United States Government
National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL

Advice Memorandum

DATE: December 19, 2012

TO: Joseph F. Frankl, Regional Director
Region 20

FROM: Barry J. Kearney, Associate General Counsel
Division of Advice

SUBJECT: Armour Steel Company
Case 20-CA-076573

512-5042-6799
512-5072-0100
512-5081-7000
625-7742-3300
775-8740

This case was submitted for advice as to whether the Employer violated Section 8(a)(1) of the Act by soliciting current and former employees to sign, and by maintaining, an arbitration agreement that prohibits collective legal activity, where the Employer paid the employees to execute the agreement. We conclude that the Employer violated Section 8(a)(1) by soliciting current and former employees to sign its arbitration agreement, and by maintaining the agreement, as it interferes with the employees' Section 7 right to engage in collective legal activity and interferes with employees' access to the Board and its processes. We further conclude that the Employer violated Section 8(a)(1) by conditioning its "incentive" payments on employees' executing the unlawful agreement.

FACTS

For many years, Armour Steel Company (the Employer) had an employee arbitration agreement that did not contain a class action waiver. In early 2012, in response to a state-court wage-and-hour class action lawsuit, the Employer revised its arbitration agreement to include a prohibition of all future joint, consolidated, class, collective, or representative actions without mutual consent of the parties. The revised arbitration agreement also provided for the possibility of enhanced attorneys' fees if the employee prevails and the arbitrator determines that an enhanced award is necessary to ensure there is sufficient financial incentive for the employee and his or her counsel to pursue the claim at issue. The revised arbitration agreement further states that the employee is entering into the agreement voluntarily and has had the opportunity to ask questions about the Arbitration Agreement and consult with an attorney prior to signing. In February 2012, the Employer gave a copy of the revised arbitration

agreement and a $100 "incentive" check to all current employees and a number of former employees, including the Charging Party.[1] On the face of the check was language indicating that cashing the check represents agreement to the revised arbitration agreement.[2] Most of the current and former employees who were not in the putative class in the state court lawsuit signed the proffered revised agreement and cashed the $100 check.

The cover letter to the arbitration agreement states that:

> Armour has a dispute resolution policy which provides that when either the company or any employee or former employee has a problem or a claim, that they attempt to fix that claim informally and then, if the problem is not fixed, have the claim resolved in arbitration.
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> This revised arbitration policy makes clear that if any employee or former employee has a claim, the employee or former employee can first bring it to the company's attention and then ask for mediation. . . It further provides that the employee or former employee can opt to proceed directly to arbitration. The revised policy states that neither employees, nor former employees, can bring claims on behalf of others. Anyone bringing a claim against Armour is entitled to bring claims for himself or herself only.

The cover letter makes no exception for unfair labor practice charges or other claims brought to the Board.

The revised arbitration agreement itself states:

> The Company and Worker mutually agree that any dispute or controversy between them shall be resolved exclusively by binding arbitration . . .

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[1] The Charging Party had been employed by the Employer in 2010.

[2] The Employer also offered all employees who were in the putative class in the pending lawsuit a $500 incentive payment for executing a separate release of the claims in the lawsuit. There is no allegation that the offer of the release or the payment violated the Act, and we would find such conduct lawful in any case, as the release was limited to specific prior claims and does not in any way implicate employees' prospective rights to bring future claims.

