

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

G&E REAL ESTATE MANAGEMENT
SERVICES, INC. d/b/a NEWMARK
GRUBB KNIGHT FRANK

and

Case 28-CA-178893

PATRICK THURMAN, an Individual

Nestor M. Zarate-Mancilla, Esq.,
for the General Counsel.
Derek Barella, Esq. (Winston & Strawn, LLP),
for the Respondent.

SUPPLEMENTAL DECISION

Statement of the Case

ROBERT A. RINGLER, Administrative Law Judge. The Board remanded this case under *Boeing Co.*, 365 NLRB No. 154 (2017) to evaluate whether G&E Real Estate Management Services, Inc. d/b/a Newmark Grubb Knight Frank (G&E or the Respondent) maintained unlawful Employee Handbook rules. Thereafter, the General Counsel (the GC) filed a Motion to Amend Complaint, which condensed the complaint to 11 rules allegations. As will be explained, 4 of these rules are valid, while 7 have been found to be unlawful.

FINDINGS OF FACT¹

I. GENERAL PRINCIPLES

In *Boeing*, regarding facially neutral rules akin to those at issue herein, the Board held:

In cases [where] ... facially neutral ... rules ..., when reasonably interpreted, would potentially interfere with §7 rights, the Board will evaluate ...: (i) the ... extent of the potential impact on NLRA rights, and (ii) legitimate justifications

¹ G&E sought judicial notice of the administrative records in *BGC Partners, Inc.*, Case 28-CA-195500 and *Cantor Fitzgerald, LP*, Case 28-CA-195506 in lieu of reopening the record for additional evidence. This request was granted. The parties filed briefs on May 31, 2019.

.... [and] ... strike the proper balance between . . . asserted business justifications and the invasion of employee rights

[T]he Board ... [listed] three [rules] categories:

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- **Category 1 ... rules** [are] lawful to maintain, either because (i) the rule, when reasonably interpreted, does not ... interfere with the exercise of NLRA rights; or (ii) the potential adverse impact ... is outweighed by justifications ... [for] the rule. Examples ... are the no-camera requirement in this case, the “harmonious interactions and relationships” rule ... at issue in *William Beaumont Hospital*, and other rules requiring ... basic standards of civility

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- **Category 2 ... rules** ... warrant individualized scrutiny ... as to whether the rule, when reasonably interpreted, would prohibit or interfere with the exercise of NLRA rights, and if so, whether any adverse impact on NLRA-protected conduct is outweighed by legitimate justifications.

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- **Category 3 ... rules** ... [are] unlawful to maintain because they would prohibit or limit NLRA-protected conduct, and the adverse impact on NLRA rights is not outweighed by justifications associated with the rule. An example would be a rule that prohibits employees from discussing wages or benefits with one another.

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25 Id. at 15–16 (footnotes omitted, and emphasis added).

II. RESPONSIVE ACTION POLICY²

This Category 2 rule fails the *Boeing* balancing test. It states that:

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If, after investigating a complaint (including a complaint of harassment, discrimination or retaliation), the Company determines ... that persons involved in the investigation provided false information, the individual(s) who made the false allegations or gave the false information may be subject to appropriate discipline, up to and including termination

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(GC Exh. 2 at §206).

Concerning §7 rights, this rule would reasonably deter workers from aiding investigations involving collective issues out of fear that their innocent factual errors might lead to discipline. Employees may also refrain from concerted speech aimed at improving their workplace due to the same concerns. This rule, notably, does not distinguish between blameless, non-negligent factual errors and intentional defamation, which would strike a more reasonable balance.

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² This allegation appears under ¶¶4(a)(2) and 5 of the complaint.

Concerning G&E’s interests, it holds a valid interest in reliably investigating workplace complaints. It also maintains a stake in discouraging employee dishonesty.

5 *Boeing’s* balancing test tips against G&E. This rule, which covers all falsehoods (i.e.,
 as opposed to only defamation), is a Category 2 rule that, when reasonably interpreted, bars
 innocent employee errors on collective matters. This is a significant infringement, which
 10 undercuts collective speech during workplace investigations. This interference is not
 outweighed by G&E’s interests, which might still be reasonably advanced by limiting the rule’s
 scope to defamatory speech.³ This rule is, accordingly, invalid; simply put, it fails to strike the
 proper balance between §7 rights and business interests.

