International Brotherhood of Teamsters, Local Union 492 (United Parcel Service, Inc.)[1] ***and*** **Monte Hadley *and* Joe B. Fuller *and* John E. Hutchison *and* David Hassey *and* Wesley Zane Rose *and* Nina L. Loomis *and* Gary L. Danner *and* Cheryl Smith.** Cases 28–CB–4844, 28–CB–4870, 28–CB–4871–1, 28–CB–4876, 28–CB–4878, 28–CB–4878–2, 28–CB–4898, and 28–CB–4924

January 31, 2006

DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN AND SCHAUMBER

Pursuant to charges filed by Monte Hadley, Joe B. Fuller, John E. Hutchison, David Hassey, Wesley Zane Rose, Nina L. Loomis, Gary L. Danner, and Cheryl Smith against International Brotherhood of Teamsters, Local 492, the General Counsel of the National Labor Relations Board issued an order consolidating cases, consolidated complaint, and notice of hearing on October 27, 1998. The complaint alleges that the Respondent violated Section 8(b)(1)(A) of the Act by (1) maintaining and enforcing a collective-bargaining agreement with a union-security clause; (2) failing to inform employees of their rights under *NLRB v. General Motors Corp.*, 373 U.S. 734 (1963),[2] and *Communications Workers v. Beck*, 487 U.S. 735 (1988);[3] (3) failing to provide *Beck* objectors with information to which they were entitled; (4) charging *Beck* objectors dues and fees for nonchargeable expenditures; (5) failing to timely honor employees' resignations from the Union; (6) informing employees who had resigned from the Union that they had to pay dues for periods in which no union-security clause was in effect, as well as additional initiation fees, and that failure to do so might lead to their termination; and (7) informing employees that it was processing internal union charges against them for conduct that took place after they resigned.

On April 9, 1999, the General Counsel, the Respondent, and the Charging Parties submitted a Joint Motion to Transfer and Continue Matter before the National Labor Relations Board and a Stipulation of Facts.[4] The parties therein waived their right to a hearing and the making of findings of fact and conclusions of law and the issuance of a decision by an administrative law judge, and submitted the case directly to the Board for findings of fact, conclusions of law, and an order. The parties agreed that the stipulation of facts, charges, complaints, answers, and other exhibits attached to the stipulation would constitute the entire record in the case and that no oral testimony was necessary or desired.

On December 12, 2000, the Board issued an Order approving the stipulation of facts (as corrected), granting the motion, and transferring the proceedings to the Board. The General Counsel and the Charging Parties filed briefs.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

United Parcel Service, Inc. (UPS) is an Ohio corporation, with places of business in Albuquerque, Grants, Clovis, and other places of business in New Mexico and other states of the United States, where it is engaged in small package distribution. During the 12-month period preceding the execution of the stipulation, UPS, in the course of its operations, derived gross revenues in excess of $50,000 from its transportation of products, goods, and materials in interstate commerce. At all material times, UPS has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

The Respondent, International Brotherhood of Teamsters, Local Union 492, and the Teamster United Parcel Service National Negotiating Committee (NNC) are labor organizations within the meaning of Section 2(5) of the Act.

[1] The caption and name of the Respondent in this case have been amended to reflect the disaffiliation of the Teamsters from the AFL–CIO effective July 25, 2005.

[2] Under Sec. 8(a)(3) and 8(b)(2) of the Act, an employer and a union may enter into a collective-bargaining agreement containing a union-security clause, i.e., a requirement that employees be union members as a condition of employment. In *General Motors*, however, the Supreme Court held that the only membership requirement that may be enforced under a union-security clause is the payment of uniform dues and fees. As the Court put it, "'membership' as a condition of employment is whittled down to its financial core." 373 U.S. at 742.

[3] In *Beck*, the Supreme Court held that the only union dues and fees a nonmember employee can be required to pay as a condition of employment are those for union expenditures related to collective bargaining, contract administration, and grievance adjustment. If a nonmember objects to paying for other, nonrepresentational expenditures, the union must reduce his or her dues and fees accordingly. 487 U.S. at 752–754.

[4] On September 22, 2000, the General Counsel filed a motion to correct the stipulated record by substituting certain documents for exhibits that were inadvertently included or incorrectly identified in the original stipulation. The Board granted the unopposed motion.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. Facts

Local 492 and NNC are the exclusive collective-bargaining representatives of UPS employees employed within Local 492's jurisdiction (the New Mexico unit). The New Mexico unit is described in the parties' collective-bargaining agreement, which was effective from August 1, 1997, through July 31, 2002. The 1997 agreement succeeded an earlier agreement, which was effective from August 1, 1993, through July 31, 1997.