> This agreement applies to any dispute between the Company and Worker, including any claim or action arising out of or in any way related to the hire, employment, working conditions, compensation, benefits, separation, layoff or termination of Worker. The claims subject to this Agreement include, but are not limited to, claims for wages or other compensation due; claims for breach of contract; claims for unlawful discrimination, retaliation or harassment; and disputes arising out of the termination of the employment relationship, whether based on common law, statute, regulation or ordinance.
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> Nothing herein shall preclude Worker, however, from filing a complaint with a federal or state administrative agency that has primary jurisdiction over the complaint such as the National Labor Relations Board . . .
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> * * * * *
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> CLASS ACTION WAIVER. To the extent permitted by law, the parties agree that they shall not join or consolidate claims submitted for arbitration under this Agreement with those of any other persons, and that no form of class, collective, or representative action shall be maintained without the mutual consent of the parties. **This means that there is no right for any dispute to be brought, heard or arbitrated as a class action or a collective action.** [Emphasis in original]. In the event the dispute to be arbitrated is a claim by a Worker with an amount in controversy of less than $7,500, the arbitrator has the discretion to add up to $10,000 to the Worker's Attorney's fee award, if the Worker prevails and the Arbitrator determines that an enhanced fee award is necessary to ensure there is sufficient financial incentive for a Worker and his or her counsel to pursue the claim at issue.

The Arbitration Agreement also states that the employee is "entering into the Agreement voluntarily" and has had the opportunity to ask questions about the Arbitration Agreement and to consult with an attorney prior to signing.

In March 2012, the Charging Party filed the charge in the instant case, alleging that the Employer violated Section 8(a)(1) of the Act by implementing an unlawful mandatory arbitration provision.

ACTION

We conclude that the Employer violated Section 8(a)(1) by soliciting the current and former employees to sign its arbitration agreement, and by maintaining the agreement, as it interferes with the employees' Section 7 right to engage in collective legal activity and interferes with employees' access to the Board and its processes. We further conclude that the Employer violated Section 8(a)(1) by conditioning its "incentive" payments on employees' executing the unlawful agreement.

The Employer violated Section 8(a)(1) of the Act by soliciting and maintaining its arbitration agreement because the agreement interferes with employees' Section 7 right to participate in collective and class litigation.

Initially, we agree with the Region that the arbitration agreement at issue here violates Section 8(a)(1) of the Act because it interferes with employees' Section 7 right to engage in collective legal activity. In *D.R. Horton*, the Board set forth the appropriate legal framework for considering the legality of employers' policies and agreements that limit collective and class legal activity in non-union settings.[3] The Board held that a policy or agreement precluding employees from filing employment-related collective or class claims against the employer restricts the employees' Section 7 right to engage in concerted action for mutual aid or protection, and therefore violates Section 8(a)(1) of the Act. Thus, Section 7 vests employees with the right to invoke -- without employer coercion, restraint, or interference – procedures generally available under state or federal law for concertedly pursuing employment-related legal claims.[4]

The same principle is dispositive in the instant case, despite there being no evidence of any explicit requirement, duress, or coercion forcing employees to sign the agreement as a condition of employment, even without considering the conditional receipt of the $100 "incentive" payments. First, there can be no doubt that this irrevocable and binding agreement becomes a condition of employment once it is signed and becomes effective. The Employer thereafter can preclude employees' exercise of their Section 7 rights to engage in collective legal activity, and employees can reasonably expect that they may be disciplined as well as face legal action if they breach the arbitration agreement. Thus, once executed, this agreement completely extinguishes employees' Section 7 rights to choose to act concertedly or individually in any future legal dispute with the Employer.

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[3] 357 NLRB No. 184, slip op. at 1-7.

[4] *Id.*, slip op. at 10. See, e.g., *Eastex, Inc. v. NLRB*, 437 U.S. 556, 567-68 (1978).

In this regard, we stress that the arbitration agreement is not only a condition of employment for those employees who sign it, but also for employees who do not sign the agreement. The agreement interferes with the statutory rights of all of the Employer's employees, because even employees who do not sign the agreement are prevented from acting concertedly with employees who do sign it.

