**MCPc, Inc. *and* Jason Galanter.** Case 06–CA–063690

May 23, 2019

## SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN RING AND MEMBERS MCFERRAN AND KAPLAN

On February 6, 2014, the National Labor Relations Board issued a decision in this case, finding that the Respondent violated Section 8(a)(1) of the National Labor Relations Act by terminating employee Jason Galanter for engaging in protected concerted activity, during a team-building lunch with several other employees and Director of Engineering Dominic Del Balso, by raising concerns about the employees' heavy workloads and urging Del Balso to hire additional engineers to ease those workloads.[1] Galanter also stated that the Respondent could have hired additional engineers for the $400,000 salary it was paying to a recently hired executive.

Thereafter, the Respondent filed a petition for review in the United States Court of Appeals for the Third Circuit, and the Board filed a cross-application for enforcement. On review, the court agreed with the Board that Galanter engaged in protected concerted activity during the team-building lunch, but found that the Board erred by failing to apply *Wright Line* in determining the lawfulness of Galanter's discharge.[2] Specifically, the court found that the Board had not adequately considered evidence supporting the Respondent's assertions that it discharged Galanter for improperly obtaining confidential salary information and for being dishonest during the Respondent's investigation into his comments at the team-building lunch.[3] The court thus vacated and remanded this portion of the Board's decision for the Board to consider whether Galanter's protected concerted activity or the Respondent's belief that Galanter engaged in misconduct or dishonesty formed the basis for the discharge.

On April 28, 2016, the Board notified the parties that it had accepted the court's remand and invited them to file statements of position with respect to the issues raised by the remand. The General Counsel and the Respondent each filed a statement of position.

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

Having accepted the remand, we accept the court's opinion as the law of the case. We have thus considered the lawfulness of Galanter's discharge under *Wright Line*. Having done so, we reaffirm, for the reasons set forth below, that the Respondent violated Section 8(a)(1) by discharging Galanter for his protected concerted activity during the team-building lunch.

### I. BACKGROUND

On February 24, 2011,[4] Del Balso visited the Respondent's Pittsburgh, Pennsylvania office, where Galanter worked. Del Balso invited available engineers, including Galanter, to attend a "team building" lunch. At the lunch, the attendees discussed the engineers' excessive workloads. Galanter told Del Balso that he was working many hours a week, and he urged Del Balso to hire additional engineers to alleviate the employees' heavy workloads. Galanter added that rather than spending $400,000 on a new executive, the Respondent should have hired more engineers. Several other employees agreed with these sentiments.

About a week later, Galanter's supervisor directed him to attend a meeting at the Respondent's Strongsville, Ohio headquarters. On March 4, Galanter traveled to Strongsville, where he was met by CEO Michael Trebilcock and the vice president of human resources. Trebilcock asked Galanter how he had learned the salary information that he discussed at the February 24 team-building lunch. As the court found, Galanter first asserted that no one had provided him with anyone's salary information and then gave several "purposely vague and evasive" explanations, including that he learned the information through "water cooler" talk or Internet research.[5] *MCPc, Inc.*, above, 813 F.3d at 491−492; see

[1] *MCPc, Inc*., 360 NLRB 216 (2014).

[2] 251 NLRB 1083 (1980), enfd. 662 F.2d 889 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983).

[3] *MCPc, Inc. v. NLRB*, 813 F.3d 475 (3d Cir. 2016).

[4] All dates are in 2011, unless otherwise noted.

[5] Trebilcock denied that Galanter asserted that the salary information came from the Internet.

