

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

**COUNCIL 30, UNITED CATERING, CAFETERIA AND
VENDING WORKERS, RWDSU/UFCW**

and Respondent

CASE 07-CB-083076

LORAINÉ WHITFIELD SCUSSEL, an Individual

Charging Party

and

AWREY BAKERIES, LLC

Party in Interest

**ANSWERING BRIEF OF COUNSEL FOR THE ACTING GENERAL COUNSEL
TO EXCEPTIONS OF RESPONDENT**

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INTRODUCTION

Pursuant to a charge filed by Loraine Whitfield Scussel (Scussel), the Regional Director for the Seventh Region of the National Labor Relations Board issued a complaint on November 27, 2012, in the above case against Council 30, United Catering, Cafeteria and Vending Workers, RWDSU/UFCW (Respondent or Union). A hearing was conducted in this matter in Detroit, Michigan on February 11 and 12, 2013¹ before Administrative Law Judge Arthur J. Amchan. Thereafter, ALJ Amchan issued a Decision (or ALJD) on April 4, 2013, including Findings of Fact, Conclusions of Law, Remedy, Order and Notice Provisions.² ALJ Amchan found that Respondent engaged in conduct violative of Section 8(b)(1)(B) of the Act.

Specifically, the complaint alleges, and the ALJ found, that Respondent violated Section 8(b)(1)(B) of the Act by conditioning the grant of concessions in bargaining with Awrey Bakeries (Employer) upon the discharge of Scussel, its collective-bargaining representative, thereby restraining and coercing the Employer. On May 24, 2013, Respondent served upon the Board Exceptions to the Judge's Decision and a Brief in support of those Exceptions. Respondent excepted to the following findings of fact and conclusions of law:

1. Exception is taken to the ALJ's finding that the General Counsel met its burden of proving that the Union restrained or coerced Awrey Bakeries, LLC ("Employer") in the selection of its representative for the purposes of collective

¹ The ALJD states, in error, that the trial took place on February 10 and 11, 2013.

² References to the Administrative Law Judge are indicated by ALJ; to the Administrative Law Judge's Decision by Decision or ALJD p.____; to the transcript by Tr ____.; and to General Counsel Exhibits by GC ____.

bargaining or the adjustment of grievances. (Decision p. 5, lines 9-10 & p. 7, lines 8-11)

2. Exception is taken to the ALJ's findings that Union president Joseph Silva conditioned the granting of concessions in bargaining upon the Employer discharging the Charging Party and that, even if true, such conduct amounts to "restraint" or "coercion" within the meaning of Section 8(b)(1)(B) of the Act. (Decision p. 5, lines 38-40 & p. 7, lines 8-11)

3. Exception is taken to the ALJ's finding that the Board's decision in *Local 259, Automobile Workers*, 225 NLRB 421 (1976) supports a finding that the Union violated Section 8(b)(1)(B) where the Union engaged in no restraining or coercive conduct within the meaning of the Act. (Decision p. 5, lines 40-41 & p. 7, lines 3-4)

4. Exception is taken to the ALJ's finding that the Employer's agent Barry Kasoff did not directly contradict the testimony of Jim Pallarito that he overheard Kasoff promising to discharge the Charging Party only after Silva guaranteed him ratification of the MOU. (Decision p. 4, fn. 4)

5. Exception is taken to the ALJ's finding that the Union did not establish that Kasoff would have discharged the Charging Party in the absence of the alleged Union coercion. (Decision, p. 6, lines 28-29)

6. Exception is taken to the ALJ's finding discrediting Kasoff's testimony that he decided to lay off the Charging Party prior to ever meeting with the Union over economic concessions or at any time prior to May 23, 2012. (Decision p. 5, lines 11-12 & p. 4)

7. Exception is taken to the ALJ's finding that the motivation of 150 undisclosed individual union members in voting for or against the ratification of the MOU added credibility to Pallarito's testimony and is evidence of the Union's motives in attempting to remove the Charging Party from her job. (Decision p. 4, fn. 4)

SUMMARY OF THE CASE

Scussel was the Employer's primary representative for the adjustment of grievances throughout her employment as Director of Human Resources. (Tr. 17-18).

She also served on the Employer's negotiation committee during the most recent

collective bargaining negotiations in 2010. (Tr 14,16). Employees at the Employer's Livonia, Michigan facility and Respondent president, Joseph Silva, had a contentious relationship with Scussel, whom they viewed as having a hard line approach to grievance processing and negotiations. (Tr. 18-19, 335).

