

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**

DTM CORPORATION

Respondent

and

Case 16-CA-27094

**SECURITY, POLICE, FIRE PROFESSIONALS OF
AMERICA, LOCAL 48**

Charging Party

**COUNSEL FOR THE GENERAL COUNSEL'S LIMITED CROSS-EXCEPTION TO
THE DECISION OF THE ADMINISTRATIVE LAW JUDGE AND ARGUMENT IN
SUPPORT THEREOF**

Counsel for the General Counsel, pursuant to Section 102.46(e) of Rules and Regulations of the National Labor Relations Board (herein Board), hereby excepts to the following findings of fact and conclusions of law of the Honorable William N. Cates, Associate Chief Administrative Law Judge, herein Judge, in his Decision and Order dated June 30, 2010 in the following particulars:

1. The Judge erred by not including in his Notice that Respondent must notify employees in writing that it has rescinded the unlawful provisions of the Collective Bargaining Agreement, Article IX, that restrict employees' ability to handbill, leaflet and restrict employees' ability to engage in work actions that constitute protected, concerted activity.

[JD slip op. at 10-12]

ARGUMENT IN SUPPORT OF LIMITED CROSS-EXCEPTION

The Cross-Exception to the Decision of the Administrative Law Judge as stated above in paragraph 1 is technical in nature and must be addressed in order for the Conclusions of Law to conform with the Judge's findings and statement of intended remedy. The Judge correctly identified the remedy in the portions of the decision labeled Remedy and Order. [JD slip op. at 10-11] However, the Notice omits the portion of the remedy that requires Respondent to notify employees in writing regarding rescission of the unlawful provisions contained in the collective bargaining agreement. [JD slip op. at 12]

It is well settled that the Board has "broad discretionary" authority under Section 10(c) of the Act to render appropriate remedies that will effectuate the policies and purposes of the Act. *NLRB v. J.H. Butter-Rex Mfg. Co.*, 396 U.S. 258, 262-263 (1969); *Loyalhanna Care Center*, 352 NLRB 863 (2008) (modifying the judge's recommend order and substituting a new notice with its decision). Furthermore, the Board has province over remedial matters such as including inadvertently omitted sections from one portion of the judge's conclusions to the order. *Schnadig Corp.*, 325 NLRB 147 (1982). Also see *Northwest Graphics, Inc.*, 342 NLRB 1288 fn. 2 and 1289 (2004) (Board institutes an appropriate remedy to conform with the judge's findings). In *Care Initiatives, Inc.*, 321 NLRB 144, 145 (1996), the Board modified the judge's order and provided a specified time frame to comply with the order requirements.

Based on the foregoing, Counsel for the General Counsel requests that the Board grant this Limited Cross-Exception and modify the Judge's Notice accordingly.

DATED at Fort Worth, Texas, this 11th day of August, 2010.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Becky Mata", written over a horizontal line.

Becky Mata
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CERTIFICATE OF SERVICE

I hereby certify that, on this 11th day of August 2010, a copy of General Counsel's Cross-Exceptions to the Decision of the Administrative Law Judge was electronically served upon each of the following:

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