UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES, SAN FRANCISCO BRANCH OFFICE

THE BOEING COMPANY

and Case 19–CA–089374

JOANNA GAMBLE, an Individual

M. Anastasia Hermosillo, Esq.,
for the Acting General Counsel.
Charles N. Eberhardt, Esq. (Perkins, Coie LLP),
for the Respondent Company.

DECISION

JEFFREY D. WEDEKIND, Administrative Law Judge. In early August 2012, Boeing disciplined Joanna Gamble, an unrepresented employee at its Renton, Washington facility, for communicating with coworkers about a recently completed human resources (HR) investigation into Gamble's allegations against her supervisor. Boeing asserted that, by doing so, Gamble had violated a confidentiality notice she had signed during the investigation, which specifically "directed" witnesses not to discuss the case with any Boeing employee other than the investigators or the witness' union representative, if applicable.

Gamble responded by filing the instant unfair labor practice charge, alleging that the discipline unlawfully interfered with her statutory right under the National Labor Relations Act to discuss the terms and conditions of her employment with her coworkers.[1] About 10 days later, in late September 2012, the Company rescinded the discipline and notified Gamble that it had done so. Effective November 2012, it also replaced its standard confidentiality notice with a revised notice that instead "recommend[ed]" employee witnesses refrain from discussing the case with other employees.

The General Counsel, however, concluded that the revised confidentiality notice was just as objectionable as the original notice under extant law, and that the Company likewise failed to adequately repudiate the unlawful discipline issued to Gamble pursuant to the original notice. Accordingly, on January 29, 2013, the General Counsel issued the instant complaint alleging that all three—the original confidentiality notice, the revised notice, and the discipline to Gamble—violated the Act.

On February 12, the Company filed an answer denying all of the foregoing allegations. Thereafter, on June 6, the General Counsel and the Company jointly moved

[1] Gamble subsequently filed an amended charge on November 16, 2012, alleging that the confidentiality notice itself also violated the Act.

for a decision in the case without a hearing, based solely on a stipulated record.[2] I granted the joint motion on June 7, and the parties filed their briefs on July 11.

After carefully considering the briefs and the entire stipulated record, for the reasons set forth below I find that the Company violated the Act as alleged.[3]

I. The Original Confidentiality Notice

In relevant part, the Company's original confidentiality notice stated as follows:

> Human Resources investigations deal with sensitive information and may be conducted under authorization of the Boeing Law Department. Because of the sensitive nature of such information, you are directed not to discuss this case with any Boeing employee other than company employees who are investigating this issue or your union representative, if applicable. Doing so could impede the investigation and/or divulge confidential information to other employees.
>
> As a participant in the investigation, the information you provide will be treated in a sensitive manner, however the Investigator will not promise absolute confidentiality. Information regarding the investigation may be disclosed to person(s) on a need to know basis.
>
> Please contact the investigator if you have any questions in this matter. If any coworker or manager asks to discuss the case with you, please inform him or her that you have been instructed not to discuss it and refer the individual to the Human Resources representative who is investigating your concern.

The Company admits that it routinely gave this confidentiality notice to employee witnesses during HR investigations at most of its facilities prior to November 2012 (Stip par. 11, and Br. 11). The Company also acknowledges that the notice was "effectively a rule of conduct" (Br. 10).

As indicated by the General Counsel, extant Board law is clear that such blanket confidentiality directives impermissibly infringe on employees' statutory right to discuss among themselves their terms and conditions of employment and otherwise engage in concerted protected activity. See *Hyundai America Shipping Agency, Inc.*, 357 NLRB No. 80 (2011) (employer violated Section 8(a)(1) of the Act by routinely

[2] See Sec. 102.35(a)(9) of the Board's rules.

[3] Commerce jurisdiction is admitted and well established by the stipulated record. Although the Company argues that "the complaint is *ultra vires*" and may not lawfully be processed due to the lack of a valid Board quorum (citing, e.g., *Noel Canning v. NLRB*, 705 F.3d 490 (D.C. Cir. 2013), petition for certiorari granted, No. 12-1281 (June 24, 2013)), the Board has rejected similar arguments in numerous other cases. See, e.g., *2 Sisters Food Group*, 359 NLRB No. 158 fn. 1 (2013); and *Bloomingdale's*, 359 NLRB No. 113 (2013).

instructing employees not to talk to other employees about matters under investigation, without any consideration of whether confidentiality was truly necessary to prevent corruption of the investigation). Accord: *Banner Estrella Medical Center*, 358 NLRB No. 93 (2012). Indeed, the Company concedes that its original confidentiality notice "is difficult to reconcile" with the foregoing Board precedent (Br. 9).

