In its brief the Respondent suggests that the rule was promulgated to prevent the appearance of favoritism, claims of sexual harassment, and employee dissension created by romantic relationships in the workplace.

handbook does not chill employee rights or violate Section 8(a)(1) of the Act.

2. Standard of conduct 18[15]

Standard of conduct 18 provides that the following conduct is unacceptable:

> Making false, vicious, profane or malicious statements toward or concerning the Lafayette Park Hotel or any of its employees.

The Board has found the maintenance of similar rules to violate Section 8(a)(1) of the Act. In *Cincinnati Suburban Press*, 289 NLRB at 975, the Board found unlawful a handbook provision, similar to the one at issue here, which prohibited employees from making "false, vicious or malicious statements concerning any employee, supervisor, the Company, or its product." The Board relied on *American Cast Iron Pipe Co*., 234 NLRB 1126 (1978), enfd. 600 F.2d 132 (8th Cir. 1979), which invalidated a similar provision on the ground that it prohibited and punished merely "false" statements, as opposed to maliciously false statements, and was therefore overbroad. In enforcing the Board's Order, the court stated that "[p]unishing employees for distributing merely 'false' statements fails to define the area of permissible conduct in a manner clear to employees and thus causes employees to refrain from engaging in protected activities." 600 F.2d at 137.[16]

The Respondent's standard of conduct 18 is nearly identical to the provisions found unlawful in *Cincinnati Suburban, Spartan Plastics,* and *American Cast Iron*.[17] In accord with this Board[18] and court precedent, we find that the Respondent's maintenance of standard of conduct 18 violates Section 8(a)(1) of the Act.

3. Scheduling and attendance rule, paragraph 4[19]

As set forth above, this rule requires employees to leave the premises immediately after the completion of their shift, and not return until their next scheduled shift. Under *Tri-County Medical Center*, 222 NLRB 1089 (1976), "except where justified by business reasons, a rule which denies off-duty employees entry to parking lots, gates, and other outside nonworking areas will be found invalid." The General Counsel alleges that this rule violates Section 8(a)(1) of the Act because it is not limited to the interior of the premises and other working areas, and the Respondent has not shown any business justification for the rule. The Respondent argues that "the record is devoid of any suggestion that Lafayette Park includes parking lots and similar areas within this rule." The Respondent further contends that even if the parking lot is considered to be covered by the rule, it as well as all other areas of its property are "working areas." The Respondent also maintains that business reasons justify a no access rule for off-duty employees in the context of a hotel.[20]

We reject the Respondent's argument that the rule does not cover parking areas and other outside areas.[21] The rule contains no explicit exclusion of such areas, and therefore employees would reasonably read the rule as covering those areas. Thus, even if the Respondent did not intend the rule to reach those areas, that intent was not clearly communicated to the employees. Further, even if the rule could be considered ambiguous, any ambiguity in the rule must be construed against the Respondent as the promulgator of the rule.[22]

We also disagree with the Respondent's contention that all areas of the Respondent's property should be considered to be working areas. We see nothing in the nature of the hotel business in general or the Respondent's business in particular to support such a finding.

[15] Members Hurtgen and Brame do not join in this section of the decision.

Member Brame would find that the Respondent's mere maintenance of this rule does not reasonably tend to chill employees' Sec. 7 activity. As is true with the other rules and standards, the language of this rule itself does not proscribe Sec. 7 activity. Furthermore, there is no evidence that the Respondent implemented this rule in response to concerted protected or union activity or that it used the rule to discipline any employee for engaging in such activity. In these circumstances, Member Brame would find that employees reasonably would recognize that the rule, in providing that it is unacceptable to make false as well as vicious, profane or malicious statements towards the Respondent or its employees, is directed at a legitimate employer interest and not Sec. 7 activity. To the extent that the cases relied on by the majority hold that the mere maintenance of a rule prohibiting the making of false statements violates Sec. 8(a)(1), Member Brame would overrule them.

[16] See also *Spartan Plastics*, 269 NLRB 546, 552 (1984) (respondent violated Sec. 8(a)(1) by maintaining a rule prohibiting employees from making "false, vicious, or malicious statements concerning any employee, supervisor, the Company, or its products").