Second, even if the agreement was not a condition of employment, it would be unlawful. As the Board explained in *D.R. Horton*, employees' consent to a mandatory arbitration agreement does not render the agreement's restriction of Section 7 rights lawful.[5] Indeed, the Board has long held, with court approval, that employers cannot avoid NLRA obligations, or obviate employees' rights under the Act, through agreements with individual employees.[6] As the Supreme Court explained shortly after the statute's enactment, "employers cannot set at naught the [NLRA] by inducing their workmen to agree not to demand performance of the duties which [the statute] imposes."[7] Consistent with this principle, individual agreements requiring employees to adjust their grievances with their employer individually, rather than concertedly, "constitute[] a violation of the [NLRA] per se," even when they are "entered into without coercion," as they are a "restraint upon collective action."[8] Pursuant to the same principle, the Board has regularly set aside settlement agreements that require employees to prospectively waive their right to act in concert with coworkers in disputes with their employer.[9] In this regard, we note that in *D.R. Horton*, the Board expressly

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[5] 357 NLRB No. 184, slip op. at 4-5.

[6] See, e.g., *J.I. Case Co. v. NLRB*, 321 U.S. 332, 337, 339 (1944), affirming, as modified 134 F.2d 70 (7th Cir. 1943), enfg., as modified 42 NLRB 85 (1942).

[7] *National Licorice Co. v. NLRB*, 309 U.S. 350, 364 (1940).

[8] *NLRB v. Stone*, 125 F.2d 752, 756 (7th Cir. 1942), enfg. 33 NLRB 1014 (1941), quoted in *D.R. Horton*, 357 NLRB No. 184, slip op. at 5.

[9] See, e.g., *Bon Harbor Nursing & Rehab. Ctr.*, 348 NLRB 1062, 1073, 1078 (2006) (employer unlawfully conditioned employees' reinstatement, after discharges for non-union concerted protected protest, on agreement not to engage in further similar protests); *Bethany Med. Ctr.*, 328 NLRB 1094, 1005-06 (1999) (same); *Ishikawa Gasket America, Inc.*, 337 NLRB 175, 175-76 (2001), enfd. 354 F.3d 534 (6th Cir. 2004) (employer unlawfully conditioned discharged employee's severance payments on agreement not to help other employees in disputes against employer or to act "contrary to the [employer's] interests in remaining union-free," as the Board held that "future rights of employees as well as the rights of the public may not be traded away in this manner"). See also, e.g., *BP Amoco Chemical–Chocolate Bayou*, 351 NLRB 614, 614-16 (2007), in which the Board, while finding a settlement/waiver agreement valid, also

found arbitration agreements prohibiting collective legal activity to be comparable to "yellow dog" contracts prohibiting employees from joining labor unions.[10] Significantly, the Board has long found that an employer violates Section 8(a)(1) by soliciting such agreements,[11] as this conduct "has an inherent and direct tendency to interfere with, restrain, and coerce employees in the exercise of their rights under Section 7 of the Act . . ."[12]

We emphasize that what is at stake here is employees' Section 7 right to decide for themselves among the options that the law affords them to address their employment-related concerns. Section 7 does not impose collective activity on any employee. Instead, the NLRA protects each employee's "freedom of association" – or ability to *choose* concerted action – if, in the employee's judgment, that course appears

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made clear that it is reluctant to find that employees have effectively waived their right to relief over matters that were not yet investigated or even contemplated by the employee.

[10] 357 NLRB No. 184, slip op. at 5-6. In fact, the agreement at issue in the instant cases arguably interfere with employees' Section 7 rights even more than traditional yellow dog contracts, as the restrictions on employees' collective legal activity against the Employer remain in effect even after their employment has ended, and as the arbitration agreement is intended to be fully enforceable in court and thereby to use governmental authority to enforce the prohibition on protected concerted activity.

