

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
THIRD REGION**

**NOVELIS CORPORATION**

**and**

**UNITED STEEL, PAPER AND FORESTRY,  
RUBBER MANUFACTURING, ENERGY,  
ALLIED INDUSTRIAL AND SERVICE  
WORKERS, INTERNATIONAL UNION,  
AFL-CIO**

**Cases 03-CA-121293  
03-CA-121579  
03-CA-122766  
03-CA-123346  
03-CA-123526  
03-CA-127024**

**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 03-CA-121293, 03-CA-121579, 03-CA-122766, 03-CA-123346, 03-CA-123526, and 03-CA-127024, which are based on charges filed by United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied Industrial and Service Workers, International Union, AFL-CIO, (Union), against Novelis Corporation (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:

**I**

(a) The charge in Case 03-CA-121293 was filed by the Union on January 27, 2014, and a copy was served by regular mail on Respondent on the same date.

(b) The amended charge in Case 03-CA-121293 was filed by the Union on April 22, 2014, and a copy was served by regular mail on Respondent on the same date.

(c) The charge in Case 03-CA-121579 was filed by the Union on January 30, 2014, and a copy was served by regular mail on Respondent on January 31, 2014.

(d) The charge in Case 03-CA-122766 was filed by the Union on February 19, 2014, and a copy was served by regular mail on Respondent on the same date.

(e) The charge in Case 03-CA-123346 was filed by the Union on February 28, 2014, and a copy was served by regular mail on Respondent on the same date.

(f) The amended charge in Case 03-CA-123346 was filed by the Union on April 22, 2014, and a copy was served by regular mail on Respondent on the same date.

(g) The charge in Case 03-CA-123526 was filed by the Union on March 3, 2014, and a copy was served by regular mail on Respondent on March 4, 2014.

(h) The charge in Case 03-CA-127024 was filed by the Union on April 22, 2014, and a copy was served by regular mail on Respondent on the same date.

## II

(a) At all material times, Respondent, a corporation with a place of business located at 448 County Road 1A, Oswego, New York, (Respondent's Oswego facility) has been engaged in the manufacture of rolled aluminum products.

(b) During the past twelve months, Respondent, in conducting its operations described above in paragraph II(a), purchased and received at its Oswego facility, goods valued in excess of \$50,000 directly from points outside the State of New York.

### III

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.

### IV

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

### V

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/or agents of Respondent within the meaning of Section 2(13) of the Act:

Phil Martens	--	President and Chief Executive Officer
Marco Palmieri	--	Senior Vice President and President
Chris Smith	--	Plant Manager
Peter Sheftic	--	Human Resource Manager
Tom Granbois	--	Remelt Engineering Maintenance Reliability and Automation Leader
Duane Gordon	--	Remelt Operations Leader
Jason Bro	--	Cold Mill Operations Leader
Dan Taylor	--	Shipping Receiving and Packaging Associate Leader
Doug Borer	--	Operations Leader, Hot Mill
Warren Smith	--	Director, CASH Operations
Andrew Biggs	--	Associate Leader, CASH
Paul Elia	--	Associate Leader, CASH
Craig Formoza	--	Manufacturing Unit Manager, CASH

## VI

About January 9, 2014, Respondent, at its Oswego facility, in response to the Union's organizing campaign, restored its practice of providing employees with Sunday premium pay and permitting employees to use personal time on Sunday as time worked.

## VII

About February 17 and February 18, 2014, Respondent, by Phil Martens, at Respondent's Oswego facility:

(a) Impliedly threatened employees that the plant would close if they selected the Union as their bargaining representative.

(b) Threatened employees with a reduction in wages if they selected the Union as their bargaining representative.

(c) Threatened employees with more onerous working conditions, including mandatory overtime, if they selected the Union as their bargaining representative.

(d) Disparaged the Union by displaying a redacted Board letter and telling employees that the Union had filed a charge regarding the restoration of the Sunday premium pay and employees' use of personal time on Sunday as time worked, at a time when no such charge had been filed.

## VIII

Respondent, by Chris Smith, at Respondent's Oswego facility:

(a) About February 17 and 18, 2014, threatened employees that if they elected the Union, Respondent would lose business.

(b) About February 17 and 18, 2014, disparaged the Union by displaying a redacted Board letter and telling employees that the Union had filed a charge regarding the restoration of

the Sunday premium pay and employees' use of personal time on Sunday as time worked, at a time when no such charge had been filed.

(c) About February 17, 2014, threatened employees that Respondent would have to rescind Sunday premium pay and overtime benefits if it pled guilty to the Union's charge.

(d) About February 17 and 18, 2014, threatened employees with more onerous working conditions, including mandatory overtime, if they selected the Union as their bargaining representative.

(e) About February 18, 2014, threatened employees that if Respondent pled guilty to the Union's charge that it unlawfully restored Sunday premium pay, it would have to rescind the benefit retroactive to January 1, 2014.

## **IX**

About January 28, 2014, Respondent, by Craig Formoza, at Respondent's Oswego facility:

(a) Threatened employees with more onerous working conditions if they selected the Union as their bargaining representative.

(b) Threatened employees that selecting the Union as their bargaining representative would result in a loss of jobs.

(c) Interrogated employees about their union membership, activities, and sympathies.