By July 31, 1997, Local 492, NNC, and UPS had not reached a successor agreement. About August 1, employees of UPS went on strike. About August 20, a new agreement was reached, and the striking employees began to return to work. The new agreement was ratified about January 26, 1998, and was signed about February 6, 1998. Local 492, NNC, and UPS agreed to make the new agreement effective retroactive to the expiration date of the 1993–1997 agreement.

Both agreements contain the following union-security provision, which the Union has maintained and enforced at all material times:

> All present employees who are members of the Local Union on the effective date of this Subsection or on the date of execution of this agreement, whichever is later, shall remain members of the Local Union in good standing as a condition of employment. . . . All present employees who are not members of the Local Union and all employees who are hired hereafter, shall become and remain members in good standing of the Local Union as a condition of employment on and after the thirty-first (31st) day following the beginning of their employment or on and after the (31st) day following the effective date of this subsection, or the date of this Agreement, whichever is later. An employee who has failed to acquire, or thereafter to maintain membership in the Union, as herein provided, shall be terminated seventy-two (72) hours after the Employer has received written notice from an authorized representative of the Local Union certifying that membership has been, and is continuing to be offered to such employees on the same basis as all other members, and further, that the employee has had notice and opportunity to make all dues or initiation fee payments. This provision shall be made and becomes effective as of such time as it may be made and become effective under the provision of the National Labor Relations Act, but not retroactively.

At all material times, the Charging Parties were employees of UPS in New Mexico. At the beginning of the strike, all of the Charging Parties were members of Local 492 and had paid initiation fees. At that time, Local 492 had never informed them that they could be "financial core" members or that such members could file *Beck* objections and pay reduced dues and fees.

On various dates after the commencement of the strike, all of the Charging Parties except Smith resigned their membership in Local 492; several of them, including Smith, crossed the picket line and worked during the strike. Thus,

- Hadley mailed his resignation letter to Local 492 on August 13. He attempted to work after he resigned, and during the strike, but did not do so because no work was available.
- Fuller also mailed his resignation letter to Local 492 on August 13. In the letter, he objected to the Union's collection of dues and fees for nonrepresentational purposes. Fuller began working for UPS at approximately 3 p.m. on August 14 and continued to work throughout the strike.
- Hutchison returned to work on August 7 and continued to work throughout the strike. He mailed his resignation letter to Local 492 on August 11.[5]
- Hassey mailed his resignation letter to the Union on August 12. He returned to work at about 9 a.m. on August 13 and continued to work throughout the strike.
- Rose resigned his union membership in a letter dated August 14. On August 18, he crossed the picket line and went to work.
- Loomis mailed her resignation letter to the Union on August 18. About that same day, she went into a UPS facility in Albuquerque but did not work. She returned to work at the end of the strike.
- Danner mailed his resignation letter to the Union on August 13 and faxed another resignation letter to the Union on August 15. He did not work for UPS during the strike.
- Smith remained a member of the Union but worked throughout the strike. She resigned her employment at UPS in November 1997.

In letters dated August 22, 1997, Local 492's Secretary-Treasurer and agent Robert Younger acknowledged receiving the resignation letters of Hadley, Fuller, Hutchison, Hassey, Rose, Loomis, and Danner. Younger

[5] On August 6, Hutchison asked representatives of UPS whether he had to resign from the Union in order to work during the strike. On the basis of information he received, he did not resign before returning to work.

advised the employees that the Union considered their resignations to be effective as of August 22.

In about September, Hadley filed a *Beck* objection with the Union and requested a fee reduction. In late October or early November, Danner orally advised Younger of his *Beck* objection and requested a fee reduction. He also asked the Union what the amount of the reduced fees would be and how to obtain the reduction.

On November 14, Local 492, by Younger, sent letters to Hadley, Fuller, Hutchison, Hassey, Rose, Loomis, and Danner. The letters stated in part, "Please be advised that the strike is over and under Article 3 Section 2 of UPS/Teamsters Labor Agreement you must tender dues and initiation fees as uniformly required. Failure to do so may result in your termination." The letters also stated, "If you wish not to be a member of Teamsters Local 492 and wish to fall under the Supreme Court decision in *CWA v. Beck*, which is called 'financial core,' please let me know. I should tell you that under financial core you pay approximately two (2) dollars less than regular dues."