III. OUTSIDE EMPLOYMENT AND BUSINESS ACTIVITIES POLICY⁴

This Category 2 rule similarly fails the *Boeing* balancing test. It provides that:

15 [E]mployees are prohibited - without ... approval ... from participating in
 outside work activities that might present a conflict of interest

(GC Exh. 2 at §303) (emphasis added).

20 Concerning §7 rights, this rule could reasonably be construed by employees to ban
 organizing G&E’s workers, making connected home visits to such coworkers, or acting as a
 union salt without approval. Its impact on core §7 activities is, thus, substantial.

25 Regarding G&E, it has a valid interest in avoiding conflicts and promoting loyalty. Such
 breaches may offend a client, harm a business relationship or undercut workplace harmony.

30 The *Boeing* balancing test tips against G&E. Employees can reasonably construe this
 rule as a complete ban against organizing coworkers and engaging in other §7 activities without
 approval. G&E can address this infringement, while simultaneously safeguarding its valid
 interest in avoiding conflicts, by, for example, excluding union and other N.L.R.A. activities
 from the rule’s scope.⁵ I find, as a result, that the §7 interests at stake outweigh G&E’s
 legitimate business interests, and the rule is unlawful.

35 **IV. REFERENCE INQUIRIES AND REQUESTS FOR EMPLOYEE INFORMATION POLICY⁶**

This policy is an invalid *Boeing* Category 3 rule. It states as follows:

³ G&E has neither explained why it did not limit the rule in this way nor has it clarified why disciplining employees, who make innocent factual errors during workplace investigations, advances its valid business interests.

⁴ This allegation appears under ¶¶4(a)(4) and 5 of the complaint.

⁵ G&E has neither explained why it did not limit the rule in this way nor has it clarified why disciplining employees, who engage in outside union activities without approval, advances its valid business interests.

⁶ This allegation appears under ¶¶4(a)(5) and 5 of the complaint.

All requests for information regarding a[n] ... employee must be forwarded to the Human Resources Department for response. Should an employee ... receive a ... request for a reference, the employee should direct the individual seeking information ... to the Human Resources Department

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No Company employee may ... supply employee information ... without ... permission

(GC Exh. 2 at §403) (emphasis added).

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Concerning §7 rights, this rule could reasonably be construed to bar wage or related discussions. This is a great intrusion on the right to share such data for collective purposes.

Regarding G&E, it has a valid stake in handling reference requests consistently. It also has an interest in sharing employment data in a centralized manner.

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This policy is an invalid *Boeing* Category 3 rule. It deeply impacts §7 activities and can be reasonably construed to bar wage and related discussions without consent. G&E can address its valid concerns regarding references and employee data releases by simply deleting the rule's second paragraph (i.e., "No Company employee may ... supply employee information ... without ... permission."). It has offered no explanation for this omission, which would present a reasonable balancing of collective and business interests. In sum, this rule limits protected conduct and the adverse impact on such rights is not outweighed by G&E's justifications. *Boeing*, supra ("rule[s] that prohibit ... employees from discussing wages or benefits with one another" are invalid under Category 3.).

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V. COMPANY PROPERTY POLICY⁷

This rule is not covered by *Boeing*. It is unlawful under extant Board law. It states:

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Offices, cubicles, desks, computers, file cabinets, lockers, and vehicles are Company property and must be maintained according to Company rules and regulations. All Company property must be used solely for the Company's benefit and business purposes, and not for the employee's ... personal benefit (or the benefit of any other person or entity). The Company's property includes its ... premises, equipment ... and supplies, as well as proprietary information and intellectual property (e.g., ... non-public information, ... customer, vendor and employee lists, confidential information and materials)

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(GC Exh. 2 at §703).

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This policy, which bans non-business usage of G&E's facilities and equipment, is unlawful. It can be reasonably construed by employees to bar all unauthorized solicitation and other protected activity during non-working hours at G&E's facility remises, as well as prohibit employees from using G&E's email systems during their non-working time for §7 activities.