After years of financial distress, in May 2012³, the Employer retained consultant Barry Kasoff to serve as its Chief Restructuring Officer. (Tr. 23). On May 14, he told both Employer and Union representatives that his goal was to try to save the Employer from financial ruin, and that serious economic concessions would be required of both bargaining unit employees and salaried employees. (Tr. 25-26). On May 30, the Employer discharged Scussel for the asserted reason that it was part of the salaried reduction in force. (Tr. 50-51) (GC 6). This reason is a pretext, because Scussel in fact was terminated as part of a written negotiated Memorandum of Understanding between Respondent and Employer executed on May 29. (GC 9).

The evidence establishes that the true reason Scussel was terminated was because Respondent conditioned the granting of concessions in the Memorandum of Understanding on the discharge of Scussel.⁴ (Tr 108). After the membership voted down concessions in the Memorandum of Understanding on two occasions, the membership overwhelmingly voted in favor of the concessions once the inclusion of Scussel's termination was negotiated into the Memorandum of Understanding. (Tr 112). The

³ All dates hereafter occurred in 2012 unless otherwise noted.

⁴ The Memorandum of Understanding provides, in pertinent part, that "two(2) of the three(3) highest management employees currently employed by Awrey Bakeries, LLC (being the CEO, CFO and Human Resources Director) shall be terminated, one being immediately, and one being in sixty(60) days." The Employer discharged Scussel the next day and CFO Gregory Gallagher 60 days after it discharged Scussel. Whether Respondent unlawfully coerced the Employer to terminate Gallagher was not a subject of this proceeding.

evidence establishes that the Employer would not have discharged Scussel, if not for Respondent's unlawful restraint and coercion.

ARGUMENT

I. ALJ AMCHAN CORRECTLY FOUND, AS A MATTER OF LAW, THAT RESPONDENT RESTRAINED OR COERCED THE EMPLOYER IN THE SELECTION OF ITS SECTION 8(b)(1)(B) REPRESENTATIVE (Exceptions 1 & 3)

A union violates Section 8(b)(1)(B) if its conduct restrains or coerces an employer in the selection of its representatives for collective bargaining or grievance adjustment.

See generally *NLRB v. Electrical Workers (IBEW) Local 340 (Royal Electric)*, 481 U.S. 573, 580 (1987). The proscribed conduct may take one of two forms:

“It may be applied directly against the employer to force the employer to select or replace an 8(b)(1)(B) representative or indirectly against the employer's 8(b)(1)(B) representative in order to ‘adversely affect’ the manner in which the representative performs the covered functions of collective bargaining, grievance processing, or related activities—like contract interpretation.”

Teamsters Local 507 (Klein News Co.), 306 NLRB 118, 120 (1992) citing *Florida Power Co. V. Electrical Workers*, 417 U.S. 790, 805 (1974). ALJ Amchan correctly found that the evidence sufficiently established that Respondent engaged in conduct during concession agreement negotiations which reasonably tended to restrain or coerce the Employer in the selection of Scussel as its representative for the adjustment of grievances and collective bargaining when it negotiated her discharge into the concessionary agreement. It is undisputed that Scussel was the Employer's Section 8(b)(1)(B) representative.

In *Sheet Metal Workers, Local 59 (Employers Ass'n of Roofers)*, 227 NLRB 520 (1976), a case cited by Respondent in its Brief in Support of Exceptions, the Board states:

One can hardly conceive of a more fundamental right embodied in our Act than the right of both employees and employers to bargain collectively through representatives of their own choosing. Thus, while it is clear that the parties may agree to substitute another individual or entity to resolve disputes associated with the collective-bargaining process, it is also true that the right to select one's own bargaining representative is so basic and important that its relinquishment will not be casually imputed, nor will an initial waiver of that right in any way impair a party's right to demand that this nonmandatory topic not act as a barrier to any future negotiations. *Id.* at 521.