On December 3, Fuller, Hutchison, Hassey, and Rose sent a letter to the Union stating that they did not want to be union members but were willing to pay a representation fee pursuant to the union-security agreement. The letter continued:

> Please reply with the pro rata share of the union's cost of collective bargaining, contract administration and grievance adjustment as is our right under [*Beck*]. Pursuant to [citations omitted], we request that you provide us with our procedural rights, including: reduction of our fees to an amount that includes only lawfully chargeable costs; notice of the calculation of that amount, verified by an independent certified public accountant; and notice of the procedure that you have adopted to hold our fees in an interest-bearing escrow account and give us an opportunity to challenge your calculation and have it reviewed by an impartial decision maker.

On January 9, 1998, Younger informed Hadley, Fuller, Hutchison, Hassey, Rose, and Danner by letter that, pursuant to their *Beck* objections, their dues would be reduced by 20 percent. Younger also advised the employees that they had to pay the union initiation fee, as well as dues for September, October, November, and December 1997 and January 1998.

On January 26, Fuller, Hutchison, Hassey, and Rose informed the Union that they were willing to pay representation fees, agency fees, or shop fees, but protested having to pay initiation fees. They also reiterated their December 3 request for notification of their procedural rights.

The Union has failed to provide Hadley, Fuller, Hutchison, Hassey, Rose, and Danner with independently verified information about the major categories of its expenditures and those of other union bodies which receive a portion of the dues or agency fees. It has also failed to advise them whether the expenditures are chargeable or nonchargeable to *Beck* objectors and of their right to challenge the Union's calculation of the fee reduction.

Since about October 1998, the Union has used a revised membership application form for new employees in the New Mexico unit. The revised form addresses employees' *General Motors* and *Beck* rights. The Union also published notices discussing employees' *General Motors* and *Beck* rights in the November/December 1998 and January/February 1999 issues of the *Rocky Mountain Teamster*, the official bimonthly journal of Joint Council of Teamsters No. 3. Prior to the change in the application form in approximately October 1998, Local 492 failed to notify New Mexico unit employees of their *General Motors* right to resign and be only financial core members and that, if they do so, they may request a fee reduction under *Beck*.

Between December 22, 1997, and February 3, 1998, the Union informed Hadley, Fuller, Hutchison, Hassey, Rose, Loomis, and Smith by letter that internal union charges were filed against them on September 6 for allegedly crossing the picket line during the strike. The letters stated that the Union's executive board would hold hearings at which the charges would be considered. The Union had not previously notified unit employees of their *General Motors* rights. Local 492 has not advised the Charging Parties of the outcome of the hearings, if any, and has not imposed any fines on them.

B. Contentions of the Parties

The General Counsel and the Charging Parties contend that the Union violated Section 8(b)(1)(A) of the Act by failing to advise employees in the New Mexico unit of their *Beck* and *General Motors* rights; requiring them to pay new initiation fees after they had resigned; requiring them to pay dues for periods during which no union-security clause was in effect; and processing internal union charges against them after they had resigned. The General Counsel also contends that the Union violated Section 8(b)(1)(A) by failing to timely honor the Charging Parties' resignations and by failing to provide necessary information to the *Beck* objectors. The General Counsel and the Charging Parties further contend that, because the Union failed to inform the Charging Parties of their right to resign, it could not lawfully process in-

ternal union charges against them for crossing the picket line and working during the strike even before they resigned.[6]

C. Discussion

1. The *Beck* and *General Motors* notice allegations

In *California Saw & Knife Works*,[7] the Board held that if a union attempts to require unit employees to pay dues and fees as a condition of employment, the duty of fair representation requires the union first to notify the employees of their *General Motors* and *Beck* rights. 320 NLRB at 231. Specifically, the Board held that

> when or before a union seeks to obligate an employee to pay fees and dues under a union-security clause, the union should inform the employee that he has the right to be or remain a nonmember and that nonmembers have the right (1) to object to paying for union activities not germane to the union's duties as bargaining agent and to obtain a reduction in fees for such activities; (2) to be given sufficient information to enable the employee to intelligently decide whether to object; and (3) to be apprised of any internal union procedures for filing objections. If the employee chooses to object, he must be apprised of the percentage of the reduction, the basis for the calculation, and the right to challenge these figures.[8]

In *Paperworkers Local 1033 (Weyerhaeuser Paper)*,[9] the Board held that full union members must also be informed of their *Beck* and *General Motors* rights, if they have not previously received such notice, in order to be certain that they have voluntarily chosen union membership.