[11] *Hecks, Inc.*, 293 NLRB 1111, 1121 (1989) ("[b]y requesting . . . employees to promise to be bound by the Respondent's written policy that it does not want its employees to be represented by a union and that there is no need for a union or other paid intermediary to stand between the employees and the Company, the Respondent . . . has interfered with, restrained, and coerced [its] employees in the exercise of their rights under Section 7 of the Act, in violation of Section 8(a)(1) of the Act"); *Western Cartridge Co.*, 44 NLRB at 6-8, n.5, 19 (invalidating individual employment contracts that purportedly gave employer right to fire any employee who "participated in a strike or any other concerted activity regarded as interfering with his 'faithfully' fulfilling 'all his obligations,'" because they effectively restricted employees' right to engage in concerted activity); *Superior Tanning Co.*, 14 NLRB 942, 951 (1939), enfd. 117 F.2d 881, 888-91 (7th Cir. 1941) (individual contracts, which were part of the employer's plan to discourage unionization, were unlawful; the Board noted that, "[e]ven if no explicit compulsion of [employees'] signatures had taken place, it is clear that the contracts were presented with the full weight and authority of the respondent's approval behind them").

[12] *Hecks, Inc.*, 293 NLRB at 1120.

warranted. Section 7 has long been understood to protect not only the filing of lawsuits, grievances, or administrative charges, but also such participation in the adjudication of them as attending hearings, providing affidavits, and/or testifying.[13] Consistent with those principles, the Board held in *D.R. Horton* that Section 7 vests employees with the right to invoke – without employer coercion, restraint, or interference – procedures generally available under state or federal law for concertedly pursuing employment-related legal claims.[14]

For all these reasons, an irrevocable waiver of employees' prospective Section 7 rights eliminates employees' choice as to whether to engage in protected conduct or not, and an employer's solicitation and maintenance of such a waiver, even on an ostensibly "voluntary" basis, necessarily interferes with employees' exercise of their statutory rights and violates Section 8(a)(1) of the Act..

We note that this agreement cannot be justified because employees have a Section 7 right to refrain from engaging in collective legal activity. The essential element of the Section 7 right to refrain from engaging in collective legal activity is the protection of employee choice. Thus, while employees have the right to bring collective and class legal actions, they also have a right to resolve any particular claim on an individual basis if they so choose.[15] The Employer's arbitration agreement, however, binds employees to an irrevocable waiver of their prospective Section 7 rights to engage in collective legal activity that precludes their making such choices as to any future

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[13] See, e.g., *Altex Ready Mixed Concrete Corp. v. NLRB*, 542 F.2d 295, 296-97 (5th Cir. 1976) (executing affidavits supporting lawsuit); *Dick Gidron Cadillac*, 287 NLRB 1107, 1110 (1988) (testifying at arbitration hearing); *Supreme Optical Co.*, 235 NLRB 1432, 1432-33 (1978) (testifying at discharged employee's unemployment hearing), enfd. 628 F.2d 1262 (6th Cir. 1980); *El Dorado Club*, 220 NLRB 886, 887-88 (1975) (attending arbitration hearing, participating in arbitration).

[14] 357 NLRB No. 184, slip op. at 10, n.24.

[15] In this regard, we note that nothing herein, or in the Board's decision in *D.R. Horton*, should be read to preclude: (1) an employer from requiring an employee to arbitrate an individual claim on an individual basis, where no collective legal activity is sought by the employee, as long as the employee retains the right to bring any collective claim on a collective basis; or (2) employers and employees from lawfully agreeing to individually arbitrate a particular claim in dispute, or otherwise to forego bringing a particular claim to a judicial forum or arbitration on a collective basis. Rather, it is the Employer's interference with employees' prospective right to choose to act individually or concertedly as to collective claims in *future* labor disputes that unlawfully interferes with employees' Section 7 rights here.

claim. Such an irrevocable waiver of employees' prospective Section 7 rights to collective legal activity is unlawful, just as individual employment contracts that interfere with other prospective Section 7 rights are unlawful, because it is "a continuing means of thwarting the policy of the Act,"[16] and presents an unjustifiable obstacle to the free exercise of the right to engage in concerted activity for mutual aid and protection. The Employer's arbitration agreement "[seeks] to erect 'a dam at the source of supply' of potential, protected activity" and "thereby interfere[s] with employees' exercise of their Section 7 rights."[17] To permit the Employer to so limit its employees' rights to act collectively, in the guise of protecting employees' right to refrain from engaging in collective legal activity, would be to stand Section 7 on its head.