ALJ Amchan correctly analyzed the Board's decision in *Local 259, Automobile Workers*, 225 NLRB 421, 421-22 (1976), *enforced mem.* 562 F.2d 38 (2d Cir. 1977), *cert. denied*, 434 U.S. 1011 (1978), supporting a finding that the Respondent violated Section 8(b)(1)(B) when it engaged in restraining or coercive conduct. (Exception 3). In its Brief in Support of Exceptions, Respondent attacks the ALJ's reliance on *Local 259, Automobile Workers*, where the Board found a Section 8(b)(1)(B) violation based upon circumstantial evidence that a respondent union had conditioned bargaining concessions and the signing of a contract upon the discharge of the employer's service department manager, who had responsibility for grievance handling. Although there was no direct evidence that the union had sought the service manager's discharge, the Board concluded that the "evidence, although circumstantial" was sufficient to establish a violation. *Id.* at 422.

As in *Local 259, Automobile Workers*, circumstantial evidence clearly supports finding a violation in this case. The employees voted in favor of concessions they had previously rejected on two occasions only after the Employer agreed with Respondent, in

writing, to discharge two out of the three top executives, which included Scussel's position. Scussel was ultimately discharged in conformance with this agreement, one day after it was ratified by the membership and signed by Respondent and Employer. And, as a result, the Employer had to select a different representative to handle her collective-bargaining and grievance-handling responsibilities. (Tr 300). The circumstantial evidence establishes a pattern of conduct sufficient to establish a violation, especially when coupled with the following direct evidence.

Three different witnesses testified that Silva specifically asked Kasoff about the jobs of Scussel, Chief Financial Officer Greg Gallagher and Chief Executive Officer Bob Wallace during the May 14 meeting, and he, Silva, indicated that the Union wanted them discharged. Scussel testified that Silva said, "When will Bob, Greg, and Loraine be gone? The Union wants these individuals to be gone." (Tr 27)(GC 3). Gallagher similarly testified that Silva said, "The Union people want to know what's going to happen to Bob Wallace, Greg Gallagher, Loraine Whitfield, and other managers that are responsible for this, you know. They want to see these people dealt with, and they want to see them out of the Company." (Tr 139). Kasoff testified, "They said to me they think the three top managers, the CEO, CFO, and HR Director, should be terminated. I said, 'Why?' and they said, 'Poor performance, the way in which they treat the employees. They don't walk on the manufacturing floor.'" (Tr 202).

Those comments, when coupled with neutral witness Security Guard Jim Pallarito's testimony, establish Respondent's restraint or coercion of the Employer to discharge Scussel--namely, Pallarito's testimony that Silva assured Kasoff that

employees would vote for the concessionary contract if the Employer got rid of Scussel. (Tr 108). Pallarito's testimony establishes that the Union guaranteed passage of the concession agreement in exchange for the Employer's termination of Scussel. Pallarito testified:

"I heard Joe Silva say that the vote went down. Barry Kasoff said why. He said, 'You didn't give them the big three.' And Kasoff said, 'Well, I can't give you all three; I can give you Loraine now and Greg in 60 days.' And Joe said, 'You give me that, I'll give you the election.'" (Tr 108).

Pallarito further testified that Union agent Gerald Mull told him that "the vote passed only because they promised to ax Greg and Lorraine." (Tr 114-115). Pallarito testified that Mull told him that, "they're getting rid of Loraine and Greg. And we're going back to work." (Tr 129). This conversation took place immediately following the third vote on May 29. (Tr 129).

In *Local 259, Automobile Workers*, the Board found "particularly significant" the fact that the union substantially lowered its bargaining demands after the manager's discharge and agreed to negotiate past its previously set strike deadline. *Id.* Likewise, in this case, the negotiations were stymied and the concession agreement was not approved until Scussel's termination became part of the revised MOU. Kasoff testified about the state of negotiations after the membership rejected the concession agreement not once, but twice:

"Towards the end, I was reaching my indifference point. I was preparing for -- my indifference point. I was reaching the point where I was preparing for liquidation of the Company... It is an economic term. What it means is that you become indifferent. You're reaching a point where whether you do A or B, you sort of resolve yourself whether A happens or B happens. It sort of is what it is." (Tr 240).

Once the employees voted in favor of the revised MOU with the termination of two out of the top three executives, the one-week plant shutdown ended, and employees were instructed to return to work. (Tr 151).

