

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

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CASE NO. 27-CA-184730

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**CHARLES SCHWAB & CO., INC.,**

Respondent,

and

**MICHELLE HUSTON, an Individual,**

Charging Party.

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**RESPONDENT'S EXCEPTIONS TO THE DECISION OF  
THE ADMINISTRATIVE LAW JUDGE**

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Respondent Charles Schwab & Co., Inc. ("Schwab," the "Company," or "Respondent") pursuant to Rule 102.46 of the National Labor Relations Board's ("NLRB" or "Board") rules, files the following Exceptions to the Decision of Administrative Law Judge ("ALJ") Jeffrey D. Wedekind, dated June 26, 2017.<sup>1</sup>

1. Respondent excepts to the ALJ's finding that Respondent violated Section 8(a)(1) of the Act by maintaining a work rule in its business conduct policy that "broadly prohibit all employees from engaging in any 'acts of disrespect . . . , including making disparaging comments to or about co-workers . . .' in their interactions or business dealings with clients, coworkers, vendors, and the public." (ALJD at p. 8, lines 3-6.)

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<sup>1</sup> The Administrative Law Judge's decision is cited herein as "ALJD" followed by the appropriate page and line numbers.

2. Respondent excepts to the ALJ's finding that Respondent's prohibitions against making disrespectful or disparaging comments are overbroad under Board precedent. (ALJD at p. 2, lines 4-7 - p. 7, lines 17-28.)

3. Respondent excepts to the ALJ's interpretation, application, and extension of the case law cited in support of his determination that the Schwab work rule related to "acts of disrespect" violated the Act. (ALJD at p. 7, lines 17-20.)

4. Respondent excepts to the ALJ's interpretation, application, and extension of the case law cited in support of his determination that the Schwab work rule related to "disparaging" comments violated the Act. (ALJD at p. 7, lines 20-27.)

5. Respondent excepts to the ALJ's first conclusion of law as erroneous and unsupported in fact and law. (ALJD at p. 8, lines 3-6.)

6. Respondent excepts to the ALJ's application of the Board's decision in *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004) which was wrongly decided. (ALJD p. 1 and *passim*.)

7. Respondent excepts to the ALJ's remedy and order in their entirety. (ALJD at p. 8, line 15 – p. 9, line 15.)

### **REQUEST FOR ORAL ARGUMENT**

As discussed fully in Respondent's Brief in Support of Its Exceptions to the Decision of the Administrative Law Judge, this case presents significant questions of law that arise frequently in cases before the Board. The central issue in this case includes:

1. Whether the ALJ erred and misapplied Board decisions resulting in an erroneous finding that Respondent violated Section 8(a)(1) of the Act by maintaining a rule in

its Business Conduct Policy that prohibits employees from engaging in “any ‘acts of disrespect . . . including making disparaging comments to or about co-workers’”?

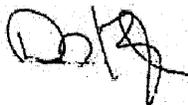
2. Whether the ALJ erred by relying on the reasonably construe standard established under *Lutheran Heritage* which was wrongly decided and should be overruled by the Board or repudiated by the courts?

Because of the significance of the issues presented in this case and the need for employers to have clear guidance on these matters, Respondent respectfully submits that oral argument is appropriate and will assist the Board's decision in this case.

WHEREFORE, for the reasons stated above and in Respondent’s brief in support filed contemporaneously, Respondent requests that the Board grant its request for oral argument, reverse the ALJ’s decision, and dismiss the complaint in its entirety.

Dated August 24, 2017,

Respectfully submitted,



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ATTORNEYS FOR RESPONDENT

**CERTIFICATE OF SERVICE**

The undersigned certifies that on August 24, 2017, a copy of the foregoing **RESPONDENT'S EXCEPTIONS TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE** has been filed via electronic filing with:

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