Nevertheless, the Company contends that the original notice did not violate the Act, as the foregoing Board precedent is "wrong." Like the employer in *Hyundai*, the Company argues that it "has legitimate interests in keeping every ongoing HR investigation confidential"—"ensuring the integrity of investigations, preventing workplace retaliation for participation in investigations, and fostering an environment where employees will readily report issues"—and that these interests "outweigh any potential employee interest in discussing ongoing HR investigations." (Br. 9–11.) Moreover, the Company argues that it is impractical for it to conduct a separate evaluation in each HR investigation to determine whether the Company's need for confidentiality outweighs the employee witness' statutory rights.

The Company's arguments are not without factual or legal support. The parties stipulated that, since September 2011, the Company has conducted over a thousand HR investigations in its Commercial Airplane group (BCA) alone. Further, as indicated by the Company, the Board itself has made similar arguments to support blanket rules in other contexts. See *IBM Corp*., 341 NLRB 1288, 1293 (2004) (citing the need for "discretion and confidentiality" in employer investigations as a basis for denying unrepresented employees a *Weingarten* right to have a coworker representative present during investigatory interviews); and *NLRB v. Robbins Tire & Rubber Co*., 437 U.S. 214, 222 (1978) (arguing that the Court should uphold the Board's rule against disclosing confidential witness affidavits until the witness has testified because, inter alia, "a particularized, case by case showing [that prior disclosure would interfere with enforcement proceedings] is neither required nor practical").

However, it makes no difference at this stage how persuasive the arguments for revisiting *Hyundai* may or may not be,[4] as I am bound to follow Board precedent unless and until it is reversed by the Supreme Court. See *Pathmark Stores*, 342 NLRB 378 fn. 1 (2004). Accordingly, I find that the Company's routine use of the original confidentiality notice to prohibit employee witnesses from discussing ongoing HR investigations with other employees violated Section 8(a)(1) of the Act, as alleged.[5]

[4] The Board's policy in unfair labor practice (ULP) investigations and the Company's policy in HR investigations are not entirely analogous. Thus, although employee witnesses are routinely advised during ULP investigations not to show their pretrial Board affidavits to anyone (see NLRB Casehandling Manual, Part One, Secs. 10060.6 and 10060.9), this does not restrict them from even discussing the ULP investigation with other employees. However, this distinction does not by itself adequately answer the argument that it is just as impractical to conduct confidentiality evaluations in each HR investigation as it is to do so in each ULP investigation.

[5] It is not entirely clear that the confidentiality notice applied only to ongoing investigations, or that employees, investigators, and managers understood this. Indeed, as discussed below, the circumstances surrounding the discipline issued to Gamble

II. The Revised Confidentiality Notice

As indicated above, after the unfair labor practice charge in this case was filed, the Company created a revised confidentiality notice. In relevant part, the revised notice states as follows:

> Human Resources Generalist investigations deal with sensitive information. Because of the sensitive nature of such information, we recommend that you refrain from discussing this case with any Boeing employee other than company representative[s] investigating this issue or your union representative, if applicable. Doing so could impede the investigation and/or divulge confidential information to other employees.
>
> As a participant in the investigation, the information you provide will be treated in a sensitive manner, however the investigator will not promise absolute confidentiality. Information regarding the investigation may be disclosed to person(s) on a need to know basis.
>
> Please contact the investigator if you have any questions in this matter. If any coworker or manager asks to discuss the case with you, we recommend that you inform him or her that Human Resources has requested that you not discuss the case, and refer the individual to the Human Resources representative who is investigating the matter.

As with the original notice, the Company admits that, since November 2012, it has routinely given the revised notice to employee witnesses during HR investigations at most of its facilities. Indeed, the Company has asked the witnesses to actually sign the notice. (Stip par. 12).