Respondent's ill-fated attempt to analogize the instant case's facts to those of an 8(b)(3) situation, where an employer agrees to certain nonmandatory subjects of bargaining, is grossly misplaced. Respondent cites *Local 80, Sheet Metal Workers (Turner-Brooks, Inc.)* 161 NLRB 229, 235 (1966), where a union insisted to impasse over the nonmandatory subject of the employer's participation in an Industry Promotion Fund. The Board dismissed the Section 8(b)(1)(B) allegation, citing the statutory language in the Act, in footnote 8, that requires restraint or coercion in the selection of the employer's representative for the purposes of collective bargaining or the adjustment of grievances. Even though the Board may have found in those cases that the union violated Section 8(b)(3) by conditioning agreement with the employer upon a permissive subject of bargaining, the union did not violate Section 8(b)(1)(B) because the Union's course of conduct (conditioning agreement on the protested permissive subject) did not amount to any restraint or coercion of the selection of a collective bargaining representative, which is a specifically carved out statutory protection. In *Local 80, Sheet Metal Workers (Turner-Brooks, Inc.)*, the Board dismissed the Section 8(b)(1)(B) allegation in the complaint "without reaching the question of whether Respondent's insistence upon the Industry Promotion Fund, if shown to have been accompanied by

restraint and coercion, would have constituted conduct within the interdiction of 8(b)(1)(B).”

Respondent also cites *Sheet Metal Workers, Local 59 (Employers Ass’n of Roofers)*, 227 NLRB at 522, in its Brief in Support of Exceptions. In that case, the Board did not view its authority to proceed under the “restrain or coerce” language of Section 8(b)(1)(A) and 8(b)(1)(B) as limited to tactics involving violence, intimidation, or economic reprisals, and has so held on occasion. The Board found a violation where the union’s insistence was designed to culminate not merely in impasse, but in a procedure whereby the employer was denied its statutory right to appoint its own bargaining representative, in violation of Section 8(b)(1)(B).

II. ALJ AMCHAN PROPERLY DISCREDITED KASOFF’S TESTIMONY THAT HE DECIDED TO LAY OFF SCUSSEL PRIOR TO EVER MEETING WITH THE UNION OVER ECONOMIC CONCESSIONS, OR AT ANY TIME PRIOR TO MAY 23, AND IN THE ABSENCE OF ANY UNION RESTRAINT OR COERCION. (Exceptions 5 & 6)

In its Brief in Support of Exceptions (Exception 6), Respondent attempts to distinguish the factual background in *Local 259, Automobile Workers* from the instant case by pointing to the asserted absence of record or testimonial evidence that the Employer fired Scussel because of Respondent’s restraint or coercion. Respondent asserts that Kasoff, the only person with the authority to fire the Charging Party, categorically denied that the Union played any role (let alone a coercive role) in his decision to discharge Scussel. ALJ Amchan properly discredited Kasoff’s testimony

that he decided to terminate Scussel prior to May 23, regardless of any union coercion. Kasoff's testimony that he decided to discharge Scussel for "cultural" reasons on May 12, in his own mind, after mentally evaluating her, before ever speaking with her or Respondent, is disingenuous and was properly discredited. In view of the record evidence and the absence of evidence memorializing this decision, it is simply implausible that Kasoff could make a judgment that Scussel's cultural views differed from those he envisioned for the Employer before he ever even spoke to her. After he spoke to her, on May 14, he testified that, "We talked about the employees that she thought should be terminated, her view of the Company's operations, her view of the manufacturing process, her view of the Union." (Tr 193). In fact, the only "cultural" issue was the desire expressed by Respondent that Scussel be terminated. ALJ Amchan correctly found that if Kasoff decided to terminate Scussel before he ever met her, her job performance would not have mattered to him. (ALJD p. 5).

Despite Kasoff's testimony that he needed to change the Employer's approach to sales and the relationship with customers, he decided against terminating the employment of CEO Wallace. (Tr 354). Kasoff acknowledged that Wallace was "integrally involved in the sales process," and "integrally involved in the negotiation with bringing on new customers." (Tr 247). Wallace's yearly salary was \$260,000, which is more than double Scussel's yearly salary of \$104,000. (Tr 21, 248)(GC 10). Kasoff's testimony was riddled with inconsistencies and half-truths, at best. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear

preponderance of all the relevant evidence convinces it that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enf.d. 188 F.2d 362 (3d Cir. 1951).