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⁷ This allegation appears under ¶¶4(a)(7) and 5 of the complaint.

See, e.g., *Republic Aviation Corp. v. NLRB*, 324 U.S. 793 (1945); *Purple Communications*, 361 NLRB 1050,1066(2014) (“right of employees to use their employers' email systems for protected communications on nonworking time”); *Stoddard-Quirk*, 138 NLRB 615 (1962) (prohibition on unauthorized distribution of literature on company premises is unlawful).⁸

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VI. USE OF COMPANY INFORMATION TECHNOLOGY POLICY⁹

This rule is not covered by *Boeing*. It is also unlawful under extant Board law. It states:

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Computers, electronic communication, electronic information and other technology ... support the Company's business. The Company provides many of its employees with access to telecommunication and electronic communication means and computer systems owned or operated by the Company

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It is the responsibility of each employee ... to ensure that this technology and all Information Systems are used for proper business purposes

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Users should not use or access Company Information Systems in any manner that is unlawful, inappropriate, or contrary to the Company's best interests Users may only use Company Information Systems in a manner that is consistent with the Company's policies and procedures

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[V]oice mail and ... e-mail ... are to be used for business purposes only.

(GC Exh. 2 at §707). This policy, which bans the non-business usage of information technology (IT) equipment, is overbroad and unlawful, inasmuch as it bans employees from using email and IT systems during non-working time for §7 activities. *Purple Communications*, supra.

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VII. TAPE RECORDING POLICY¹⁰

This policy is a valid *Boeing* Category 1 rule. It states that:

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[I]t is a violation of Company policy for an employee ... to record conversations at or related to their work or services at the Company with a tape recorder, mobile device or any other recording device or to make a video recording in a work-related setting unless (1) prior approval has been granted by the Company..., or (2) use of the device has been otherwise properly authorized in connection with the employee's ... performance of his ... assigned duties

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Violation of this policy will result in ... disciplinary action, up to and including immediate termination of employment

⁸ Boeing did not overrule *Purple Communications*.

⁹ This allegation appears under ¶¶4(a)(9) and 5 of the complaint.

¹⁰ his allegation appears under ¶¶4(a)(10) and 5 of the complaint.

(GC Exh. 2 at §708).

This facially-neutral policy requires a balancing test, which tips in favor of G&E. On the one hand, this rule overbroadly encompasses recordings made for one’s mutual aid and protection. G&E, however, has a keen interest in the maintenance of this rule, which controls unauthorized recordings of its business operations. This rule is analogous to the *Boeing* no-camera rule, which was classified as a valid Category 1 policy. *Boeing*, supra.

VIII. SOCIAL MEDIA POLICY¹¹

This policy is an unlawful *Boeing* Category 2 rule. It states as follows:

The Company recognizes the importance of social media [O]nly those types of social media that have been approved by the Company... are permitted. As a general matter, use of social media that provides for communication that the, Company cannot capture and/or monitor (e.g., Facebook, Twitter, Snapchat, Instagram and similar apps ...) is prohibited....

Where certain postings are permitted, the policy is intended to ensure that any social media activities affiliated with the Company and its affiliate offices are used appropriately, furnish accurate information, and are in compliance with the Company's established policies and procedures

(GC Exh. 2 at §802).

Concerning §7 rights, employees could reasonably construe this rule to bar social media usage that G&E cannot monitor as well as online commentary that is not pre-approved. This effectively bars workers discussing their wages and collective concerns on social media, which is a substantial §7 infringement. Regarding G&E, it has a valid interest in maintaining a positive online presence and controlling online commentary made by its agents.

The *Boeing* balancing test tips against G&E. Employees can reasonably construe this rule as a blanket prohibition against engaging in unapproved §7 activities on social media. G&E can adeptly address this substantial infringement, while simultaneously safeguarding its valid interests in maintaining a positive online image, by limiting the rule to state, inter alia, that, “employees cannot act as a spokesperson for G&E on social media without authorization.” This narrowing would create a fairer balance and produce a valid Category 1 rule, which allows for social media discussions of workplace issues by non-spokespersons, while protecting G&E’s online image. G&E offered no explanation for this omission. This rule is, accordingly, invalid.

