

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

**United Workers of America, Local 621  
(The Gretsches Condominium)**

**Case No. 29-CB-097003**

**Union**

**and**

**Service Employees International Union Local 32BJ**

**Charging Party**

**Counsel for the Acting General Counsel's Statement of Exceptions to the Administrative  
Law Judge's Decision**

On July 31, 2013, Administrative Law Judge Michael A. Rosas issued a decision in the above captioned case. Counsel for the Acting General Counsel files the following exceptions.

- 1) Exception is taken to Judge Rosas' finding on page 7, fn. 12 that the monies to be refunded to unit employees by United Workers of America, Local 621, ("Respondent Union") is limited to the amount not already reimbursed by The Gretsches, ("the Employer"). Judge Rosas correctly found that Respondent Union engaged in certain unfair labor practices by continuing to receive dues remitted to the Respondent Union after October 11, 2012, when the Regional Director certified the results of the union deauthorization election in Case No. 29-UD- 087588 held on September 26, 2012, wherein the Respondent Union's authority to compel union membership as a condition of employment was rescinded. The Judge also ordered the Respondent Union to "make whole unit members for any union dues collected and remitted to [Respondent Union] between October 11, 2012 and March 2013." (Decision at 7 line 15.) The Judge on Page 7, footnote 12, wrote:

The General Counsel requests a specific amount for each unit member allegedly representing the sum of union dues withheld by the Employer and remitted to Local 621 from October 11, 2012, to March 2013. The amount owed however, is the extent of dues not already reimbursed to unit employees pursuant to the Local 32BJ's settlement with the employer.

By way of background, the Charging Party, Service Employees International Union, Local 32BJ ("Charging Party Union") entered into a settlement with the Employer, wherein the Employer agreed to pay employees the full amount of dues remitted by the Employer to the Respondent Union during the period from October 2012 to March 2013. This sum equals \$150 for each one of the nine employees who were subject to the unlawful deduction and remittance of union dues.

The General Counsel proceeded against the Respondent Union because the Respondent Union was not a party to the Settlement and was therefore jointly and severally liable for the unlawful deduction of dues and for otherwise fully remedying the unfair labor practice alleged in the complaint. Further, General Counsel's position is that the Respondent Union was unjustly enriched by both the Employer's unlawful actions and its own. "...[I]n cases of this nature the usual practice in our compliance procedure has been to initially seek full reimbursement of dues paid from the party who was the ultimate recipient of the funds involved." *Hermet, Inc.* 222 NLRB 29 at 29, fn.1 (1976). Judge Rosas's remedy appears designed to prevent the employees from being reimbursed twice. Such remedy does not correct Respondent Union's unjust enrichment since it does not have to reimburse any employee because the Employer has already made employees whole. Therefore, the General Counsel asks the Board to correct Judge Rosas' remedy by ordering that the Respondent Union return the dues it had unlawfully received, which monies will then be returned to the Employer which has already made the employees whole. By so doing, the Respondent Union will not be unjustly enriched and all parties will have equitably remedied the unfair labor practice found. See generally NLRB Case Handling Manual at 10130.5, which discusses settlement procedures in joint and several liability cases, cited in *Urban Laboratories, Inc.* 305 NLRB 987 at fn 4. (1991).

- 2) Judge Rosas' Order requires Respondent to cease and desist from "Collecting dues from members we represent who have resigned from Local 621 as the result of a union decertification election." (Decision at 7, line 30) Similarly, his Notice to Members advises employees that "We will not collect dues from members we represent who have resigned from Local 621 as the result of a union decertification election." General Counsel excepts to the phrasing of the Order and Notice to Members and requests that it be corrected to require that Respondent cease and desist from "Collecting dues from members we represent who have resigned *and revoked dues checkoff authorizations* as a result of a union decertification election." This important phrase is necessary because the General Counsel alleged that the continued deduction became unlawful only after employees revoked their dues checkoff authorizations and resigned from the Respondent Union.

Dated: August 21, 2013

Respectfully submitted,



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