[17] The Respondent attempts to distinguish those cases on the ground that here, unlike in those cases, there is no context of other unfair labor practices to cause employees to reasonably fear being disciplined for unknowingly false statements. We do not find this distinction significant. In our view, the rule has a reasonable tendency to chill protected activity even in the absence of other unlawful conduct.

[18] See also *Simplex Wire & Cable Co*., 313 NLRB 1311 (1994).

[19] All Board Members join in this section of the decision.

[20] The Respondent claims that the rule prevents interference with employees who are working and prevents guests from being confused by off-duty employees who may still be in uniform; it reduces the risks of accidents and claims from guests and other employees for sexual harassment and other illegal activities; and it enhances security.

[21] Member Brame finds that employees reasonably would conclude that the Respondent's "premises" includes the Respondent's parking areas and its other outside areas. Accordingly, on this basis, he concludes that the Respondent's maintenance of this rule violates Sec. 8(a)(1).

[22] *Norris/O'Bannon*, 307 NLRB 1236, 1245 (1992).

We further find that the Respondent's proffered business reasons for the rule do not justify a total denial of access by off-duty employees to all areas of the Respondent's premises. The types of concerns raised by the Respondent are common to service employers in general and have been found to be insufficient to justify the denial of access by off-duty employees to nonworking areas such as parking lots and other outside areas.[23] The Stipulation of Facts contains nothing which would justify the restriction of access to nonworking areas of the Respondent's premises such as parking lots and other outside areas. Because the Respondent's scheduling and attendance rule, paragraph 4 does not meet the requirements set forth in *Tri-County*, supra, we find that the maintenance of that rule would reasonably tend to chill employees in the exercise of their Section 7 rights. Accordingly, we conclude that the Respondent has violated Section 8(a)(1) of the Act by maintaining that rule in its employee handbook.

CONCLUSIONS OF LAW

1. By maintaining the following standard of conduct in its employee handbook, the Respondent has violated Section 8(a)(1) of the Act.

> 18. Making false, vicious, profane or malicious statements toward or concerning the Lafayette Park Hotel or any of its employees.

2. By maintaining the following scheduling and attendance rule in its employee handbook, the Respondent has violated Section 8(a)(1) of the Act.

> [Paragraph 4] Employees are required to leave the premises immediately after the completion of their shift and are not to return until the next scheduled shift.

3. The unfair labor practices found above have an effect on commerce within the meaning of Section 2(6) and (7) of the Act.

4. The Respondent has not otherwise violated the Act as alleged.

ORDER

The National Labor Relations Board orders that the Respondent, Lafayette Park Hotel, a Limited California Partnership, Lafayette, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Maintaining the following scheduling and attendance rule in its employee handbook:

[Paragraph 4] Employees are required to leave the premises immediately after the completion of their shift and are not to return until the next scheduled shift.

(b) Maintaining the following Standard of Conduct in its Employee Handbook:

> 18. Making false, vicious, profane or malicious statements toward or concerning the Lafayette Park Hotel or any of its employees.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Rescind the rules quoted above, remove them from its Employee Handbook, and advise the employees in writing that the rules are no longer being maintained.

(b) Within 14 days after service by the Region, post at its facility in Lafayette, California, copies of the attached notice marked "Appendix."[24] Copies of the notice, on forms provided by the Regional Director for Region 32, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since September 19, 1995.

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

CHAIRMAN GOULD, further concurring.

I agree with the majority opinion in this case which finds that the Respondent's standards of conduct 6, 17, and 31, and hotel rules 6 and 7, are lawful, and that the Respondent's standard of conduct 18 and its scheduling and attendance rule, paragraph 4, are unlawful. I write separately, however, because I am concerned that the analysis put forth by Members Fox and Liebman in their partial dissent fails to appreciate the importance of civility and good manners for all people, including employees.

