UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

TITUS ELECTRICAL CONTRACTING, INC.

and

Cases 16-CA-21010-2, 16-CA-21598, 16-CA-21598-2, 16-CA-21613, 16-CA-21694, 16-CA-21701, 16-CA-21732, 16-CA-21819, 16-CA-21840, 16-CA-21852, 16-CA-21951, 16-CA-21951-2, 16-CA-21973, 16-CA-21978, 16-CA-21978-2, 16-CA-21978-3, and 16-CA-22035

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 520

GENERAL COUNSEL'S MOTION TO REMAND CASES TO THE REGIONAL DIRECTOR FOR APPROVAL OF A SETTLEMENT AGREEMENT

COMES NOW Jamal M. Allen, Counsel for the Acting General Counsel in the above-referenced cases, and files this Motion to Remand Cases to the Regional Director for Approval of a Mediated Agreement. Respondent and the Charging Party Union join in this Motion. In support of this Motion, Counsel for the Acting General Counsel submits the following:

On September 30, 2010, the Board issued a Decision and Order in *Titus Electric Contracting, Inc.*, 355 NLRB No. 222. The Board found that Respondent violated Section 8(a)(1) of the National Labor Relations Act (the Act) by the following conduct: (1) promulgating and enforcing an appearance policy that discriminatorily prohibited employees from wearing union insignia; (2) sending employees home for wearing union insignia; (3) threatening to call

and calling the police because of union picketing outside of Respondent's facility; (4) creating the impression that employees' union activities are under surveillance; (5) engaging in coercive interrogation of its employees about their union activities; and (6) promulgating an unlawful no-solicitation policy.

The Board further found that Respondent violated Section 8(a)(3) and 8(a)(1) of the Act by discharging employees Tommy Means and Eddie Edwards; and Respondent violated Section 8(a)(4) and 8(a)(1) of the Act by threatening to layoff employees in retaliation to the Union's filing of unfair labor practice charges.

The Board remanded to an administrative law judge the allegations in Case Nos. 16-CA-21613 and 16-CA-21819 regarding whether Respondent unlawfully refused to hire union applicants Rick Zerr and John Voigt, and whether Respondent unlawfully photographed union picketers outside its company shop. The Board also severed from the Consolidated Complaint and Notice of Hearing the allegations in Case No. 16-CA-21978-3 that Respondent unlawfully discharged John Blair and Phillip Lawhon, and reserved those issues for separate resolutions. The Board has not yet issued a decision on the severed allegations.

A hearing was held on June 1-2, 2011 before the Honorable Administrative Law Judge Margaret Brakebusch regarding the remanded allegations. On September 29, 2011, Judge Brakebusch issued her remand decision finding that Respondent had violated Section 8(a)(1) of the Act by photographing union picketers and that Respondent also violated Section 8(a)(3) and 8(a)(1) of the Act by refusing to hire Rick Zerr. Judge Brakebusch dismissed the refusal to hire allegation regarding John Voigt.

On November 29, 2011, with the assistance of federal mediator Richard C. Hotvedt, the parties reached a *full resolution* of all unfair labor practice allegations in Case

Numbers 16-CA-21010-2, 16-CA-21598, 16-CA-21598-2, 16-CA-21613, 16-CA-21694, 16-CA-21701, 16-CA-21732, 16-CA-21819, 16-CA-21840, 16-CA-21852, 16-CA-21951, 16-CA-21951-2, 16-CA-21973, 16-CA-21978, 16-CA-21978-2, 16-CA-21978-3, 16-CA-22035, including the remanded and severed cases pending before the Board. This full resolution was subsequently memorialized in a written Mediated Settlement Agreement ("Agreement").

Under the terms of this Agreement, Respondent agreed to pay (and, thereafter, did pay) a total of $135,000, with $90,933.53 allocated to backpay, and $44,066.47 allocated to interest. Respondent's payment of $135,000 satisfies its make-whole obligation under the Board's Order to Michael Nolan, Eddie Edwards and Tommy Means, and also satisfies its make-whole obligation (to the extent that it may have an obligation) to Phillip Lawhon, John Blair, Rick Zerr and John Voigt. Region 16's compliance investigation found that Michael Nolan was due no monetary remedy as a result of the Board's Order. Respondent has no reinstatement or instatement obligations of any kind to any of the discriminatees.

Pursuant to the Board's Order, Respondent has expunged from its files any reference to its unlawful discharges of Eddie Edwards and Tommy Means, and notified them in writing that this had been done and that their discharges will not be used against them in any way. Respondent has also removed from its files any reference to sending Michael Nolan home for wearing union insignia and notified him in writing that this has been done and that Respondent's action will not be used against him in any way.

Pursuant to the Board's Order, Respondent has rescinded the overly broad appearance policy unlawfully restricting employees' right to wear union insignia and has ceased promulgating and/or enforcing an unlawful no-solicitation policy.

CERTIFICATE OF SERVICE

I hereby certify that on this date copies of the foregoing Acting General Counsel's Motion to Remand Cases to the Regional Director for Approval of a Settlement Agreement, were served electronically on the following parties:

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Dated this 27th day of March, 2012 at Houston, Texas.

JAMAL M. ALLEN. Counsel for the
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On December 14, 2011, Respondent posted at its facility in Austin, Texas, copies of the Notice to Employees attached to the Board's Order. Respondent posted copies of the Notice to Employees for sixty (60) consecutive days in conspicuous places, including all places where notices to employees are customarily placed.

Based on the forgoing, Counsel for the Acting General Counsel respectfully requests that the Board grant the Motion to Remand the alleged unlawful discharge allegations regarding Philip Lawhon and John Blair from Case Number 16-CA-21978-3 to the Regional Director for consolidation with Case Numbers 16-CA-21010-2, 16-CA-21598, 16-CA-21598-2, 16-CA-21613, 16-CA-21694, 16-CA-21701, 16-CA-21732, 16-CA-21819, 16-CA-21840, 16-CA-21852, 16-CA-21951, 16-CA-21951-2, 16-CA-21973, 16-CA-21978, 16-CA-21978-2, 16-CA-21978-3, 16-CA-22035 so that these cases may be remanded for final disposition.

Signed on March 26, 2012, and respectfully submitted by,

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