Although the Union maintained and enforced the contractual union-security provision, it failed until at least late 1998 to inform employees in the New Mexico unit of their *General Motors* and *Beck* rights. We therefore find, consistent with *California Saw* and *Weyerhaeuser*, that the Union violated Section 8(b)(1)(A) by failing to provide the requisite *Beck* and *General Motors* notices.

Fuller, Hadley, Danner, Hutchison, Hassey, and Rose resigned from the Union and filed *Beck* objections. Accordingly, the Union was required to inform them of the percentage by which their dues would be reduced, the basis for the calculation, and their right to challenge the Union's computations. *California Saw*, 320 NLRB at 233. The Board has also held that the information provided to *Beck* objectors must be independently verified. Id. at 240–242.

Here, the Union informed the *Beck* objectors that their dues would be reduced by 20 percent. However, it failed to provide them with independently verified information—or any information—about the basis for its calculations. It also failed to inform them of their right to challenge the Union's calculation of the fee reduction. In failing to provide that information, the Union violated Section 8(b)(1)(A).

2. The alleged failure to timely honor employees' resignations from the Union

The Board has held that Section 7 affords employees the right to resign from union membership at any time, and that this right cannot lawfully be restricted by the union. *Machinists Local 1414 (Neufeld Porsche-Audi)*, 270 NLRB 1330, 1336 (1984), approved in *Pattern Makers League v. NLRB*, 473 U.S. 95 (1985). Accordingly, when an employee resigns his union membership, the union must promptly give effect to the resignation. When an employee mails his resignation notice to the union, the effective time and date of the resignation is 12:01 a.m. local time the day after it is mailed. *Pattern Makers (Michigan Model Mfrs. Assn.)*, 310 NLRB 929, 930 (1993).

Hutchison mailed his resignation letter to the Union on August 11, 1997. Hassey mailed his resignation notice on August 12; Hadley, Fuller, and Danner mailed theirs on August 13; and Loomis mailed hers on August 18. Their resignations therefore were effective on August 12, 13, 14, and 19, respectively. The record does not reveal when Rose mailed his resignation letter. However, his letter is dated August 14, and the Union's letter recognizing his resignation states that it was received on August 15.

Nevertheless, the Union told the employees that it considered all of the above resignations to be effective on August 22. By failing to honor and give effect to the

---

[6] The complaint alleges that the Union violated Sec. 8(b)(1)(A) by maintaining and enforcing the union-security clause. We interpret this allegation as meaning that the Union could not lawfully maintain and enforce the union-security clause without informing unit employees of their *Beck* and *General Motors* rights, not that the clause is facially invalid. As the General Counsel acknowledges, the Supreme Court has held that such clauses are not facially unlawful, even though they require employees to be union "members in good standing" and do not explain employees' *General Motors* and *Beck* rights. *Marquez v. Screen Actors Guild*, 525 U.S. 33 (1998).

The complaint further alleges that the Union violated Sec. 8(b)(1)(A) by charging *Beck* objectors dues and fees for nonrepresentational expenditures. The Union denied this allegation in its answer to the complaint. Although the General Counsel reiterates the allegation in his brief, he provides no supporting facts or argument, and neither do the Charging Parties. We find that this allegation has been effectively abandoned, and we shall dismiss it.

[7] 320 NLRB 224, 231 (1995), enfd. sub nom. *Machinists v. NLRB*, 133 F.3d 1012 (7th Cir. 1998), cert. denied sub nom. *Strang v. NLRB*, 525 U.S. 813 (1998).

[8] Id. at 233 (footnote omitted).

[9] 320 NLRB 349, 349–350 (1995), revd. on other grounds sub nom. *Buzenius v. NLRB*, 124 F.3d 788 (6th Cir. 1997), vacated 525 U.S. 979 (1998).

employees' resignations in a timely manner, the Union further violated Section 8(b)(1)(A). See, e.g., *Oil Workers Local 1-591 (Texaco Refining)*, 283 NLRB 5 (1987).

3. The Union's attempts to obligate the Charging Parties to pay dues for periods during which no union-security provision was in effect and to pay additional initiation fees

After the strike ended, the Union attempted to obligate Hadley, Fuller, Hutchison, Hassey, Rose, Loomis, and Danner, on pain of termination, to pay dues for periods before the 1997 contract was executed in February 1998. The Board has held that a union may not require employees to pay union dues and fees, as a condition of employment, for periods in which no contractual union-security provision is in effect. *Teamsters Local 25 (Tech Weld Corp.)*, 220 NLRB 76, 77 (1975). Consistent with this reasoning, the Board has held that a union-security clause may not be applied retroactively, and therefore that a union cannot demand dues as a condition of employment for periods before the execution of the agreement. Id. Accordingly, the Union violated Section 8(b)(1)(A) by attempting to obligate the Charging Parties to pay dues for periods during which there was no union-security clause in effect, and by threatening them with discharge if they failed to do so.[10]