In their partial dissent, Members Fox and Liebman find that standards of conduct 6, 17, and 31, and hotel rules 6 and 7, are facially unlawful. They find that these

[23] See e.g., *Ohio Masonic Home*, 290 NLRB 1011 (1988), enfd. 892 F.2d 449 (6th Cir. 1989).

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

rules are "ambiguous as to their reach," and consequently, "each causes employees to refrain from engaging in protected activities." While accusing the majority of "paying lip service to the appropriate standard," they have completely lost sight of the most obvious meaning and intent of these rules: the maintenance of civility and good manners. In short, these are rules for life, not for Section 7 conduct.

My colleagues' finding that these rules are ambiguous demonstrates a failure to apply the appropriate standard to these rules. It is readily apparent from their opinion that they have viewed these rules through the eye of a sophisticated labor lawyer and have focused on whether any language in the rules could theoretically encompass Section 7 activity. Their search for ambiguity in these rules, however, must begin with a focus on the obvious, plain meaning of the language in the rule. When the obvious meaning of such rules is the promotion of civility and good manners, there is no basis to presume that a reasonable employee might parse out certain language, for example such as "goals and objectives" from standard of conduct 6, and assume that it applies to union organizing. Similarly, that the term "Hotel-private information," as set forth in standard of conduct 17, is undefined does not mean that it is intended to apply to anything other than the obvious, i.e., the legitimate privacy concerns that arise in the hotel business.

In short, it is not enough to find that certain language in a rule is broad enough to arguably apply to Section 7 activity. The appropriate inquiry must center on whether a reasonable employee could believe that the rule prohibits protected activity. When the rules have an obvious intent, they cannot be found unlawful by parsing out certain words and creating theoretical definitions that differ from the obvious ones. If that were the standard, virtually all of the work rules in today's workplace could be deemed violative of our Act unless they explicitly state that they do not apply to Section 7 activity. Such findings would clearly be inconsistent with the purposes of the Act. Accordingly, I join Members Hurtgen and Brame in finding that the Respondent's maintenance of these rules do not violate Section 8(a)(1) of the Act.

MEMBERS FOX and LIEBMAN, dissenting in part.

We agree with our colleagues that the appropriate inquiry in this case is whether the maintenance of the rules at issue reasonably would tend to chill employees in the exercise of their Section 7 rights. We part company with them in the application of this principle to standards of conduct 6, 17, and 31 and hotel rules 6 and 7. While paying lip service to the appropriate standard, our colleagues have applied that standard in such a way as to enable employers lawfully to maintain rules that have the likely effect of chilling Section 7 activity.

Employers, of course, have the right to issue rules of conduct to maintain workplace discipline and further legitimate business purposes. In accommodating this undisputed right with the equally undisputed right of employees to engage in Section 7 activity, as we must do in construing workplace rules, the Board has flexibility to "accomplish the dominant purpose of the legislation. . . . So far as we are here concerned that purpose is the right of employees to organize for mutual aid without employer interference. This is the principle of labor relations which the Board is to foster." *Republic Aviation Corp. v. NLRB,* 324 U.S. 793, 798 (1945).

Our colleagues in the majority concede that maintenance of workplace rules may violate the Act even absent evidence of enforcement. See *NLRB v. Vanguard Tours,* 981 F.2d 62, 67 (2d Cir. 1992), citing *Republic Aviation Corp. v. NLRB*, supra, 324 U.S. at 803 fn. 10. Yet, they proceed consistently to rely on nonenforcement as proof of the rules' lawfulness, thereby creating a catch-22 for employees considering protected activity: either they must risk discipline under the rules or refrain from conduct to avoid penalty. Either way, their Section 7 rights are infringed.

Indeed, we are mystified that while all of our colleagues agree that scheduling and attendance rule, paragraph 4 violates Section 8(a)(1) because of its likely chilling effect on Section 7 rights—and the Chairman agrees that standard of conduct 18 is similarly unlawful—they nevertheless find the remaining rules lawful. In our view, our colleagues have drawn artificial distinctions and miss the common thrust. Each of these seven rules suffers from the same deficiency: they are all overly broad and equally ambiguous as to their reach.[1] Each fails to define the area of impermissible conduct in a manner clear to employees. As a result, each has a reasonable tendency to cause employees to refrain from engaging in protected activities.