In the instant case, as in *D.R. Horton* itself, the arbitration agreement expressly requires employees to arbitrate disputes between the employee and the Employer, and prohibits representative, collective, and class actions. Therefore, we conclude that the Employer violated Section 8(a)(1) of the Act by soliciting and maintaining its arbitration agreement prohibiting collective legal activity.[18]

We recognize that the foregoing analysis arguably applies only to employees who were employed by the Employer at the time the arbitration agreement was solicited and that, given the prospective nature of the Section 7 rights at issue, the Employer did not unlawfully solicit former employees to sign the agreement. While such an argument might be well founded if the agreement at issue was limited to former employees' claims arising from their period of prior employment, the Employer's arbitration agreement covers not only past disputes, but future ones as well. Former employees retain their Section 2 (3) status, remain within the coverage of Section 7, and may well have reason in the future to engage in collective legal activity for mutual aid and protection with the Employer's current and/or former employees, such as over any severance, pension, health care, or other post-employment issues or disputes with the Employer. Indeed, the former employees may well also reapply for employment with the Employer and/or

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[16] *National Licorice Co. v. NLRB*, 309 U.S. at 361, quoted in *D.R. Horton*, 357 NLRB No. 184, slip op. at 4.

[17] *Parexel International*, 356 NLRB No. 82, slip op. at 4 (2011), quoting *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177, 185 (1941).

[18] The Employer's attorney argues that its arbitration agreement should be found lawful, in part, because the agreement provides for the possibility of enhanced attorney's fee awards for certain individual claims. While this provision may well provide some substantive benefit to some employees making individual claims, it does not in any way lessen the agreement's interference with employees' Section 7 right to engage in collective legal activity.

be rehired, as the Employer's attorney has indicated that the Employer regularly rehires former employees. Under any of these circumstances, the Employer's arbitration agreement would continue to interfere with the former employees' prospective Section 7 rights, just as it does those of current employees.

The Employer also violated Section 8(a)(1) of the Act by soliciting and maintaining its arbitration agreement because the agreement interferes with employees' access to the Board and its processes.

We further conclude that the Employer violated Section 8(a)(1) by soliciting and maintaining its arbitration agreement because the agreement interferes with employees' access to the Board and its processes. The Board has made clear that mandatory arbitration policies that interfere with employees' right to file an unfair labor practice charge are unlawful.[19] Thus, for example, in *U-Haul Co. of California*, the Board held that an employer violated Section 8(a)(1) of the Act by maintaining a mandatory arbitration policy that employees would reasonably construe to prohibit the filing of unfair labor practice charges, and that did not clarify that the policy did not extend to the filing of unfair labor practice charges.[20]

In the instant case, the language of the Employer's arbitration agreement is similarly broad, confusing, and unclear, so that employees would reasonably conclude that they are precluded from filing unfair labor practice charges. Thus, the cover letter to the arbitration agreement twice states that the Employer's policy applies when an employee or former employee has "a claim," without limitation, and makes no exception for unfair labor practice charges or other claims brought to the Board. The arbitration agreement itself initially also states twice that it applies to "any dispute" between the Employer and the employee, including "any claim or action arising out of or in any way related to the hire, employment, working conditions, compensation, benefits, separation, layoff or termination of Worker. The claims subject to the Agreement include, but are not limited to, claims for wages or other compensation due . . . claims for unlawful discrimination, retaliation or harassment; and disputes arising out of the termination of the employment relationship, whether based on common law, statute, regulation or ordinance." All of these definitions and descriptions of claims to which the agreement applies may well include matters that could be the subject of unfair labor practice charges. It is only after this long litany that the agreement first states that "[n]othing herein shall preclude Worker, however, from filing a complaint with a federal

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[19] See, e.g., *Bill's Electric, Inc.*, 350 NLRB 292, 296 (2007); *Dish Network Corp.,* 358 NLRB No. 29, slip op. at 7-8 (2012); *U-Haul Co. of California*, 347 NLRB 375, 377-78 (2006), enfd. mem. 255 F. Appx. 527 (D.C. Cir. 2007).