As stated above, the Union notified the Charging Parties (except for Smith) that they were required to pay initiation fees after the strike ended. However, all of the Charging Parties had paid initiation fees prior to the strike. All of them except Smith resigned their union memberships during a period of time in which there was no extant union-security provision, and therefore they had no duty to pay union dues for those periods. Except for Loomis, none of the Charging Parties who resigned from the Union left the employment of UPS. (Loomis did not work for UPS from 1993 to 1995, but remained a union member and was still a member when she returned to work for UPS.) The Board has held that, when an employee who has previously paid a union initiation fee resigns his union membership but continues to meet his responsibilities as a financial core member and maintains his status as a bargaining unit employee, the imposition of an additional initiation fee as a condition of employment unlawfully penalizes the employee for exercising his Section 7 right to resign. *Office Employees Local 2 (Washington Gas)*, 292 NLRB 117, 118–119 (1988), enfd. 902 F.2d 1164 (4th Cir. 1990). The employees here resigned, and, because there was no existing contract containing a union-security clause during the relevant period, they had no responsibilities as financial core members during that period. The Union therefore violated Section 8(b)(1)(A) by requiring the Charging Parties to pay additional initiation fees and by threatening them that failure to pay might lead to their termination.

4. The processing of internal union charges

Because a union may not attempt to restrict employees' exercise of their right to resign from union membership, any attempt to impose internal union discipline on an employee after he resigns from the union is an unlawful restriction on his right to resign. *Pattern Makers League*, 473 U.S. at 100; *Machinists Local 1414 (Neufeld Porsche-Audi)*, 270 NLRB at 1336. Thus, a union may not attempt to discipline an employee for crossing a picket line and working during a strike after he has resigned from the union. Id.

After resigning from the Union, Fuller, Hassey, and Rose crossed the picket line and worked during the strike. Hutchison crossed the picket line and went to work before he resigned, and continued to work after mailing his resignation letter. Hadley and Loomis also resigned their union memberships, but did not work during the strike, although Loomis did cross the picket line the day she mailed her resignation letter. The Union advised those employees that it was processing internal union charges against them for crossing the picket line during the strike.

To the extent that the internal charges were based on the Charging Parties' having crossed the picket line after they resigned their union membership, the Union violated Section 8(b)(1)(A) by processing the charges and informing the employees that it was doing so. *Machinists Local 1414 (Neufeld Porsche-Audi)*, 270 NLRB at 1336. It is immaterial that, so far as the record shows, no discipline was actually imposed; the notification of the charges itself has a restraining and coercive effect. *Oil Workers Local 6-578 (Gordy's, Inc.)*, 238 NLRB 1227, 1231, 1232 (1978), enfd. 619 F.2d 708 (8th Cir. 1980).

CONCLUSIONS OF LAW

1. United Parcel Service (UPS) is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union and NNC are labor organizations within the meaning of Section 2(5) of the Act.

3. The Union violated Section 8(b)(1)(A) of the Act:

- by failing to advise employees in the New Mexico unit of their *Beck* and *General Motors* rights while maintaining and enforcing a union-security clause;

[10] That the Union and UPS agreed to make the contract effective retroactive to the expiration date of the 1993 agreement does not validate the Union's actions. See *Tech Weld Corp.*, supra. In any event, the union-security clause clearly states that it will not be effective retroactively.

- by failing to provide *Beck* objectors with independently verified information concerning its major categories of expenditures and those of other union bodies that receive a portion of union dues and agency fees, including whether the expenditures are chargeable or nonchargeable and their right to challenge the calculations;
- by failing to timely recognize and honor employees' resignations from union membership;
- by attempting to obligate employees to pay union dues, as a condition of employment, for periods during which no union-security clause was in effect, and by informing them that failure to pay the dues may result in termination;
- by charging employees additional initiation fees because they resigned their membership in the Union, and by informing them that failure to pay the fees may result in termination;
- by processing internal union charges against employees for conduct occurring after they resigned their union membership.

4. The Union did not otherwise violate the Act as alleged in the complaint.

REMEDY

Having found that the Union violated Section 8(b)(1)(A) of the Act, we shall order it to cease and desist and to take certain affirmative action necessary to effectuate the policies of the Act. Specifically, we shall order the Union to recognize and honor the Charging Parties' resignations effective 12:01 a.m. on the day after they were mailed or, in Rose's case, on the date of receipt. We shall also order the Union to rescind its demand that, as a condition of employment, the Charging Parties pay dues for periods in which no union-security provision was in effect and that they pay additional initiation fees.