We find no merit to our colleagues' conclusion that any impact of these rules on the employees' exercise of their Section 7 rights is purely speculative or too attenuated to warrant an 8(a)(1) finding. In our view, an employee contemplating protected Section 7 activity would be uncertain as to whether these rules encompass that activity. Because violation of the rules may result in discipline, an employee would reasonably hesitate before engaging in protected activity and would thereby be chilled in the exercise of his or her Section 7 rights. In this regard, we note that the Respondent requires each employee to sign an "Acknowledgement of Receipt of Employee Handbook," and the Respondent maintains this form in the employee's file. By signing this document, the employee represents that he "understand[s] that [the handbook] contains important information about

[1] "Where ambiguities appear in employee work rules promulgated by an employer, the ambiguity must be resolved against the promulgator of the rule rather than the employees who are required to obey it." *Norris/O'Bannon,* 307 NLRB 1236, 1245 (1992), quoting *Paceco,* 237 NLRB 399 fn. 8 (1978).

Hotel personnel policies and the privileges and obligations of the employees of the Hotel." In addition, the handbook itself states that "[e]mployees who fail to follow the established policies, procedures, and rules of the hotel will be disciplined." In effect, our colleagues' decision requires that employees seeking to engage in activity protected by the National Labor Relations Act must risk violating their employer's work rules and subjecting themselves to disciplinary action in order to test whether that activity is covered by the rules. Our colleagues find such a situation permissible; we do not. Accordingly, we must dissent.

Analyzing each of the alleged unlawful rules under established Board principles, we conclude, as set forth below, that the maintenance of these rules violates Section 8(a)(1) of the Act.[2]

Standard of Conduct 6

Standard of conduct 6 provides that the following conduct is unacceptable:

> Being uncooperative with supervisors, employees, guests and/or regulatory agencies or otherwise engaging in conduct that does not support the Lafayette Park Hotel's goals and objectives.

As set forth in the majority opinion, the Respondent argues that this standard is lawful because it does not expressly prohibit protected activity and because there is no evidence that it has actually restrained or discouraged any employee from exercising Section 7 rights. The General Counsel and the Union argue that such evidence is immaterial in the case of rules that are so broad or ambiguous, and in the case of standard of conduct 6, they argue that the prohibition against engaging in conduct that "does not support" the Respondent's "goals and objectives" would discourage protected activity in view of the fact that the handbook contains no definition of "goals and objectives."

Our colleagues acknowledge that Board precedent holds that the mere maintenance of an ambiguous or overly broad rule is unlawful because it tends to inhibit employees from engaging in otherwise protected activity. *Ingram Book Co.,* 315 NLRB 515, 516 (1994); *J. C. Penney Co.*, 266 NLRB 1223, 1224 (1983). Accord: *Medeco Security Locks v. NLRB*, 142 F.3d 733, 745 (4th Cir. 1998) (employer's prohibition on disclosure unlawful if it might deter protected activity "even if an employee has yet to exercise a right protected by the Act"). Our colleagues attempt to distinguish such precedents on grounds that standard of conduct 6 could not reasonably be read as prohibiting protected activity. We disagree.

The rule's failure to define the hotel's "goals and objectives" is overbroad and ambiguous and reasonably could lead employees to believe that standard of conduct 6 prohibits protected activity.[3] We agree with the General Counsel and the Union that employees could reasonably conclude that if they chose to support a union, they could be engaging in conduct that did not support the Respondent's "goals and objectives." We do not doubt that some employers desire to keep their workplaces union free. See *BE & K Construction Co. v. NLRB*, 133 F.3d 1372, 1376 (11th Cir. 1997). Perhaps even more fundamentally, reasonable employees could just as easily conclude that the Respondent formulated the terms and conditions of employment for its employees consistently with its overall philosophy or "goals and objectives." Thus, they might very reasonably conclude that any concerted protest of current terms and conditions of employment, conduct certainly protected by the Act, would violate the Respondent's rule.