[20] 347 NLRB at 377-78.

or state administrative agency that has primary jurisdiction over the complaint such as the National Labor Relations Board . . ." Moreover, the meaning of even this statement is not clear, as it only refers to a "complaint" being filed with the Board.

Given these conflicting provisions, the Employer's arbitration agreement is, at best, ambiguous and confusing as to whether employees are permitted to file charges with the Board; at worst, it was intended to prohibit employees' exercise of these Section 7 rights. Therefore, as employees would reasonably read the agreement to require arbitration of NLRA claims, and thus to prohibit employees from utilizing the Board's processes, we conclude that the Employer's soliciting and maintaining its arbitration agreement violates Section 8(a)(1) of the Act on this basis.[21]

The Employer further violated Section 8(a)(1) of the Act by conditioning its "incentive" payments of employees' bonuses on employees' executing its unlawful arbitration agreement.

Besides finding that complaint is warranted based on the Employer's solicitation and maintenance of its arbitration agreement for the above reasons, we additionally conclude that the Employer violated Section 8(a)(1) by conditioning its "incentive" payments on employees' executing the unlawful agreement. In this regard, it is well established that an employer violates the Act by conditioning continuation of existing benefits or other terms of employment on refraining from engaging in union or other protected conduct,[22] by threatening or acting to adversely affect employees' terms and

[21] We note that the mere solicitation and maintenance of the arbitration agreement here only violates Section 8(a)(1) of the Act, and not Section 8(a)(4), in the absence of any efforts to enforce the limitation on, or otherwise to interfere with, employees' access to the Board. Thus, the Board has made clear that an unlawful rule or policy which employees would reasonably construe to prohibit the filing of unfair labor practice charges violates Section 8(a)(1) of the Act, while employer efforts to enforce such a rule or policy, or otherwise to coerce employees into refraining from exercising their Section 7 right of access to the Board, also violates Section 8(a)(4). See, e.g., *Bill's Electric, Inc.*, 350 NLRB at 296, 307 (employer's maintenance of its unlawful policy violated Section 8(a)(1); its letters to employees seeking to enforce the policy and intimidate the employees violated Section 8(a)(4)).

[22] See, e.g., *Monfort of Colorado*, 284 NLRB 1429, 1470 (1987), enfd. 852 F.2d 1344 (D.C. Cir. 1988) (employer violated the Act by conditioning employee bonuses on one union losing a representation election); *Ed Chandler Ford, Inc.*, 254 NLRB 851, 857-59 (1981), enf. denied on other grounds 718 F.2d 892 (9th Cir. 1983) (employer violated Section 8(a)(1) by threatening employees that it would cancel their bonuses if they supported the Union); *Clay City Beverages, Inc.*, 176 NLRB 681, 681 (1969), enfd. 434

conditions of employment in reprisal for their engaging in union or other protected conduct,[23] or by promising employees benefits if they refrain from engaging in protected activity.[24]

In the instant case, the Employer gave a $100 "incentive" check to the current and former employees along with the revised arbitration agreement, and expressly conditioned receipt of the "incentive" payment on the execution of the unlawful agreement. Thus, on the face of the check was language indicating that cashing the check represents consent to the agreement. Therefore, complaint is also warranted on the allegation that the Employer violated Section 8(a)(1) by conditioning the employees' bonuses on the employees' execution of the arbitration agreement.