To remedy the Union's failure to inform unit employees of their *General Motors* and *Beck* rights, we shall order the Union to provide the required notices to all unit employees.[11] The Union will have the opportunity to show, in compliance proceedings, that it provided appropriate notices in October 1998 or thereafter.[12] In addition, we shall order the Union to provide appropriate notices to the Charging Parties who filed *Beck* objections.

We shall also order the Union to notify in writing those employees whom it initially sought to obligate to pay dues or fees under the union-security clause on or after June 5, 1997,[13] of their right to elect nonmember status and to file *Beck* objections with respect to one or more of the accounting periods covered by the complaint. With respect to any such employees who, with reasonable promptness after receiving the notices, elect nonmember status and file *Beck* objections for any one of those periods, we shall order the Union, in the compliance stage of the proceeding, to process their objections, nunc pro tunc, as it otherwise would have done, in accordance with the principles of *California Saw*. The Union shall then be required to reimburse the objecting nonmembers for the reduction, if any, in their dues and fees for nonrepresentational activities that occurred during the accounting period or periods covered by the complaint in which they have objected. See, e.g., *Paperworkers Local 987 (Sun Chemical Corp. of Michigan)*, 327 NLRB 1011, 1012 (1999).

To remedy its unlawful processing of internal union charges against the Charging Parties for conduct occurring after their resignations, we shall order the Union to cancel, withdraw, and rescind the charges and any fines or other disciplinary action it may have taken against them. We shall also order the Union to expunge all records documenting the disciplinary proceedings against the Charging Parties, notify them in writing that this has been done, and reimburse them for any legal expenses they may have incurred in defending against the disciplinary actions.[14]

The General Counsel and the Charging Parties also contend that because the Union failed to inform the Charging Parties of their right to resign, it was not entitled to process charges against the employees even for conduct that occurred *before* their resignations. They note that, in *Rochester Mfg. Co.*, 323 NLRB 260 (1997), affd. (mem.) sub nom. *Cecil v. NLRB*, 194 F.3d 1311 (6th Cir. 1999), cert. denied 529 U.S. 1066 (2000), the Board ordered the union, which had failed to provide *General Motors* and *Beck* notice to unit employees, to allow all unit employees to resign and file *Beck* objections retroactively for any accounting period covered by the complaint. The Board reasoned that, had the employees known of their right to resign and, if they resigned, to file objections, they might have done so earlier. The remedy devised was intended to restore those

[11] The General Counsel does not argue that the *initial Beck* notices must inform all employees of the percentage of dues/fees that will be charged to objectors. Accordingly, we do not pass on that issue.

[12] See, e.g., *Rochester Mfg. Co.*, 323 NLRB 260, 263 (1997), affd. mem. sub nom. *Cecil v. NLRB*, 194 F.3d 1311 (6th Cir. 1999), cert. denied 529 U.S. 1066 (2000).

[13] June 5, 1997, is the date 6 months before the initial charge was filed; see Sec. 10(b) of the Act.

[14] See *Pattern Makers (Michigan Model Mfrs. Assn.)*, 310 NLRB at 932.

employees to the status they would have elected had they received the required notices.

Analogizing to *Rochester*, the General Counsel and the Charging Parties contend that, had the Charging Parties been told that they could resign, Smith might have resigned, and Hutchison and Loomis might have done so earlier, before they crossed the picket line. Thus, they continue, the Charging Parties should have the right to resign retroactively to the beginning of the 10(b) period (which preceded the strike), and that those who do should not be subject to union discipline if their retroactive resignations predate their crossing the picket line. There would be an affirmative obligation to rescind any discipline that might be imposed. We find merit in the General Counsel's and the Charging Parties' contentions. Accordingly, we shall grant the requested remedy.[15]

Finally, any amounts to be reimbursed under our Order will be with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

ORDER

The National Labor Relations Board orders that the Respondent, International Brotherhood of Teamsters, Local Union 492, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Failing to inform employees whom it seeks to obligate to pay dues and fees under a union-security clause of their right under *NLRB v. General Motors Corp.*, 373 U.S. 734 (1963), to be and remain nonmembers, and of the rights of nonmembers under *Communications Workers v. Beck*, 487 U.S. 735 (1988), to object to paying for union activities not germane to the Union's duties as bargaining agent, and to obtain a reduction in dues and fees for such activities.