In our view, the ambiguity of this rule is sufficient to chill the exercise of protected conduct. Contrary to our colleagues, we find this potential chilling effect to be more than speculative or attenuated. We believe that it is the uncertainty over the rule's meaning, the absence of evidence that the rule's scope had been permissibly defined for employees, and the possibility of enforcement against protected activity that would reasonably tend to chill the exercise of Section 7 rights.[4]

Our colleagues rely on the absence of any union or protected concerted activity by the employees to support their finding that any impact of these alleged unlawful standards of conduct on the exercise of employees' Section 7 rights is speculative or attenuated. We disagree. If anything, the absence of evidence of union or protected concerted activity by the employees suggests that the rules are indeed working to discourage protected activity.

For these reasons, we find that the maintenance of this rule violates Section 8(a)(1).

Standard of Conduct 17

Standard of conduct 17 states that the following conduct is unacceptable:

[2] We agree, for the reasons set forth in the majority opinion, that the Respondent violated Sec. 8(a)(1) of the Act by maintaining standard of conduct 18 and scheduling and attendance rule, par. 4 in its employee handbook.

[3] That the rule specifies that it is unacceptable to be "uncooperative with supervisors, employees, guests and/or regulatory agencies" does not cure the problem, because the rule also broadly prohibits "otherwise engaging in conduct" not supportive of the hotel's "goals and objectives."

[4] In light of the handbook's statement, noted above, that employees "will be disciplined" for failing "to follow the established policies, procedures, and rules of the hotel," employees would understandably be reluctant to place their jobs in jeopardy by engaging in Sec. 7 protected conduct, since they might reasonably fear that the Respondent could determine that the conduct "does not support [its] goals and objectives."

> Divulging Hotel-private information to employees or other individuals or entities that are not authorized to receive that information.

For the following reasons we agree with the General Counsel and the Union that the prohibition on disclosure of "Hotel-private" information, a term that is undefined in the Handbook, could reasonably lead employees to believe that the standard prohibits discussion among employees concerning wages, benefits, and other terms and conditions of employment. We thus reject the Respondent's argument (accepted by our colleagues), that the standard is not unduly ambiguous and would reasonably be construed as merely prohibiting the disclosure of information other than that directly pertaining to wages and working conditions that an employer could properly keep confidential.

It is well established that discussion of wages, benefits, and working conditions are an important part of organizational and other concerted activity.[5] Although employers may have a substantial and legitimate interest in limiting or prohibiting discussion of some aspects of their affairs, they may not prohibit employees from discussing their own wages and working conditions or attempting to determine, for example, what other employees are paid.[6] Standard of conduct 17 is overbroad and fails to clearly define the impermissible conduct. It is not crafted so that employees would understand that the standard does not prohibit them from, for example, compiling wage information on their own or discussing employer policies or actions that affect their working conditions with others. In light of that ambiguity, which must be construed against the Respondent,[7] employees may reasonably believe that protected activity is prohibited by this standard.[8] Therefore, we believe that the Respondent's maintenance of this rule would reasonably tend to chill the employees' exercise of their Section 7 rights.[9] Accordingly, we would find that the Respondent violated Section 8(a)(1) by maintaining this rule in its employee handbook.

Standard of Conduct 31

Standard of conduct 31 states that the following conduct is unacceptable:

> Unlawful or improper conduct off the hotel's premises or during non-working hours which affects the employee's relationship with the job, fellow employees, supervisors, or the hotel's reputation or good will in the community.

In *Cincinnati Suburban Press*, 289 NLRB 966, 975 (1988), the Board found unlawful the maintenance of a rule prohibiting "[u]nlawful, improper or unseeming [sic] conduct on or off the Company premises or during non-working hours which affects the employee's relationship to his/her job, to his/her fellow employees or to his/her supervisors, or affecting the Company's product reputation or goodwill in the community." Standard of conduct 31, at issue here, is virtually identical. In each case, "the rule fails to define the area of permissible conduct in a manner clear to employees." 289 NLRB at 975. Employees may reasonably fear that the Respondent will use this rule in the future to punish them for engaging in protected activity that the Respondent may deem to be "improper." Contrary to our colleagues and in accordance with clear and well-established precedent,[10] we find that the Respondent violated Section 8(a)(1) of the Act by maintaining this rule in the employee handbook.