At the hearing, the General Counsel introduced as GC Exhibit 6 a printout of a webpage Galanter described as the source of his information about the executive's $400,000 salary. The webpage showed salary information for the executive's former employer, and Galanter testified that he was able to estimate the executive's salary based on publicly available information such as that shown on the printout. The court questioned how Galanter could have accessed the website in February 2011 when the printout bore a 2012 copyright date. *MCPc*, above, 813 F.3d at 492. While GC Exh. 6 bears a 2012 copyright date, it also states that the data was last updated on February 1, 2011. The most likely explanation for this apparent inconsistency is that February 1, 2011, was the date when the salary data on the webpage was last updated, whereas the 2012 copyright date referred to the website as a whole. Indeed, the webpage bore copyright dates of 2013, 2014, 2015, and 2016 during those years while the data displayed there remained unchanged, indicating that the copyright date does not necessarily reflect the date when the data became accessible on the webpage. See

also *MCPc, Inc*., 360 NLRB at 221 fn. 23. Under further questioning, Galanter claimed that he might have heard the information from two employees in the Buffalo office. Trebilcock contacted the Buffalo office and spoke with one of the employees named by Galanter, who denied providing Galanter with the salary information.[6] Trebilcock then presented to Galanter a printout that showed Galanter had unusual access to the Respondent's computer systems, and he accused Galanter of disclosing executive Peter DeMarco's salary. Galanter claims to have told Trebilcock that he had been referring to a different executive[7] and insisted that his access was appropriate to the project on which he was working.[8] Trebilcock then told Galanter that the Respondent and Galanter needed to "divorce" and terminated him. The Respondent did not provide Galanter with a written explanation for his termination. In the statement of position it provided to the Region during the unfair labor practice investigation, the Respondent stated that it terminated Galanter for "accessing and disseminating confidential salary information" in violation of the Respondent's confidentiality policy. That policy provides, in relevant part, that "idle gossip or dissemination of confidential information within MCPc, such as personal or financial information, etc. will subject the responsible employee to disciplinary action or possible termination."

Before the judge, the General Counsel asserted that the Respondent's confidentiality rule was unlawfully overbroad. The General Counsel also argued that Galanter's discharge violated Section 8(a)(1) of the Act under two different theories. First, he contended that the Respondent discharged Galanter for his protected concerted activity at the team-building lunch. Second, he argued that the discharge was unlawful under *Continental Group, Inc.*, 357 NLRB 409 (2011), as the Respondent discharged Galanter pursuant to an unlawfully overbroad confidentiality rule and failed to show that Galanter's conduct interfered with his or other employees' work or the Respondent's operations. The judge first found that the Respondent violated Section 8(a)(1) by maintaining the confidentiality policy. He then found that the Respondent violated Section 8(a)(1) by discharging Galanter both for his protected concerted activity at the team-building lunch and pursuant to the Respondent's unlawful confidentiality rule. The judge rejected the Respondent's argument, under *NLRB v. Burnup & Sims, Inc.*, 379 U.S. 21 (1964), that it discharged Galanter on a good-faith belief that he improperly accessed the files containing DeMarco's salary information and because he lied to Trebilcock during the investigation. The judge also rejected the Respondent's assertion that *Wright Line* was applicable to the facts of this case and found that, even if it was, the Respondent's proffered reason for Galanter's discharge was pretextual.

The Board agreed with the judge that Galanter engaged in protected concerted activity at the team-building lunch and that the Respondent violated Section 8(a)(1) by discharging him for that activity.[9] In so doing, the Board rejected the Respondent's argument that Galanter's discharge was lawful under *Burnup & Sims*, finding that precedent to be inapplicable because there was no contention that Galanter engaged in misconduct during the course of his protected concerted activity. Further, the Board noted that the Respondent did not except to the judge's rejection of its argument that Galanter's discharge was lawful under *Wright Line*.