(b) Failing to inform objecting nonmembers of the basis for its calculation of the percentage reduction in dues and fees for union activities for objectors, and their right to challenge the figures.

(c) Failing to recognize and give effect to employees' resignations from union membership in a timely fashion.

(d) Demanding that employees pay union dues, as a condition of employment, for periods of time in which no valid union-security provision is in effect, and threatening them that failure to pay may result in termination.

(e) Demanding that employees who have paid initiation fees and later have resigned from union membership pay additional initiation fees as a condition of employment because they resigned, and threatening them that failure to pay may result in termination.

(f) Processing internal union charges against employees for conduct occurring after they resigned their union membership.

(g) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

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

(a) Give full effect to the resignations from union membership of Monte Hadley, Joe B. Fuller, John E. Hutchison, David Hassey, Nina L. Loomis, and Gary L. Danner as of 12:01 a.m. the day following the mailing of their resignations, and give full effect to the resignation of Wesley Zane Rose the day his resignation was actually received.

(b) Rescind its demand that, as conditions of employment, Hadley, Fuller, Hutchison, Hassey, Rose, Loomis, and Danner pay union dues for periods not covered by a contractual union-security clause and that they pay additional union initiation fees because they resigned.

(c) Notify, in writing, all bargaining unit employees of their right to be and remain nonmembers, and of the rights of nonmembers to object to paying for union activities not germane to the Union's duties as bargaining agent, and to obtain a reduction in dues and fees for such activities. In addition, this notice must include sufficient information to enable employees intelligently to decide whether to object, as well as a description of any internal union procedures for filing objections.

(d) For each accounting period since June 5, 1997, provide Hadley, Fuller, Hutchison, Hassey, Rose, and Danner with verified information setting forth the Union's major categories of expenditures for the previous accounting year, distinguishing between representational and nonrepresentational functions, and the percentages of each category and of its total expenditures that it considers chargeable and nonchargeable, and informing them of their right to challenge the Union's figures.

[15] Although Hutchison initially crossed the picket line before he resigned, he continued to work after resigning. Thus, any attempt to discipline Hutchison for working after resigning was unlawful, even if he does not opt to resign retroactively and avoid discipline altogether.

In Member Liebman's view, a request for this remedy in a case where it is contested might raise difficult issues. However, in the absence of opposition by the Union, Member Liebman agrees to grant the requested remedy in this case. In so doing, she emphasizes that the grant of this relief does not create any additional affirmative obligation by a union, apart from its *General Motors* and *Beck* obligations, to give notice to members of their right to resign.

The Charging Parties argue that employees should also be able to retroactively revoke their dues checkoff authorization. We find no merit in this contention, which we find is not properly before the Board. The General Counsel makes no such argument, and there is no complaint allegation, admission, or stipulation that any unit employee has ever signed a dues checkoff authorization.

(e) Notify in writing those employees whom the Union initially sought to obligate to pay dues or fees under the union-security clause on or after June 5, 1997, of their right to elect nonmember status and to file *Beck* objections with respect to one or more of the accounting periods covered by the complaint.

(f) With respect to any employees who, with reasonable promptness after receiving the notices prescribed in paragraph 2(e), elect nonmember status and file *Beck* objections, process their objections in the manner set forth in the remedy section of this decision.

(g) Reimburse with interest any nonmember unit employees who file *Beck* objections with the Union for any dues and fees exacted from them for nonrepresentational activities, in the manner set forth in the remedy section.

(h) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all records, including an electronic copy of such records if stored in electronic form, necessary to verify the amounts of back dues and fees to be paid to bargaining unit employees covered by paragraph 2(g).

(i) Inform Loomis, Hutchinson, and Cheryl Smith of their right to resign their union membership retroactively, effective prior to the strike which commenced about August 1, 1997, and thereby to avoid internal union discipline for crossing the picket line during the strike.

(j) Cancel, withdraw, and rescind the internal union charges against Hadley, Fuller, Hutchison, Hassey, and Rose that are based on conduct occurring after they resigned their union membership, as well as the charges against Loomis, Hutchinson, and Smith if they elect to resign retroactively as provided in paragraph 2(i), and any fines or other disciplinary action it may have taken against them as a result of those charges.

(k) Expunge all records documenting the Union's processing of the internal union charges discussed in paragraph 2(j), and notify the employees in writing that this has been done.

(l) Reimburse Hadley, Fuller, Hutchison, Hassey, and Rose, as well as Loomis, Hutchinson, and Smith if they elect to resign retroactively as provided in paragraph 2(i), for any legal expenses they may have incurred in defending against the internal union charges discussed in paragraph 2(j).