III. ALJ AMCHAN CORRECTLY FOUND, AS A MATTER OF LAW, THAT UNION PRESIDENT JOSEPH SILVA CONDITIONED THE GRANTING OF CONCESSIONS IN BARGAINING UPON THE EMPLOYER DISCHARGING THE CHARGING PARTY (Exceptions 2 & 7)

On May 14, Kasoff met with Scussel, Gallagher, Silva, and Union top committee members Gerald Mull, Victor Snyder, Scott Flynn and Union attorney Scott Mazey. (Tr 24) (GC 3). During this meeting, Kasoff introduced himself as the Chief Restructuring Officer (CRO), and explained the financial status of the company, indicating that his intent was to either fix it or sell it. (Tr 25). After Kasoff discussed the proposed layoffs for the bargaining unit employees, Scussel testified that Silva asked when Wallace, Gallagher and Scussel will be gone, and stated that the Union wants these individuals to be gone. (Tr 27)(GC 3). Likewise, Gallagher testified that Silva said that the Union wants to know what's going to happen to Wallace, Gallagher, Scussel and other managers that are responsible for the company, and that the Union wants to see these people dealt with, and they want to see them out of the Company. (Tr 139, 158).

The parties met again on May 16 and May 17. (Tr 30, 35). Concessions, such as moving from a five-day work week to a four-day work week and wage cuts, were discussed. (Tr 30-31). The parties also discussed memorializing the mid-term concessions into a Memorandum of Understanding (MOU), which was to be drafted by Mazey. (Tr 31). Respondent indicated that it would schedule a date for its members to

vote on the MOU. (Tr 36). The May 17 meeting was the last time Scussel met with Respondent and Kasoff, having been “cut out” of any subsequent meetings. (Tr 61).

The first of three votes was held on May 20, and 63 members voted against the MOU, while 57 voted in favor of it. (Tr 38-39)(GC 8). The second vote was scheduled for May 23. (Tr 40). Kasoff spoke to the employees before they voted on the same exact MOU they had just rejected three days prior. (GC 8). Kasoff told employees prior to the vote that he was attempting to fix the company, that it was losing a lot of money, and that they would try to work in a collaborative manner to repair the company. (Tr 208). At the May 23rd vote, 73 members voted against the MOU, while 63 voted in favor of it – which is a larger margin of votes against the concessions than the first vote. (Tr 41).

Immediately following the second vote on May 23, Security Guard Jim Pallarito, while delivering the mail to the office area, overheard an impromptu conversation between Silva and Kasoff. (Tr 106). They were standing outside, not at a bargaining table. Union top committee members Gerald Mull and Charlotte Hill, Union Secretary-Treasurer Margaritte Thomas, and Acting CFO Zimmer were also present. (Tr 107). Pallarito overheard Silva tell Kasoff, "You didn't give them the big three." And Kasoff said, "Well, I can't give you all three; I can give you Loraine now and Greg in 60 days." Silva replied, "You give me that, I'll give you the election." (Tr. 108). It was well-known within the facility that the big three referred to CEO Wallace, CFO Gallagher and Director of Human Resources Scussel. (Tr 108). This testimony from Pallarito is consistent with what happened next: the inclusion of the following language into the revised May 29 Memorandum of Understanding (revised

MOU), “It is further agreed that two (2) of the three (3) highest management employees currently employed by Awrey Bakeries, LLC (Being the CEO, CFO and Human Resources Director) shall be terminated, one being immediately, and one being in sixty (60) days.” (GC 9). Immediately after overhearing this conversation, Pallarito called Scussel and reported what he overheard. (109-110).

Following the second vote on May 23, a meeting was held later that afternoon with Kasoff, Zimmer, Gallagher and Scussel. (Tr 43). During this meeting, Kasoff told Scussel that the Union was “very, very angry” at her, and asked her when was the last time she was on the plant floor. (Tr 43-44, 222). She replied that she was instructed by Wallace to stay off the plant floor because it was distracting to the employees. (Tr 44). Kasoff also told Gallagher that the Union was “very, very angry” with him as well. (Tr 44-45). Kasoff did not specifically answer Scussel and Gallagher as to the reason why the Union was angry with them when they asked why. (Tr 44-45). Kasoff then instructed Scussel to shut the plant down, and to inform employees that it would remain shut down through May 29. (Tr 45-46).