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[5] *Advance Transportation*, 299 NLRB 900 (1990) (employer's profit-sharing plan); *Korea News*, 297 NLRB 537, 538 (1990) (harsh practices of supervision, numbers of employees assigned to particular tasks, conditions of work space, overtime pay); *International Business Machines*, 265 NLRB 638 (1982) (wage information).

[6] See, e.g.**,** *Kinder-Care Learning Centers*, 299 NLRB 1171, 1171–1172 (1990) (prohibition on discussing "condition of center facilities and the terms and conditions of employment" with parents of children at center); *Pontiac Osteopathic Hospital*, 284 NLRB 442, 465 (1987) (rule prohibiting discussion of "Confidential Information" including "employee problems"); *Waco, Inc.*, 273 NLRB 746, 747–748 (1984) (prohibition on discussing wages); *Jeannette Corp. v. NLRB*, 532 F.2d 916, 919 (3d Cir. 1976) (same).

[7] *Norris/O'Bannon*, 307 NLRB 1236, 1245 (1992) (ambiguities construed against promulgator of rule).

[8] *Medeco Security Locks v. NLRB*, supra, 142 F.3d at 745; *Pontiac Osteopathic Hospital*, supra (prohibition of discussion of "[h]ospital affairs, patient information, and employee problems" found to be overly broad and violative of Sec. 8(a)(1)). See also *Aroostook County Regional Ophthalmology Center,* 317 NLRB 218 (1995), enf. denied in part 81 F.3d 209 (D.C. Cir. 1996), where the Board found that the employer violated Sec. 8(a)(1) by maintaining, inter alia, a rule stating that "no office business is a matter for discussion with spouses, families or friends." Finding that "ordinarily 'office business' may reasonably be interpreted to include employees' terms of employment," the Board held that it was "at least ambiguous whether the 'no office business' provision is intended to be limited to matters of patient information," as claimed by the employer. Because employees have the right to discuss their terms of employment with others, the Board found the provision to be prima facie unlawful. Our colleagues in the majority rely on the court of appeals decision that reversed the Board. However, the court was particularly persuaded by the placement of the rule in the office policy manual; it followed a long paragraph about patient confidentiality in which the term "office business" was used to refer to confidential patient medical information. In context, the court concluded that the Board's broad interpretation of the rule was unjustified. 81 F.3d at 213. No such context is provided for standard of conduct 17.

[9] As discussed above, contrary to our colleagues, we find the mere presence of this ambiguous rule in the employee handbook, without more, to be sufficient to chill the employees in the exercise of their Sec. 7 rights.

[10] Our colleagues' attempt to distinguish *Cincinnati Suburban* is unconvincing. "Unlawful or improper conduct," proscribed by standard of conduct 31, is indistinguishable from "unlawful, improper or unseeming conduct," proscribed in *Cincinnati Suburban Press.* Nor is the fact that the rule in *Cincinnati Suburban Press* had actually been enforced grounds for distinction. As stated, the mere maintenance of a rule can chill employee rights, even absent evidence of enforcement. Our colleagues have thus overruled *Cincinnati Suburban* without satisfactory explanation.

Hotel Rule 6

This rule provides:

> 6. Employees are not permitted to use the restaurant or cocktail lounge for entertaining friends or guests without the approval of the department manager.

The General Counsel and the Union contend that this rule is unlawful because it allows management to select which off-duty employees may use the premises. In *Brunswick Corp*., 282 NLRB 794, 795 (1987), the Board found unlawful a rule requiring employees to obtain the employer's permission before engaging in union solicitation in work areas during nonworking time, and requiring the employer's authorization in order to solicit in the lunchroom and lounge areas during breaks and lunch periods. The Board stated that any rule that requires employees to secure permission from their employer as a precondition to engaging in protected concerted activity on an employee's free time and in nonwork areas is unlawful. Further, "the mere existence of an overly broad rule tends to restrain and interfere with employees' rights under the Act even if the rule is not enforced." Id.