(m) Within 14 days after service by the Region, post at its offices and meeting halls copies of the attached notice marked "Appendix."[16] Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees and members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(n) Sign and return to the Regional Director sufficient copies of the notice for posting by United Parcel Service, if willing, at all places where notices to employees are customarily posted.

(o) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 31, 2006

_____

Robert J. Battista, Chairman

_____

Wilma B. Liebman, Member

_____

Peter C. Schaumber, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES AND MEMBERS
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 on your behalf with your employer

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail to inform employees whom we seek to obligate to pay dues and fees under a union-security

[16] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

clause of their right under *NLRB v. General Motors Corp.*, 373 U.S. 734 (1963), to be and remain nonmembers, and of the rights of nonmembers under *Communications Workers v. Beck*, 487 U.S. 735 (1988), to object to paying for union activities not germane to our duties as bargaining agent, and to obtain a reduction in dues and fees for such activities.

WE WILL NOT fail to inform objecting nonmembers of the basis for our calculation of the percentage reduction in dues and fees for union activities for objectors, and their right to challenge our figures.

WE WILL NOT fail to recognize and give effect to employees' resignations from union membership in a timely fashion.

WE WILL NOT demand that employees pay union dues, as a condition of employment, for periods of time in which no valid union-security provision is in effect, and threaten them that failure to pay may result in termination.

WE WILL NOT demand that employees who have paid initiation fees and later have resigned from union membership pay additional initiation fees as a condition of employment because they resigned, and threaten them that failure to pay may result in termination.

WE WILL NOT process internal union charges against employees for conduct occurring after they resigned their union membership.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights listed above.

WE WILL give full effect to the resignations from union membership of Monte Hadley, Joe B. Fuller, John E. Hutchison, David Hassey, Nina L. Loomis, and Gary L. Danner as of 12:01 a.m. the day following the mailing of their resignations, and give full effect to the resignation of Wesley Zane Rose on the day his resignation was actually received.

WE WILL rescind our demand that, as a condition of employment, Hadley, Fuller, Hutchison, Hassey, Rose, Loomis, and Danner pay union dues for periods not covered by a contractual union-security clause and that they pay additional union initiation fees because they resigned.

WE WILL notify, in writing, all bargaining unit employees of their right to be and remain nonmembers, and of the rights of nonmembers to object to paying for union activities not germane to our duties as bargaining agent, and to obtain a reduction in dues and fees for such activities. In addition, this notice will include sufficient information to enable employees intelligently to decide whether to object, as well as a description of any internal union procedures for filing objections.

WE WILL, for each accounting period since June 5, 1997, provide Hadley, Fuller, Hutchison, Hassey, Rose, and Danner with verified information setting forth our major categories of expenditures for the previous accounting year, distinguishing between representational and nonrepresentational functions, and the percentages of each category and of its total expenditures that we consider chargeable and nonchargeable, and informing them of their right to challenge our figures.

WE WILL notify in writing those employees whom we initially sought to obligate to pay dues or fees under the union-security clause on or after June 5, 1997 of their right to elect nonmember status and to file *Beck* objections with respect to one or more of the accounting periods covered by the complaint.

WE WILL, with respect to any employees who, with reasonable promptness after receiving the notices prescribed above, elect nonmember status and file *Beck* objections, process their objections in the manner set forth in the Board's decision.

WE WILL reimburse with interest any nonmember unit employees who file *Beck* objections for any dues and fees exacted from them for nonrepresentational activities, in the manner set forth in the Board's decision.

WE WILL inform Loomis, Hutchinson, and Cheryl Smith of their right to resign their union membership retroactively, effective prior to the strike which commenced about August 1, 1997, and thereby to avoid internal union discipline for crossing the picket line during the strike.

WE WILL cancel, withdraw, and rescind the internal union charges against Hadley, Fuller, Hutchison, Hassey, and Rose that are based on conduct occurring after they resigned their union membership, as well as the charges against Loomis, Hutchinson, and Smith if they elect to resign retroactively as provided above, and any fines or other disciplinary action we may have taken against them as a result of those charges.

WE WILL expunge all records documenting our processing of the internal union charges discussed above, and notify those employees in writing that this has been done.

WE WILL reimburse Hadley, Fuller, Hutchison, Hassey, and Rose, as well as Loomis, Hutchinson, and Smith if they elect to resign retroactively as provided above, for any legal expenses they may have incurred in defending against the internal union charges discussed above.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL UNION 492