IX. OUTSIDE SPEAKING AND WRITING ACTIVITIES POLICY¹²

This policy is an unlawful *Boeing* Category 2 rule. It states that:

¹¹ This allegation appears under ¶¶4(a)(12) and 5 of the complaint.

¹² This allegation appears under ¶¶4(a)(13) and 5 of the complaint.

Prior Company approval must be obtained for participation in any outside writing/publishing activities, speaking engagements relating to the Company ... and engaging in other similar activities....

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(GC Exh. 2 at §803).

The *Boeing* balancing test tips against G&E. The impact on §7 rights is substantial. The rule is not limited to controlling those employees who take an unauthorized public stance on behalf of G&E. Moreover, it overbroadly requires all employees to obtain approval for any discourse “relating to the company,” which can be reasonably construed to bar them from speaking at union meetings about “the company.” G&E could validly narrow the rule to state, inter alia, that, “employees cannot serve as a spokesperson for the company without authorization.” This narrowing would fairly advance its interests, create a valid Category 1 rule, and no longer leave workers unable to discuss their workplace as non-spokespersons without approval. G&E has, again, offered no explanation for this omission. This rule is, thus, invalid.

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X. COOPERATION IN INVESTIGATIONS AND LITIGATION POLICY¹³

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This policy is a valid *Boeing* Category 1 rule. It provides that:

Employees ... are required to cooperate with ... internal investigations and the defense or prosecution of claims by providing truthful information or testimony in interviews, meetings or proceedings In the event the investigation or claim involves allegations made by the employee ... against the Company, the employee ... will be required to provide information that the Company views as necessary to its internal investigation ... but will not be required to provide assistance to ... its defense or prosecution of the claim.

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(GC Exh. 2 at §804).

The *Boeing* balancing test tips in favor of G&E. Employees would not reasonably read this rule to require participation in a ULP investigation, which infringes upon their §7 right to refuse to cooperate in a ULP investigation. This rule is silent on ULP investigations and, absent some context referencing such investigations, employees would reasonably interpret this rule to only apply to general investigations of workplace misconduct. Thus, given G&E’s keen interest in fairly investigating workplace misconduct and the rule’s silence on ULPs, the potential adverse impact on protected rights is outweighed by G&E’s interests.

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XI. PERSONAL APPEARANCE POLICY¹⁴

This policy, which bans, “clothing with printed slogans/promotions,” is a valid *Boeing* Category 1 rule. (GC Exh. 2 at §811). It is improbable that employees would reasonably

¹³ This allegation appears under ¶¶4(a)(15) and 5 of the complaint.

¹⁴ This allegation appears under ¶¶4(a)(17) and 5 of the complaint.

understand this rule, when viewed in its entirety, to bar union insignia. The portion of the rule at issue is a single bullet-point contained in a lengthy dress code rule. Given that the §7 impact is minor and G&E has a valid interest in a dress code, this rule survives the *Boeing* balancing text.

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XII. STANDARDS OF CONDUCT POLICY¹⁵

This policy is a valid *Boeing* Category 1 rule. It provides that:

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We require and expect our employees and contractors [...] to exhibit and act with common courtesy, decency, dignity and respect, and to exercise sound business judgment. This not only involves sincere respect for the rights and feelings of others but also demands that employees and contractors refrain from any behavior that might be harmful to themselves, their coworkers and colleagues, and/or the Company or that might be viewed unfavorably by current or potential customers, the industry or the public at large

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Listed below are some examples of conduct that is unacceptable. Some of these examples are relevant to both employees and contractors; others (primarily those related to hours and location of work, time records, and work supervision) are not applicable to contractors.

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This list should not be viewed as being all-inclusive, as it is not possible to list all forms of behavior that are considered unacceptable. Unacceptable conduct may result in immediate disciplinary action, including warnings, suspensions or termination of employment, or corrective action, including notice of violation, termination of employment or suspension of services. [...]

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Examples of conduct likely to lead to disciplinary or corrective action include:

- Any conduct that could be construed as harming the operations or reputation of the Company

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(GC Exh. 2 at §813) (emphasis added).