---

Wayback Machine Archive of CompanyPay.com Page for Mtm Technologies, Inc., https://web.archive.org/web/20131023034210/http://www.companypay.com/executive/compensation/mtm-technologies-inc.asp?yr=2008 (archived Oct. 23, 2013) (use the arrows in the bar at the top of the page to view pages archived April 9 and July 7, 2014; September 21, 2015; and November 13, 2016); see *Erickson v. Nebraska Machinery Co.*, No. 15-cv-01147-JD, 2015 WL 4089849, at *1 fn. 1 (N.D. Cal. July 6, 2015) ("Courts have taken judicial notice of the contents of web pages available through the Wayback Machine as facts that can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned."). Accordingly, it is plausible that the salary data was available to Galanter on the website prior to the team-building lunch.

[6] Trebilcock subsequently spoke with the second employee, who also denied providing Galanter with the information.

[7] Galanter testified that he was referring to the salary of MCPc executive Andy Jones, but the judge credited a coworker's testimony that Galanter discussed DeMarco's salary based on the "spontaneity and detail of [the coworker]'s testimony." *MCPc*, 360 NLRB at 220 fn. 16. Although we find it unnecessary to revisit the judge's credibility determination, we note that his stated rationale for crediting the coworker's testimony was unimpressive. Far from being spontaneous, the coworker could remember almost nothing about the lunch before refreshing his recollection by reviewing an affidavit he provided during the Board's investigation of the charge.

[8] It appears from the record that Galanter in fact had access rights to the Respondent's confidential information. Galanter testified that his access was appropriate and related to the project on which he was working. The Respondent could not determine from its available data how Galanter obtained the access rights he had or whether he had in fact exercised those rights to obtain confidential salary information.

[9] The Board also adopted the judge's finding that the Respondent violated Sec. 8(a)(1) by maintaining the confidentiality policy. However, in light of its finding that the Respondent discharged Galanter for his protected concerted activity, the Board found it unnecessary to reach the judge's alternative rationale that Galanter's discharge was unlawful under *Continental Group* because it was pursuant to the unlawful confidentiality policy. *MCPc*, 360 NLRB at 217 fn. 7. In enforcing the Board's order in part, the court found that the Respondent's confidentiality policy was overbroad in violation of the Act. See *MCPc, Inc. v. NLRB*, above, 813 F.3d at 487.

## II. THE THIRD CIRCUIT'S OPINION

The court agreed with the Board that Galanter engaged in protected concerted activity when he raised the engineer shortage at the team-building lunch. *MCPc*, above, 813 F.3d at 487. It found, however, that the Board erred by failing to apply *Wright Line* to determine if the Respondent violated Section 8(a)(1) by discharging Galanter for this activity. In this regard, the court found that significant evidence in the record supported the Respondent's contention that it discharged Galanter for improperly obtaining confidential information and for his dishonesty in responding to Trebilcock's questions about where he obtained the salary information discussed at the team-building lunch. Id. at 491. Because the Respondent contended that Galanter was discharged for reasons unrelated to his protected concerted activity, the court held that the "mixed motive" or "dual motive" test set forth in *Wright Line* is the appropriate test for assessing the lawfulness of Galanter's discharge.[10] Under *Wright Line*, the court stated that once the General Counsel showed an improper motive for Galanter's discharge, the remaining question was whether Galanter would have been discharged for his misconduct and/or dishonesty regardless of the Respondent's unlawful motivation. Reviewing the record evidence, the court found "significant countervailing evidence" indicating that the Respondent would have discharged Galanter regardless of his protected concerted activity because it believed he engaged in improper data access, dishonesty, or both. Id. at 493.

Nonetheless, the court determined that a remand was warranted for the Board to reweigh the evidence under *Wright Line* to determine whether Galanter's protected concerted activity at the team-building lunch or the Respondent's belief that Galanter engaged in misconduct or dishonesty formed the basis for his discharge. Id. The court observed that a remand was appropriate so that the Board could consider the Respondent's "expectations regarding employee integrity and honesty as set forth in its policies, as well as its past practices in imposing disciplinary measures for misconduct or dishonesty of the kind alleged here." Id. at 493. The court also stated that the Board "may consider MCPc's original position statement, which asserted that MCPc terminated Galanter for disclosing confidential salary information, and which the Board's General Counsel cites as a clear admission as to the real reason for Galanter's discharge." Id. at 493 fn. 13. Finally, in remanding the case to the Board, the court stated that it did not "suggest what conclusion the Board should reach, in applying the correct test, as to whether Galanter was discharged for engaging in protected activity." Id.