Upon returning from a one-week plant shutdown, the members voted for a third time on May 29. (Tr 46). The members voted on the revised MOU, one that contained the identical terms of what Pallarito had overheard Silva and Kasoff negotiate on May 23: the immediate termination of one of the “big three” and a second termination after 60 days. (GC 9). This time, the vote passed overwhelmingly with 97 voting in favor of the revised MOU, and 38 voting against it. (Tr 47). Wallace called Scussel at home and instructed her to call all the

employees back to work for the following day, May 30. (Tr 47). At 9:08 a.m. on May 30, Pallarito emailed Scussel that she was going to be discharged immediately, and that the result for the overwhelming vote was the promise of her and Gallagher's job. (Tr 114). (GC 7). Pallarito based the information in his email on what Union agent Mull told him, which was, "that the vote passed only because they promised to ax Greg and Loraine." (Tr 114).

ALJ Amchan correctly found that Kasoff was restrained and coerced by Silva's comments during the May 14 meeting, the two subsequent failures to have the membership ratify the MOU, and the deal Silva proposed on May 23 guaranteeing the election in exchange for Scussel's discharge. (ALJD p. 5). The testimony of Pallarito was properly credited, as he is a neutral witness with no financial or other stake in this matter, and his testimony was consistent with the events which later transpired. ALJ Amchan properly discredited the testimony of Silva and committee chairperson David Bullion, who testified that Kasoff promised to terminate 2 of the 3 top executives *before* the second votes. (Tr. 269, 284, 293). ALJ Amchan correctly points out that if this were true, such a provision would have been incorporated into the first MOU, not merely the second. (ALJD p. 4, fn. 4). The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces it that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), *enfd.* 188 F.2d 362 (3d Cir. 1951).

IV. ALJ AMCHAN CORRECTLY FOUND THAT KASOFF DID NOT DIRECTLY CONTRADICT PALLARITO'S TESTIMONY (Exception 4)

Respondent's witnesses (Kasoff, Silva and Bullion) all testified after Pallarito took the stand. Respondent did not ask Kasoff **anything** about Pallarito. Pallarito's name was not mentioned even once in the 74 pages of Kasoff's testimony. Pallarito's damaging testimony occurred prior to Kasoff's testimony, and Kasoff was never asked once about Pallarito's testimony, neither to wholly refute it nor to distinguish it. Therefore, ALJ Amchan correctly concluded that Kasoff did not directly contradict Pallarito's testimony. (ALJD p. 4).

As Pallarito's warnings to Scussel rang true, she was terminated on May 30. (Tr 49). Scussel asked CEO Wallace if she was being terminated as a result of the Union demanding her termination, and if that is what won the vote. (Tr 49). Wallace replied that he was sorry, but it was true. (Tr 49). Shortly after terminating Scussel, Wallace met with Gallagher. (Tr 152). Gallagher asked Wallace if the rumors he was hearing were true, and Wallace replied that they were. (Tr 152). Wallace told Gallagher that it was out of his control, and out of his hands, and that Gallagher's employment with the company was also being terminated. (Tr 152-153). Wallace indicated that Gallagher would be given a two-month transition period, which is the 60-day period Pallarito overheard being negotiated between Silva and Kasoff, which is also memorialized in the revised MOU. (Tr 153)(GC 9). Gallagher did **not** have a 60-day notice clause in his employment contract. (Tr 155). Wallace indicated to Gallagher that he played no role in that paragraph of the revised MOU, and that he went to the Board of Directors to have it

removed, but was unsuccessful. (Tr 154). Although terminated on May 30 by operation of the revised MOU, Scussel received a letter, dated June 8, 2012, from Wallace indicating that her employment with the Employer ended as part of a “reduction in workforce.” (GC 6).

CONCLUSION

For all the above reasons, Counsel for the Acting General Counsel requests that the National Labor Relations Board affirm the Decision and Order of the Administrative Law Judge finding Respondent violated Section 8(b)(1)(B) of the Act, and grant all of the recommended relief.

Respectfully submitted this 6th day of June, 2013.

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**AFFIDAVIT OF SERVICE OF
ANSWERING BRIEF OF COUNSEL FOR THE ACTING GENERAL COUNSEL
TO EXCEPTIONS OF RESPONDENT**

I, the undersigned employee of the National Labor Relations Board, state under oath that on June 6, 2013, I served the above-entitled document(s) by e-mail transmission on Respondent, Charging Party, and Party in Interest's counsels at the following e-mail addresses:

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June 6, 2013

Date

Rana S. Roumayah

Name

/s/ Rana S. Roumayah

Signature