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The *Boeing* balancing test tips in favor of G&E. This rule is essentially a civility rule, which was found valid in *Boeing*. Id. (finding that employers may maintain rules requiring “harmonious relationships” in the workplace and can require basic standards of “civility.”). G&E has a strong stake in workplace civility, which deters unlawful harassment, prevents violence, limits conflict and promotes productivity. Such interests outweigh the somewhat light impact on §7 rights. This rule is, therefore, a lawful Category 1 rule.¹⁶

¹⁵ This allegation appears under ¶¶4(a)(18) and 5 of the complaint.

¹⁶ The *Boeing* Board noted that any adverse effect on §7 rights was comparatively slight since a broad range of activities protected by the NLRA are consistent with basic standards of harmony and civility. *Boeing*, supra.

CONCLUSIONS OF LAW

1. G&E is an employer engaged in commerce within the meaning of §2(2), (6), and (7) of the Act.

2. G&E violated §8(a)(1) by maintaining these Employee Handbook policies:

a. “Responsive Action” policy, which subjects workers who non-maliciously provide false information during investigations to potential discipline and discharge.

b. “Outside Employment and Business Activities” policy, which bans employees “from participating in outside work activities that might present a conflict of interest.”

c. “Reference Inquiries and Requests for Employee Information” policy, which bans workers from supplying employee information to outside entities without authorization.

d. “Company Property” policy, which bars all unauthorized solicitation and other protected activity from G&E’s facilities, and bans using email during non-working time for non-business purposes.

e. “Use of Company Information Technology” policy, which bans employees from using email and other information technology systems during non-working time for non-business purposes.

f. “Social Media” policy, which requires employees to obtain consent prior to posting anything concerning the company on social media, and employer monitoring.

g. “Outside Speaking and Writing Activities” policy, which requires pre-approval before employees’ write or speak publicly about their workplace.

3. The unfair labor practices set forth above affect commerce within the meaning of § 2(6) and (7) of the Act.

REMEDY

Having found that G&E committed unfair labor practices, it is ordered to cease and desist and to take certain affirmative action designed to effectuate the Act. Given that its policies are maintained on a companywide basis, it shall be ordered to post a notice at all of its facilities where the unlawful policies have been, or are, in effect. See *Longs Drug Stores California*, 347 NLRB 500, 501 (2006); *Guardsmark, LLC*, 344 NLRB 809, 812 (2005). Its duty to rescind or modify the unlawful policies is governed by *Guardsmark LLC*, supra.¹⁷ It

¹⁷ “The Respondent may comply with our Order by rescinding the unlawful provisions and republishing its employee handbook without them. We recognize, however, that republishing the

shall nationally distribute remedial notices via email, intranet, internet, or other appropriate electronic means to its employees, in addition to the traditional physical posting of paper notices, if it customarily communicates with workers in this manner. See *J Picini Flooring*, 356 NLRB 11 (2010).¹⁸

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On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended¹⁹

ORDER

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G&E Real Estate Management Services, Inc. d/b/a Newmark Grubb Knight Frank, its officers, agents, successors, and assigns, shall

1. Cease and desist from

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a. Maintaining a “Responsive Action” policy in its Employee Handbook, which subjects workers who non-maliciously provide false information during workplace investigations to discipline and discharge.

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b. Maintaining an “Outside Employment and Business Activities” policy in its Employee Handbook, which bans employees “from participating in outside work activities that might present a conflict of interest.”

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c. Maintaining a “Reference Inquiries and Requests for Employee Information” policy in its Employee Handbook, which bans workers from supplying employee information to outside entities without authorization.

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d. Maintaining a “Company Property” policy in its Employee Handbook, which bars all unauthorized solicitation and other protected activity from its facilities, and bans using email during non-working time for non-business purposes.

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e. Maintaining a “Use of Company Information Technology” policy in its Employee Handbook, which bans employees from using email and other information technology systems during non-working time for non-business purposes.

handbook could entail significant costs. Accordingly, the Respondent may supply the employees either with handbook inserts stating that the unlawful rules have been rescinded, or with new and lawfully worded rules on adhesive backing which will cover the old and unlawfully broad rules, until it republishes the handbook without the unlawful provisions. Thereafter, any copies of the handbook that are printed with the unlawful rules must include the new inserts before being distributed to employees.” *Guardsmark*, supra at 812 fn. 8.