## **X**

Respondent, by Jason Bro, at Respondent's Oswego facility:

(a) About January 12, 2014, interrogated employees about the union membership, activities, and sympathies of other employees.

(b) About January 23 and January 30, 2014, interrogated and coerced its employees about their union membership, activities, and sympathies by asking them how they would vote if they did not want the Union.

(c) About January 23, 2014 at Respondent's Oswego facility, threatened employees by telling them that they did not have to work for Respondent if they did not like it.

(d) About January 23, 2014, prohibited employees from wearing union insignia on their uniforms while permitting employees to wear anti-union and other insignia.

## XI

(a) On a date unknown to the General Counsel but within the knowledge of Respondent, Respondent promulgated and since then has maintained the following rule:

Employees are prohibited from distributing any literature related to Section 7 solicitations within the facility and from posting any literature related to Section 7 solicitations on Company bulletin boards in work areas.

(b) Since about July 27, 2013, Respondent, has maintained the following rule:

Novelis prohibits solicitation and distribution in working areas of its premises and during work time (including Company e-mail or any other Company distribution lists).

The Company maintains bulletin boards to communicate Company information to employees and to post required notices. Any unauthorized posting of notices, photographs or other printed or written materials on bulletin boards or in other working areas and during working time is prohibited. Employees are prohibited from soliciting funds or signatures, conducting membership drives, posting, distributing literature or gifts, offering to sell or to purchase merchandise or services (except as approved for Novelis business purposes) or engaging in any other solicitation, distribution or similar activity on Company premises or via Company resources during working times and in working areas.

## XII

Respondent, by the individuals named below on the dates opposite their respective names, at Respondent's Oswego facility, selectively and disparately enforced the rules described above in paragraph XI(a) and (b) by prohibiting union solicitations and distributions, while permitting nonunion and anti-union solicitations and distributions in employee work and break areas and on bulletin boards:

- (a) Tom Granbois -- About January 23, 2014
- (b) Duane Gordon -- About January 21, 2014
- (c) Jason Bro -- About January 12, 21 and 23, 2014
- (d) Dan Taylor -- About January 23, 2014

## XIII

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

**Included:** All full-time and regular part-time employees employed by the Employer at its Oswego, New York facility, including the classifications of Cold Mill Operator, Finishing Operator, Recycling Operator, Remelt Operator, Crane Technician, Mechanical Technician, Welding Technician, Remelt Operations Assistant, Hot Mill Operator, Electrical Technician, Process Technician, Mobile Equipment Technician, Roll Shop Technician, Production Process & Quality Technician, Production Process & Quality Specialist, EHS Facilitator, Planner, Shipping Receiving & Packing Specialist, Stores Technician, Maintenance Technician, Machinist, Facility Technician, and Storeroom Agent.

**Excluded:** Office clerical employees and guards, professional employees, and supervisors as defined in the Act, and all other employees.

(b) About January 8, 2014, a majority of the Unit designated the Union as their exclusive collective-bargaining representative for the purposes of collective bargaining.

(c) About January 8, 2014, the Union, by letter, requested that Respondent recognize it as the exclusive collective-bargaining representative and bargain collectively with the Union as the exclusive bargaining representative of the Unit.

(d) At all times since January 9, 2014, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

#### **XIV**

The serious and substantial unfair labor practice conduct described above in paragraphs VI through XII is such that there is only a slight possibility of traditional remedies erasing their effects and conducting a fair election. Therefore, on balance, the employees' sentiments regarding representation, having been expressed through authorization cards, would be protected better by issuance of a bargaining order.

#### **XV**

The allegations described above in paragraph XIV requesting the issuance of a bargaining order are supported by, among other things:

(a) Phil Martens and Chris Smith are high-ranking supervisors responsible for the discriminatory conduct described above in paragraphs VI through VIII;

(b) the conduct described above in paragraphs VI through XII has not been retracted;

(c) there are approximately 599 employees in the Unit described above in paragraph XIII;

(d) the conduct described above in paragraphs VI through VIII was immediately directed at approximately 599 employees;

(e) 599 employees learned or were likely to learn of the conduct described above in paragraphs VI through VIII;



(f) the conduct described above in paragraphs VI through XII commenced immediately on the heels of the Respondent's knowledge of the Union's campaign.

#### **XVI**

Since about January 9, 2014, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

#### **XVII**

By the conduct described above in paragraphs VI through XII, 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.

#### **XVIII**

By the conduct described above in paragraph XVI, Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

#### **XIX**

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

**WHEREFORE**, as part of the remedy for the unfair labor practices alleged above in paragraphs VI through XII, the General Counsel seeks an Order requiring that the Notice be read to employees during working time by Phil Martens or Chris Smith in the presence of a Board Agent.

The General Counsel seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

## ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. **The answer must be received by this office on or before May 20, 2014, or postmarked on or before May 19, 2014.** 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.nlr.gov](http://www.nlr.gov), click on **File Case 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 2 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 consolidated 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 (3) 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 consolidated complaint are true.

### **NOTICE OF HEARING**

**PLEASE TAKE NOTICE THAT on June 16, 2014, at 1:00 p.m.**, at a place to be designated in Syracuse, New York, 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 consolidated complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

**DATED** at Buffalo, New York, this 6<sup>th</sup> day of May, 2014.

/s/RHONDA P. LEY

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Attachments