[10] The court agreed with the Board that *Burnup & Sims*, above, is not the correct test for analyzing whether Galanter's discharge was unlawful. Id. at 489.

## III. DISCUSSION

As noted above, we have accepted as the law of the case the court's conclusion that *Wright Line* is the appropriate legal test to apply in this case.[11] As set forth more fully below, applying *Wright Line*, we again find that Galanter was discharged in violation of Section 8(a)(1). In particular, we find that the record supports a conclusion that the Respondent's proffered reasons for Galanter's discharge were pretextual.

In cases that turn on an employer's motive, the Board employs the test set forth in *Wright Line*. Under that framework, the General Counsel must first show, by a preponderance of the evidence, that an employee's protected or union activities were a motivating factor in the employer's decision to take adverse action against the employee. See, e.g., *Mesker Door, Inc.*, 357 NLRB 591, 592 (2011). We read the court's decision as finding that the General Counsel satisfied his initial burden under *Wright Line*. Therefore, on remand, our analysis is limited to determining whether the Respondent sustained its defense burden. See, e.g., *MCPc*, above, 813 F.3d at 491 ("Once the General Counsel showed an improper motivation for Galanter's discharge, all that remained was for the ALJ to determine whether Galanter would have been fired on account of his alleged misconduct regardless of any forbidden motivation.").[12] Accordingly, we proceed

[11] We agree, of course, that *Wright Line* is the applicable test in "mixed motive" or "dual motive" cases. In the initial decision, the Board found that the Respondent had failed to except to the administrative law judge's rejection of the Respondent's argument that Galanter's discharge should be analyzed under *Wright Line*. *MCPc*, 360 NLRB at 217 fn. 8. The court acknowledged the Board's finding but concluded that the Respondent had sufficiently preserved its argument. *MCPc*, above, 813 F.3d at 490 fn. 12.

[12] In any event, for the following reasons, Members McFerran and Kaplan find that the General Counsel met his initial burden. The Respondent's animus toward Galanter's protected discussion of salary information at the team-building lunch is evidenced by the timing of his discharge soon thereafter. Further, the Respondent's statements linked his discharge to this discussion. The Respondent expressed dismay at the salary information "getting out" and, in subsequent communications with the General Counsel during the unfair labor practice investigation and in its answer to the complaint, the Respondent asserted that Galanter was discharged for disclosing salary information of another employee during the lunch. Moreover, because the Respondent's position statement to the Board on remand abandoned the rationale that Galanter was discharged for improperly obtaining confidential information, the question whether Galanter disclosed confidential wage information in a manner that would lose the Act's protection is not before us. See *Ridgely Mfg. Co.*, 207 NLRB 193, 196−197 (1973) (employees are protected when they use for self-organizational purposes information they obtain in the normal course of business but are unprotected when

to determine whether the Respondent sustained its *Wright Line* defense.

Under *Wright Line*, once the General Counsel makes the required initial showing, the burden then shifts to the employer to show that it would have taken the same action even in the absence of the employee's protected activity. See, e.g., *Libertyville Toyota*, 360 NLRB 1298, 1301 (2014), enfd. sub nom. *AutoNation, Inc. v. NLRB*, 801 F.3d 767 (7th Cir. 2015). But where the record demonstrates that the employer's proffered reasons "are pretextual—that is, either false or not in fact relied upon—the [employer] fails by definition to show that it would have taken the same action for those reasons, absent the protected conduct, and thus there is no need to perform the second part of the *Wright Line* analysis." *Golden State Foods Corp.*, 340 NLRB 382, 385 (2003) (citing *Limestone Apparel Corp*., 255 NLRB 722 (1981), enfd. 705 F.2d 799 (6th Cir. 1982)). Here, we find that the Respondent's proffered reasons for discharging Galanter were pretextual.