The Company argues that, by substituting "recommend" for "directed," the revised confidentiality notice has cured any arguable deficiencies in the original notice (Br. 12). The General Counsel, on the other hand, argues that the revised notice is just as unlawful as the original, citing, e.g., *Radisson Plaza Minneapolis*, 307 NLRB 94 (1992), enfd. 987 F.2d 1376 (8th Cir. 1992) (handbook statement that employees "shouldn't" discuss their salary with anyone had a reasonable tendency to coerce employees in the exercise of their statutory rights notwithstanding its nonmandatory phrasing).

Again, I find that the General Counsel has the better argument under extant law. First, the revised notice itself suggests that the Company's "recommendation" should be treated as a "request," and the Company concedes that this is an accurate or reasonable interpretation (Br. 14–15). Second, like the original notice, the revised notice clearly

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indicate the opposite. However, as noted by the Company, the complaint does not allege that the confidentiality notice was unlawful because it applied even after investigations were completed. Accordingly, I have not addressed that issue; rather, consistent with the complaint allegations, I find that the notice was unlawful under current Board law even assuming it applied only to ongoing investigations.

communicates the Company's desire for confidentiality. Third, by asking the employee witnesses to actually sign the revised notice, the Company has also clearly communicated that its confidentiality concerns should be taken seriously. Finally, contrary to the Company's contention, nothing in the revised notice can reasonably be interpreted as an assurance to employees that they are nevertheless "free" to disregard the Company's recommendation/request and "discuss the case if he or she chooses to do so" (Br. 16).[6]

In agreement with the General Counsel, I find that, in these circumstances, like the handbook statement found unlawful in *Radisson*, the revised notice would have a reasonable tendency to chill employees from exercising their statutory rights. See also *Heck's, Inc*., 293 NLRB 1111, 1114, 1119 (1989) (reaching same conclusion with respect to employer's "request" that employees not discuss their salary); *Fresenius USA Mfg.,* 358 NLRB No. 138 fn. 1 and JD. at 22, 40 (2012) (likewise finding a violation under the circumstances even though employer said only that it "would appreciate" and "prefer" the employee not talking about the investigation); and *NLRB v. Koronis Parts, Inc*., 927 F.Supp. 1208 (D. Minn. 1996) (granting Board's request for interim injunction requiring employer to revoke handbook provision that "ask[ed]" employees not to discuss their wages with other employees).

Accordingly, for the reasons previously discussed, I find that the Company's routine use of the revised confidentiality notice in ongoing HR investigations since November 2012 likewise violated Section 8(a)(1) of the Act, as alleged.[7]

III. The Discipline Issued to Gamble

Gamble has worked for Boeing for over 30 years and is currently a BCA single-aisle process technical integrator (PTI) at the Company's Renton, Washington facility. In May 2012, she complained to the Company about certain "unacceptable behavior" by her male supervisor (Carroll) and another, nonmanagement male worker (Muller) on the single-aisle team.[8] Among other things, Gamble alleged that Carroll and Muller had made negative comments during single-aisle PTI meetings about their female

[6] For example, I reject the Company's argument that the fourth and last paragraph of the notice, which states that the Company "prohibits retaliation against any individual who makes a complaint or participates in an investigation," makes clear that employee witnesses are free to discuss the investigation with other employees. I also reject the Company's contention that the second sentence of the second paragraph can reasonably be read as assuring employee witnesses that they may disclose information about the case on a need to know basis. In context, the sentence clearly refers to the investigator disclosing information on a need to know basis, not the employee witnesses doing so.

[7] In any event, even assuming the revised notice is not unlawful, I would find that it was insufficient by itself to repudiate the Company's unlawful routine use of the original notice. See *Fresh & Easy Neighborhood Market*, 356 NLRB No. 85, slip op. at 16 (2011), enfd. 468 Fed. Appx. 1 (D.C. Cir. 2012) (unpub), and the discussion infra regarding the Company's rescission of the discipline issued to Gamble.

[8] The record indicates that both Carroll and Muller have also worked for Boeing for over 30 years.

counterparts on the twin-aisle team, employees Ingraham and Stroscheim and their female manager Rainbow; that Carroll had referred to the mostly-female PTI meeting as a "bitch" session; and that Carroll had also used the word "bitch" when referring to Stroscheim and Rainbow, who he said reminded him of his ex-wife. Gamble stated that she and another female employee on the single-aisle team (Foote) had addressed this with both Carroll and Muller and "taken it up through other venues," but the behavior had escalated and she and Foote were told they would be replaced by younger workers and were instructed to work through their lunch breaks. Gamble set forth the foregoing allegations and complaints in an email, which she addressed to numerous company managers and executives, and copied (cc'd) to Ingraham, Stroscheim, Rainbow, and Foote.