Remedy

The Region should seek a remedial order that requires the Employer to cease and desist from soliciting or maintaining its unlawful arbitration agreement, to rescind the unlawful provisions of the revised agreement, to notify all employees subject to the unlawful agreement of the rescission, and to post a notice at all locations where the unlawful revised arbitration agreement has been in effect. The order should also

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F.2d 1315 (5th Cir. 1971) (employer violated the Act by refusing to pay striking employees an expected bonus because they engaged in protected activities).

[23] See, e.g., *Ishikawa Gasket America, Inc.*, 337 NLRB at 185-87 (employer violated the Act by reducing employees' bonuses in response to their protected activity); *Pittsburg & Midway Coal Mining Co.*, 355 NLRB No. 197, slip op. at 5 (2010) (employer violated the Act by modifying employees' bonus plan in response to their protected activity, thus threatening to strip employees of any bonus under the plan if they engage in protected activity).

[24] See, e.g., *Oakes Machine Corp.*, 288 NLRB 456, n.5 (1988), enfd. in pertinent part 897 F.2d 84 (2d Cir. 1990), on remand 298 NLRB 752 (1990) (employer violated Section 8(a)(1) by promising and granting to its employees wage increases to induce them to refrain from engaging in protected concerted activity); *Saigon Grill Restaurant*, 353 NLRB No. 110, slip op at 2 (2009) (two-member Board) (employer violated Section 8(a)(1) by promising benefits conditioned on cessation of protected concerted activity). See also, e.g., *N.L.R.B. v. Bratten Pontiac Corp.*, 406 F.2d 349, 351-52 (4th Cir. 1969), enfg. 163 NLRB 680 (1967) ("we think that § 8(a)(1) was violated when the company extracted from its salesmen a two-year agreement not to enter into 'any combination or association with the intent or purpose of injuring the company or its property, etc.,' as the price they must pay for increased employment benefits").

require the Employer to make whole any employee denied the $100 "incentive" payment because he or she failed or refused to sign the unlawful revised agreement.[25]

Accordingly, the Region should issue complaint, absent settlement, alleging that the Employer violated Section 8(a)(1) by soliciting the current and former employees to sign, and by maintaining, its revised arbitration agreement that interferes with the employees' Section 7 right to engage in collective legal activity and with employees' access to the Board and its processes, and by conditioning its "incentive" payments on employees' executing the unlawful agreement.

/s/
B.J.K.

[25] As well as rescinding the mandatory individual arbitration provisions, the Employer must modify its agreement to make clear throughout the MBAP that it does not require mandatory arbitration of NLRB unfair labor practice charges and that NLRB charges may be processed and potentially adjudicated and remedied in an NLRB administrative proceeding, instead of arbitration. Further, the remedial notice should be given to employees in the same written manner in which the Employer provided the revised arbitration agreement itself and, therefore, personal notice reading by the Employer's President is not warranted. Notice reading, particularly outside union organizing and first-contract bargaining situations, has been ordered where the violations are serious and pervasive and have "created a chill atmosphere of fear," requiring a reading of the notice to "let in a warming wind of information . . . and reassurance." *Excel Case Ready*, 334 NLRB 4, 5 (2001) (citing *J.P. Stevens & Co. v. NLRB*, 417 F.2d 533, 540 (5th Cir. 1969)). Here, the Employer's unfair labor practices were limited to the solicitation and maintenance of its revised arbitration agreement, and there is no evidence that employees were coerced or chilled in their exercise of Section 7 rights beyond the specific prohibitions in the revised arbitration agreement itself. Thus, traditional Board remedies will be sufficient to erase the effects of the Employer's violations, and notice reading is not necessary "to dissipate fully the coercive effects of the unfair labor practices found." *Federated Logistics*, 340 NLRB 255, 256-257 (2003), quoting *Fieldcrest Cannon, Inc.*, 319 NLRB 470, 473 (1995).