Applying these principles, we find it plain that where an employer allows some off-duty employees access to its restaurant and lounge, it may not condition that access on the approval of management. Hotel rule 6 does just that. This rule allows the Respondent to select which employees will receive permission to use the Respondent's facilities and to deny access to employees seeking to engage in Section 7 activity on their own time. In our view, such a rule has a reasonable tendency to chill employees in the exercise of their Section 7 rights and its maintenance violates Section 8(a)(1).[11]

Hotel Rule 7

This rule provides:

> 7. Employees are not allowed to fraternize with hotel guests anywhere on hotel property.

Section 7 protects employee communications with customers about terms and conditions of employment.[12] We agree with the General Counsel and the Union that because the term "fraternize" is undefined the rule can reasonably be read to prohibit off-duty employees from engaging in protected communications with hotel guests in nonworking areas of the Respondent's property, in an attempt to solicit sympathy or support for the employees' protected activities. Even if the rule was established for legitimate business purposes, as found by our colleagues, it is not drafted so as to clearly define what is proscribed and eliminate any ambiguity as to whether protected activity is covered. It is this ambiguity that chills reasonable employees in the exercise of their Section 7 rights.[13] Accordingly, we find that the Respondent's maintenance of this rule in its employee handbook is a violation of Section 8(a)(1) of the Act.

Conclusion

For the foregoing reasons, we find that established Board precedent compels the conclusion that the mere maintenance of each of the rules alleged to be unlawful in the complaint reasonably would tend to chill an employee in the exercise of his or her Section 7 rights. Accordingly, we conclude that the maintenance of those rules in the employee handbook violates Section 8(a)(1) of the Act. Our approach to these rules is not, as our colleagues contend, purely hypothetical or fanciful. While the Respondent may or may not have purposely intended to include protected activities within the scope of these rules, that is of no import. The point is that because each rule is susceptible to doubt as to its coverage, each reasonably could lead an employee to refrain from protected activity for fear of breaking the rule and incurring disciplinary penalty. That is the essence of "chilling" of rights long recognized by the Board and the courts.

In reading these rules as we do, we are by no means precluding or restricting employers from achieving legitimate business objectives by imposing work rules governing employee conduct. Our construction is intended to safeguard the opportunity to exercise Section 7 rights as well as the ability to enforce proper workplace discipline. *Both*, as our colleagues concede, are "essential elements in a balanced society." *Republic Aviation v. NLRB*, 324 U.S. at 798. We only require that workplace rules be narrowly and precisely drawn to define the proscribed conduct so that an employee contemplating protected Section 7 activity would not reasonably wonder whether that activity was covered by the rules' prohibi-

[11] Our colleagues find that this rule was established for legitimate business reasons and that reasonable employees would recognize that lawful purpose and would not believe that Sec. 7 activity was encompassed by the rule. Contrary to our colleagues, we do not think that the Respondent has provided a legitimate business reason for this rule. The Stipulation of Facts which constitute the record in this case provide no justifications for any of the rules or standards of conduct, and the contention in the Respondent's brief that the rule prevents interference with employees who are working, reduces risks of accidents and claims of sexual harassment from guests and other employees, and enhances security does not explain why more carefully drafted rules could not serve those purposes. Given its present form, it is not "far-fetched" that reasonable employees could conclude that some Sec. 7 activity could be covered by the rule. Employees should not have to risk their jobs in order to test the rule's coverage.

[12] See *NCR Corp*., 313 NLRB 574, 576 (1993); *Kinder-Care Learning Centers*, 299 NLRB 1171, 1171–1172 (1990).

[13] The fact that there is no evidence of enforcement is irrelevant where, as here, the mere presence of the rule would reasonably tend to chill the employees in the exercise of their Sec. 7 rights. See *NLRB v. Beverage-Air Co.,* 402 F.2d 411, 419 (4th Cir. 1968) ("mere existence" of an overbroad but unenforced no-solicitation rule is unlawful because it "may chill the exercise of the employees' [Sec.] 7 rights").

tions. This would spare employees from the catch-22 choice whether to refrain from protected conduct or test the reach of the rules under peril of disciplinary action.