In response to Gamble's email, the following month the Company conducted an HR investigation into three specific allegations: (1) that in November 2011 Carroll had referred to a meeting as a "bitch session" and used the word "bitch" when referring to a meeting; (2) that in February 2012 Carroll had raised his voice at Gamble when he questioned her about her lunch period; and (3) that Muller had bullied Gamble and made negative comments about coworkers. As part of this investigation, the HR investigator (Sanchez) interviewed several witnesses, including Gamble, Foote, and Carroll himself. However, Sanchez did not interview Ingraham, Stroscheim, or Rainbow, assertedly because they had not observed the three discrete allegations being investigated.[9]

Sanchez completed her HR investigation report to management on July 2, 2012. The report concluded that the three subject allegations were "not substantiated" by the investigation. Sanchez informed Gamble of this conclusion the following day, July 3. She also acknowledged to Gamble that Ingraham, Stroscheim, and Rainbow had not been interviewed as part of the investigation.

Later the same day, Gamble sent two emails to all three women, as well as Foote. Gamble expressed disappointment with the limited scope and outcome of the investigation, and particularly the fact that Sanchez had not interviewed them about corroborating behavior or actions by Carroll. Gamble urged them to inquire why they were not contacted by Sanchez, and to stand together and hold the Company accountable for Carroll's behavior.

Several days later, on July 9, one of the women, Stroscheim, sent an email to Sanchez. The email—entitled "Case closed regarding [] Carroll?"—indicated that Gamble had spoken to her and that she (Stroscheim) was "very disappointed" to learn that the case was closed with "no findings" without her being interviewed.

Two days later, on July 11, Sanchez sent an email Gamble. The email reminded Gamble that she had signed a confidentiality notice during the investigation; advised Gamble that the Company had received information that the notice may have been breached; "directed" Gamble "not to discuss the investigation with any other Boeing

[9] Sanchez did not interview Muller because Gamble's allegations regarding him were considered insufficiently specific to warrant an interview.

employee"; and advised that "[a] breach of the Notice or the sharing of confidential and/or sensitive information could lead to investigation and disciplinary action."

Gamble replied to Sanchez by email later the same day. She admitted that Sanchez was "partially correct"; that she "did breach the confidentiality agreement in part." Gamble stated that she did so because Boeing had "breached their commitment" to her by encouraging employees to come forward but then conducting only a partial investigation and failing to interview employees she had identified for corroboration.

Sanchez reported Gamble's reply, and the Company thereafter had another HR investigator (Granbois) take a statement from Gamble about the matter. Gamble at that time again acknowledged that she had breached the confidentiality notice, after Sanchez told her that the investigation was concluded, by advising the women named in her complaint that they would not be interviewed by Sanchez.

On August 3, 2012, Granbois issued his report. The report was based solely on Stroscheim's email to Sanchez, and Gamble's subsequent email and statement. Gamble's previous, post-investigation emails to Stroscheim, Ingraham, Rainbow, and Foote were not themselves considered, apparently because they were never provided to Granbois. The report concluded that Gamble had "breached her investigation confidentiality agreement . . . following the conclusion of the investigation . . .by informing other individuals outside of the investigation of the investigation and its outcome."

Several days later, on August 9, the Company issued a written warning to Gamble. The warning stated that it had been determined that Gamble had "failed to comply" with the confidentiality notice by "discuss[ing] the investigation with others," and that future violations could result in further corrective action, including discharge.

However, the Company rescinded the warning approximately 7 weeks later, on September 28, after Gamble filed her September 17 unfair labor practice charge. The Company notified Gamble of this by letter dated the following day, October 1. The letter stated:

> Recently the National Labor Relations Board ruled [in *Banner Estrella Medical Center*, above] that an employer cannot prohibit employees from discussing on-going employer investigations other than in specific, individualized circumstances. We were unaware of this ruling at the time of your Corrective Action for "Failure to Comply with the Notice of Confidentiality and Prohibition against Retaliation." Accordingly, we have rescinded this corrective action from your record.

