

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

REGISTRY OF INTERPRETERS FOR THE DEAF, INC.

and

Case 20-CA-164088

PACIFIC MEDIA WORKERS GUILD, LOCAL 39521

**CHARGING PARTY PACIFIC MEDIA WORKERS GUILD’S REPLY TO
RESPONDENT’S OPPOSITION TO CHARGING PARTY’S CROSS-EXCEPTION NO.
3 TO THE ADMINISTRATIVE LAW JUDGE’S DECISION**

Pursuant to Section 102.46(h) of the National Labor Relations Board’s Rules and Regulations, Charging Party Pacific Media Workers Guild (“Guild”) respectfully submits this Reply to Respondent’s Opposition to Charging Party’s Cross-Exception No. 3 to the Administrative Law Judge’s Decision.

On February 9, 2017, Charging Party Pacific Media Worker’s Guild (“Guild”) filed limited cross-exceptions to the December 29, 2016 decision of Administrative Law Judge Joel P. Biblowitz. Specifically, in its third cross exception, the Guild excepted to Section 2(b) of the ALJ’s Order. This portion of the ALJ’s Order provided that the “Notice to Members” regarding RID’s violations of law should be “post[ed] at all of its offices, nationwide, and on its Facebook page...” *See* ALJ Decision at p. 12.

The Guild believes that it is most appropriate, given the means by which Respondent Registry of Interpreters for the Deaf, Inc. (“RID”) communicates with its membership, including where it posted both the unlawful antitrust and civility policies, that the posting of the “Notice to Members” should be ordered on not only RID’s Facebook page, but also on all of its various membership section Facebook pages (including the Video Interpreter Member Section where RID unlawfully removed the Facebook postings), by email to RID members, and on the RID website.

The Respondent opposes the Guild's cross-exception on the ground that RID does not "customarily communicate[] with its members through e-mail or through its member section Facebook pages." *See* Respondent Opposition Brief at p. 2. The stipulated record makes clear that Respondent utilized its website and its VIMS Facebook page to promulgate and maintain the unlawful civility and antitrust policies that are at the very heart of this case. Indeed, as Joint Exhibit F indisputably shows, on October 27, 2015, when Respondent intervened to unlawfully remove the discussion regarding terms and conditions of employment on its VIMS Facebook page, it referenced both the antitrust and civility policy. *See* Stipulation of Facts at ¶¶29-30 and Joint Exhibit F at p. 000057-000062. At this time, Respondent also provided a link on the VIMS Facebook page to the RID website for the full antitrust policy. *Id.* Thus, given that the unlawful antitrust and civility policies are referenced on the VIMS Facebook page and on the RID website, it is reasonable that the notice posting be ordered to appear in both locations.

Additionally, the impacted members who are statutory employees do not work on Respondent's premises. *See* Stipulation of Facts at ¶10. Therefore, the only reasonable means to communicate the remedy (and for it to actually be seen by those affected) is electronically. The Guild's requested additional means and locations for posting ensure that the Notice will be seen by all of RID's statutory employee-members. The ALJ's posting requirement unnecessarily limits electronic posting only to Respondent's general Facebook page. At a minimum, the Board should order that the remedial posting appear where RID has communicated the unlawful antitrust and civility policies, namely on RID's general Facebook pages, on the VIMS Facebook page, and on Respondent's website.

Furthermore, if there is any question regarding whether the additional means and locations for posting the remedial noticed suggested by Charging Party, including by email, are

appropriate, this issue must be resolved at the compliance stage of the proceeding. *See J. Picini Flooring, Inc.*, 356 NLRB 11, 13-14 and n. 13 (2010) (matters relating to the distribution of remedial notices are to be answered at the compliance phase, but may be answered at the merits phase).

CONCLUSION

For the foregoing reasons, the Guild respectfully requests that the Board uphold the cross exceptions filed by the Guild, including Guild Cross Exception Number 3.

Respectfully submitted,

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Dated: March 7, 2017

Certificate of Service

I hereby attest that I served a copy of Charging Party Pacific Media Workers Guild's Reply to Respondent's Opposition to Charging Party's Cross Exception No. 3 to the Administrative Law Judge's Decision on counsel for the Respondents, Christopher Michalik, and on counsel for the General Counsel, Richard McPalmer, both via electronic mail, on March 7, 2017.

/s/ Michael Melick
Michael Melick