Requiring employers to draft rules of conduct narrowly and with precision does not require any business sacrifice or impose any real burden. Surely, employers can craft rules which are clear on their face and can not reasonably be read to interfere with or restrain the exercise of Section 7 rights. If the rules were drafted so as to eliminate ambiguity, employers could legitimately maintain discipline and further business objectives, and employees would not be chilled in the exercise of their Section 7 rights. We find that the rules at issue here were not so drafted. Accordingly, we would order the Respondent to rescind these rules, delete them from the employee handbook, and notify the employees that the rules will no longer be maintained.

MEMBER HURTGEN, concurring in part, dissenting in part.

I agree that the maintenance of a rule which, on its face, interferes with Section 7 activity, is unlawful, even if it has not been applied. However, I do not agree that a rule should be condemned as unlawful simply because it can be parsed broadly enough to theoretically cover Section 7 activity. Thus, where the rule does not refer to Section 7 activity (e.g., solicitation or distribution), is not motivated by such activity, has never been applied to such activity, and does not affect such activity, I would not reach out to condemn it. Indeed, I would not spend the Board's scarce resources by ranging through employment rules in an effort to see if some of them can conceivably be construed to refer to Section 7 activity.

Consistent with this approach, I agree with the majority that standards 6, 17, and 31 and rules 6 and 7 are lawful. Also consistent with this approach, I conclude that standard 18 is lawful. In this latter regard, I agree that, hypothetically, an employee might utter a falsity in the course of a Section 7 statement, under circumstances where the falsity would not remove the statement from the protection of Section 7. I also agree, again hypothetically, that the Respondent might read its rule mechanically and might punish the employee. If this happened, the punishment would be unlawful. However, none of this has happened. Further, unlike the cases relied upon by the majority (e.g., *Cincinnati Suburban Press*, 289 NLRB 966 (1988)), there are no unfair labor practices of a kind which would cause a reasonable employee to believe that standard 18 would be unlawfully construed and applied. In this regard, I recognize that scheduling and attendance rule, paragraph 4 (discussed, infra) is unlawful. However, that rule deals with a subject matter that is entirely different from the subject matter of standard 18. In addition, scheduling and attendance rule, paragraph 4 is unlawful on its face. It is *not* an example of a lawful rule that is unlawfully construed and applied. In sum, an employee who is exposed to scheduling and attendance rule, paragraph 4 would not reasonably conclude that an entirely different rule (standard 18) would be construed so as to apply to protected activity. Finally, to the extent that my colleagues read *Cincinnati Suburban,* supra*,* to hold that the rules therein are per se unlawful (i.e., without reference to other unfair labor practices), I disavow that holding. Such a holding would mean an employer violates Federal law if it tells its employees, through a neutral rule, that it is improper to lie. I do not think that Congress envisaged such a result.

My conclusions with respect to the foregoing rules are not inconsistent with my conclusion that scheduling and attendance rule, paragraph 4 is unlawful. That rule clearly requires employees to leave Respondent's premises after their shift. If they must leave, they obviously cannot exercise their Section 7 right to engage in union activity on the premises (albeit outside the hotel itself) after the completion of their shift.[1] Thus, the rule on its face, clearly interferes with a Section 7 right.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT maintain the following scheduling and attendance rule in our employee handbook:

> [Paragraph 4] Employees are required to leave the premises immediately after the completion of their shift and are not to return until the next scheduled shift.

WE WILL NOT maintain the following standard of conduct in our employee handbook:

> 18. Making false, vicious, profane or malicious statements toward or concerning the Lafayette Park Hotel or any of its employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL rescind the rules quoted above, remove them from our employee handbook, and advise the employees in writing that the rules are no longer being maintained.

LAFAYETTE PARK HOTEL, A LIMITED CALIFORNIA PARTNERSHIP

[1] See *Tri-County Medical Center*, 222 NLRB 1089 (1976).