Nevertheless, the Company contends in the instant proceeding that the warning was actually entirely lawful. First, as discussed above, it contends that the Board's ruling in *Banner* was wrong. Second, it contends that the only conduct the Company was aware of and disciplined Gamble for (notifying other employees that the investigation had closed with "no findings" and that they would not be interviewed) did not itself seek or encourage the employees to take any group action, and therefore did

not constitute concerted protected activity. Finally, the Company alternatively argues that it promptly and effectively cured any violation by voluntarily rescinding the warning and notifying Gamble that the Company had done so within several days after the matter came to the attention of the Company's legal department. The Company argues that no further action was necessary as there is no evidence that any other employees were aware of the warning, and the Company replaced the original confidentiality notice with the revised notice.

I reject all of the Company's arguments. As discussed above, I am bound to follow Board precedent, and the Company's original confidentiality notice was clearly unlawful under both *Banner* and the Board's 2011 decision in *Hyundai*. Further, as indicated by the General Counsel, Board precedent also holds that disciplining an employee pursuant to an unlawfully overbroad rule is likewise unlawful, even if the employee's conduct was not concerted, if the conduct is of a type that implicates concerns underlying the Act, and the discipline could therefore chill employees from exercising similar conduct that constitutes concerted protected activity. See *Continental Group, Inc*., 357 NLRB No. 39 (2011) (distinguishing, for example, an employee seeking higher wages from an employee sleeping on the job). Accord: *Taylor Made Transportation Services,* 358 NLRB No. 53 (2012).

Gamble's conduct here clearly qualifies as this type of conduct, and the Company does not contend otherwise. Nor does the Company contend that Gamble's post-investigation communication to her four coworkers actually interfered with the investigation and that this was the reason for the discipline. See *id.* (employer can avoid liability for the discipline if it can establish that the employee's conduct actually interfered with the employer's operations, and that the interference, rather than the violation of the rule, was the reason for the discipline). The Company concedes, consistent with the warning itself, that Gamble was disciplined simply for violating the rule (Br. 18). In any event, given that the investigation was over, and that Carroll, the subject supervisor, already knew about it, the circumstances here clearly do not support such a defense. Cf. *Fresenius, above,* 358 NLRB No. 138, slip op. at 40; and *Mobile Oil Exploration & Producing, U.S., Inc.,* 325 NLRB 176, 178–179 (1997), enfd. 200 F.3d 230 (5th Cir. 1999).

Moreover, in agreement with the General Counsel, I find that a preponderance of the evidence establishes that the Company was, in fact, sufficiently aware of the concerted nature of Gamble's admitted post-investigation communications. Although the Company never saw Gamble's post-investigation emails to her four coworkers, Gamble had openly copied all four on her original email to the Company that precipitated the investigation regarding Carroll's and Muller's alleged conduct. Further, Gamble specifically identified all four in that email as fellow victims of the alleged conduct, and stated that one (Foote) had already joined with her in addressing the matter directly with Carroll and Muller and "through other venues." Moreover, if there was any doubt about whether any of the four supported Gamble's complaints, it was clearly erased by Stroscheim's July 9 email to Sanchez expressing disappointment with the investigation and its outcome. Cf. *Reynolds Electric, Inc.*, 342 NLRB 156 (2004) (finding that employer did not have the requisite knowledge of the concerted nature of employee's inquires where he was the only one who made the inquiries, and the

employer only knew that he previously had "informational" conversations with other employees about the matter).

Finally, I also agree with the General Counsel that the Company failed to adequately repudiate the unlawful warning. For a repudiation to be effective, it must be timely, unambiguous, specific in nature to the coercive conduct, free from other proscribed conduct, adequately publicized to the employees involved, not followed by other proscribed conduct, and accompanied by assurances to employees that the employer will not interfere with the exercise of their statutory rights. *Passavant Memorial Hospital*, 237 NLRB 138 (1978). See also *Ark Las Vegas Restaurant Corp. v. NLRB*, 334 F.3d 99, 108 (D.C. Cir. 2003), and cases cited there. Here, regardless of when its legal department learned of the discipline, the fact remains that the Company did not rescind the warning until 7 weeks after it was issued and over a week after Gamble filed her unfair labor practice charge. Cf. *Passavant*, 237 NLRB at 139 (citing similar circumstances in finding employer's repudiation untimely). Moreover, as discussed above, the Company has continued to routinely require employee witnesses in HR investigations to sign a revised confidentiality notice that is just as unlawful as the original under prevailing Board law. Finally, the Company never provided assurances that it would not interfere with employee statutory rights in the future.