¹⁸ Although Counsel for the Acting General Counsel has requested a notice reading remedy, such relief is unwarranted. Standard remedial relief will adequately remedy the unfair labor practices at issue herein.

¹⁹ If no exceptions are filed as provided by Sec. 102.46 of the Board’s Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

f. Maintaining a “Social Media” policy in its Employee Handbook, which requires employees to obtain consent prior to posting anything concerning the company on social media and requires employer monitoring.

5 g. Maintaining an “Outside Speaking and Writing Activities” policy in its Employee Handbook, which requires pre-approval before employees’ write or speak publicly.

10 h. In any like or related manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed them by §7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act

15 a. Rescind or modify the language in the following provisions of its Employee Handbook

20 i. The “Responsive Action” policy to the extent that it subjects workers who non-maliciously provide false information during workplace investigations to discipline and discharge.

ii. The “Outside Employment and Business Activities” policy to the extent that it bans employees “from participating in outside work activities that might present a conflict of interest.”

25 iii. The “Reference Inquiries and Requests for Employee Information” to the extent that it bans workers from supplying employee information to outside entities without authorization.

30 iv. The “Company Property” policy to the extent that it bars all unauthorized solicitation and other protected activity from its facilities, and bans using email during non-working time for non-business purposes.

35 v. The “Use of Company Information Technology” policy to the extent that it bans employees from using email and other information technology systems during non-working time for non-business purposes.

vi. The “Social Media” policy to the extent that it requires employees to obtain consent prior to posting anything concerning the company on social media.

40 vii. The “Outside Speaking and Writing Activities” policy to the extent that it requires pre-approval before employees’ write or speak publicly about their workplace.

45 b. Furnish all current employees with inserts for the Employee Handbook that

i. Advise that the unlawful rules have been rescinded, or

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT maintain provisions in our Employee Handbook, which subject workers who non-maliciously provide false information during workplace investigations to potential discipline and discharge.

WE WILL NOT maintain provisions in our Employee Handbook, which ban you “from participating in outside work activities that might present a conflict of interest.”

WE WILL NOT maintain provisions in our Employee Handbook, which ban you from giving employee and workplace information to outside entities without authorization.

WE WILL NOT maintain provisions in our Employee Handbook, which bar all unauthorized solicitation and other protected activity from our facilities, and ban using email and other information technology during non-working time for non-business purposes.

WE WILL NOT maintain provisions in our Employee Handbook, which ban you from using telephones and other communication systems during non-working time for non-business purposes.

WE WILL NOT maintain provisions in our Employee Handbook, which require you to obtain our consent before posting anything about us on social media or require you to permit us to monitor your social media accounts.

WE WILL NOT maintain provisions in our Employee Handbook, which require our pre-approval before you can write or speak publicly about your workplace.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights set forth above.

WE WILL rescind or modify the language in the following provisions of our Employee Handbook:

1. The “Responsive Action” policy to the extent that it subjects workers who non-maliciously provide false information during workplace investigations to potential discipline and discharge.
2. The “Outside Employment and Business Activities” policy to the extent that it bans you “from participating in outside work activities that might present a conflict of interest.”
3. The “Reference Inquiries and Requests for Employee Information” to the extent that it bans you from supplying employee information to outside entities without authorization.
4. The “Company Property” to the extent that it bars all unauthorized solicitation and other protected activity from our facilities, and bans using email during non-working time for non-business purposes.
5. The “Use of Company Information Technology” policy to the extent that it bans employees from using email and other information technology systems during non-working time for non-business purposes.
6. The “Social Media” policy to the extent that it requires employees to obtain consent prior to posting anything concerning us on social media and requires employees to permit monitoring of their social media accounts.
7. The “Outside Speaking and Writing Activities” policy to the extent that it requires pre-approval before employees write or speak publicly about their workplace.

WE WILL furnish all of you with inserts for the current Employee Handbook that:

1. Advise that the unlawful provisions, above have been rescinded, or
2. Provide the language of lawful provisions, or publish and distribute revised Employee Handbooks that:
 - a. Do not contain the unlawful provisions, or
 - b. Provide the language of lawful provisions.

