UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21

In the Matter of: EUROPA AUTO IMPORTS, INC. d/b/a MERCEDES-BENZ OF SAN DIEGO, and INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 190	CASE NO. 21-RC-21210

RESPONDENT'S EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE'S DECISION

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EUROPA AUTO IMPORTS, INC. d/b/a MERCEDES-BENZ OF SAN DIEGO ("Employer"), by and through its undersigned attorney, pursuant to Section 102.69 of the Board's Rules and Regulations, takes exception to the Report on Challenged Ballots and Objection of the Administrative Law Judge, as enumerated below. The specific grounds and authorities of the exceptions are set forth in the accompanying brief.

1. Employer excepts to the Administrative Law Judge's finding that "Thus, the terms of their employment remained the same while working for 3 days under the supervision and flat-rate number of Batts. . ." (Report page 7, Lines 24-27)

2. Employer excepts to the Administrative Law Judge's finding that "Further, as there appears to have been no immediate necessity for changing the status of Zaragoza and Maher at the time Collins did so, it is reasonable to presume that the change was made in order to affect their voting eligibility." (Report page 7, Lines 30-32)

3. Employer excepts to the Administrative Law Judge's finding that "The Employer presented no evidence showing that these two individuals, particularly Maher, had acquired the

expertise to become flat-rate technicians in such a relatively short time." (Report page 7, Lines 38-40)

4. Employer excepts to the Administrative Law Judge's finding that "Under the circumstances, I conclude the Employer has not provided a sufficiently plausible business-related rationale for making the changes when it did." (Report page 7, Lines 40-41)

5. Employer excepts to the Administrative Law Judge's finding that ". . .I conclude and recommend that there were no changed circumstances during the eligibility payroll period sufficient to change the status of Zaragoza and Maher." (Report page 8, Lines 1-3)

6. Employer excepts to the Administrative Law Judge's finding that "Their changed circumstances occurred, I find, subsequent to, the July 31 payroll eligibility date. Therefore, they were ineligible to vote in the election." (Report page 8, Lines 3-4)

7. Employer excepts to the Administrative Law Judge's finding that "The Employer's request for review to the Board did not allege any changed circumstances." (Report page 8, Lines 6-7)

8. Employer excepts to the Administrative Law Judge's finding that "Further, neither at the pre-election conference, nor during the election was the Board agent advised by either the Employer or Employer's observer of any changed circumstances or reason to cause the Board agent, in the exercise of his discretion, to permit Zaragoza and Maher to vote under challenge." (Report page 8, Lines 7-10)

9. Employer excepts to the Administrative Law Judge's finding that "Accordingly, the Board agent appropriately denied a ballot to the two individuals, and nothing occurred during the election process that would support the Employer's objection. On the basis of the foregoing,

I conclude and recommend that the Employer's objection be overruled." (Report page 8, Lines 26-29)

10. Employer excepts to the Administrative Law Judge's finding that "I conclude and recommend that the Employer's objection be overruled; that Lee Maher and Mauricio Zaragoza were ineligible to vote in the election as there were no changed circumstances during the payroll eligibility period that would warrant their inclusion in the unit. . ." (Report page 15, Lines 7-10)

11. Employer excepts to the Administrative Law Judge's finding that "Bersinger is a supervisor within the meaning of the Act." (Report page 10, Lines 26-29)

Dated this 7th day of December, 2010

Respectfully submitted,

By: *s/ James F. Hendricks, Jr.*
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CERTIFICATE OF SERVICE

I certify that I have served, this 7th day of December 2010, on the following individual, via e-mail, a copy of the foregoing Respondent's Exceptions to the Administrative Law Judge's Decision:

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