CONCLUSIONS OF LAW

1. By maintaining and routinely distributing confidentiality notices that direct, request, and/or recommend to employees involved in HR investigations not to discuss the case with their coworkers, the Respondent Company has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

2. By disciplining employee Joanna Gamble on August 9, 2012 for violating the confidentiality notice, the Respondent Company has likewise engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

REMEDY

The appropriate remedy for the violations found is an order requiring the Respondent Company to cease and desist and take certain affirmative action. Given the Company's admission that its confidentiality notices have been routinely used during HR investigations at most of its facilities nationwide, as requested by the General Counsel the required affirmative remedial action properly includes posting a notice to employees regarding the unlawful confidentiality notices at all of those facilities. Contrary to the Company's contention, such a general posting remedy is appropriate even though only those employees involved in the investigations were given and/or asked to sign the confidentiality notices. See *Banner*, 358 NLRB No. 93, slip op. at 2 & fn. 2. Indeed, considering the large number of HR investigations conducted by the Company, a general posting remedy would likely be substantially less burdensome, for both the Company

and the Board's compliance officer, than a remedy that required identifying and separately notifying each employee who was actually given and/or asked to sign the confidentiality notices.

Accordingly, based on the foregoing findings of fact and conclusions of law, and the entire record, I issue the following recommended[10]

ORDER

The Respondent, The Boeing Company, Renton, Washington, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Maintaining and routinely distributing or enforcing confidentiality directives, requests, and/or recommendations to employees involved in HR investigations not to discuss the case with their coworkers.

(b) Disciplining employees for violating such overbroad confidentiality directives, requests, and/or recommendations.

(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) Within 14 days of the Board's Order, to the extent it has not already done so, revise or rescind the HR investigation confidentiality notices in effect immediately prior to and since November 2012.

(b) Within 14 days of the Board's Order, to the extent it has not already done so, rescind the unlawful August 9, 2012 written warning it issued to employee Joanna Gamble for violating the HR investigation confidentiality notice, and within 3 days thereafter, advise her in writing that this has been done and that the warning will not be used against her in any way.

(c) Within 14 days after service by the Region, post copies of the attached notice marked "Appendix A at its Renton, Washington facility, and the attached notice marked "Appendix B" at all of its facilities nationwide where its confidentiality notices have

[10] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

been used since March 17, 2012."[11] Copies of the notices, on forms provided by the Regional Director for Region 19, 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. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. 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 facilities where posting is required, the Respondent shall duplicate and mail, at its own expense, a copy of the notices to all current employees and former employees employed at those facilities at any time since March 17, 2012.

(d) 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.

Dated, Washington, D.C. July 26, 2013

Jeffrey D. Wedekind
Administrative Law Judge

[11] 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."

APPENDIX A

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 Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT maintain or routinely distribute or enforce confidentiality directives, requests, and/or recommendations to employees involved in human resources (HR) investigations not to discuss the case with their coworkers.

WE WILL NOT discipline employees for violating such overbroad confidentiality directives, requests, and/or recommendations.

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, within 14 days of the Board's Order, to the extent we have not already done so, revise or rescind the HR investigation confidentiality notices in effect prior to and since November 2012.

WE WILL, within 14 days of the Board's Order, to the extent we have not already done so, rescind the August 9, 2012 written warning we issued to employee Joanna Gamble for violating the HR investigation confidentiality notice, and within 3 days thereafter, advise her in writing that this has been done and that the warning will not be used against her in any way.

THE BOEING COMPANY

(Employer)

Dated _____ By _____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

915 2nd Avenue, Room 2948, Seattle, WA 98174-1078
(206) 220-6300, Hours: 8:15 a.m. to 4:45 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (206) 220-6284.

APPENDIX B

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 Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT maintain or routinely distribute or enforce confidentiality directives, requests, and/or recommendations to employees involved in human resources (HR) investigations not to discuss the case with their coworkers.

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, within 14 days of the Board's Order, revise or rescind the HR investigation confidentiality notices in effect prior to and since November 2012, to the extent we have not already done so.

THE BOEING COMPANY
(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

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