A review of the stated reasons the Respondent has provided for Galanter's discharge at the time of the discharge and subsequently over the course of this proceeding discloses the following. Prior to the initiation of the instant case, the Respondent did not provide Galanter with any specific reason for his termination. In its position statement to the Board during the unfair labor practice investigation, the Respondent asserted for the first time that it discharged Galanter for accessing and disseminating confidential salary information and cited its confidentiality policy.[13] The Respondent maintained this position in its answer to the complaint,[14] and, at the opening of the proceedings before the judge, it continued to assert that Galanter was discharged because he violated the Respondent's confidentiality policy. In its posthearing brief to the judge, however, the Respondent claimed, for the first time, that Galanter was discharged both for violating the Respondent's confidentiality policy and for being dishonest during the investigation. After the judge found that the Respondent's confidentiality policy violated Section 8(a)(1) and despite its earlier contentions, the Respondent asserted on exceptions that Galanter's discharge was "unrelated to its confidentiality policy." Instead, the Respondent argued that Galanter was discharged because he disclosed confidential salary information and then, during the Respondent's investigation into his conduct, lied about where he obtained that information. The Respondent largely maintained this position during the appellate proceedings before the court, albeit with its primary rationale for the discharge seeming to shift to Galanter's purported dishonesty. *MCPc*, above, 813 F.3d at 487 fn. 9 (court noting the Respondent's emphasis on Galanter's alleged dishonesty). Finally, in its position statement to the Board on remand, the Respondent abandoned the rationale that Galanter was discharged for improperly obtaining confidential information and asserted that its decision to terminate Galanter "was based solely on his dishonesty." Indeed, the Respondent now characterizes Galanter's alleged improper access to the salary information as "the ultimate 'red herring.'"

From this discussion, it is clear that the Respondent's stated reasons for Galanter's discharge have shifted several times, seemingly in response to perceived negative rulings from the judge, the Board, or the court.[15] In these circumstances, we find that the shifting rationales provided by the Respondent support a conclusion that the proffered reasons for Galanter's discharge – his purported dishonesty and the Respondent's belief that he improperly accessed confidential information – are pretextual.[16] See, e.g., *GATX Logistics, Inc.*, 323 NLRB 328, 335 (1997) (when an employer provides inconsistent or shifting reasons for its actions, a reasonable inference can be drawn that the reasons proffered are mere pretexts designed to mask an unlawful motive), enfd. mem. 165 F.3d 32, published in full 160 F.3d 353 (7th Cir. 1998). Consequently, we find that the Respondent has necessarily failed to meet its *Wright Line*

they "surreptitiously" obtain confidential company records), enfd. 510 F.2d 185 (D.C. Cir. 1975).

[13] The Respondent submitted its position statement before Galanter amended his charge to allege that the Respondent violated Sec. 8(a)(1) by maintaining an overly broad confidentiality rule.

[14] In its answer to the complaint, the Respondent asserted that "Galanter was terminated for improperly obtaining and/or disclosing confidential salary information of another employee."

[15] Indeed, at the hearing before the administrative law judge, the Respondent described its assertions regarding the reasons for Galanter's discharge as a "developing defense."

[16] The basis for our finding of pretext here is different from the judge's basis for finding pretext, which was subsequently rejected by the court as unsupported by the record. *MCPc*, above, 813 F.3d at 492-493. Specifically, the court found that the judge arrived at his pretext determination by crediting Galanter over Trebilcock despite finding that Galanter gave "purposefully vague and evasive" answers to Trebilcock, misrepresented the name of the executive whose salary he disclosed, and potentially fabricated the webpage introduced into evidence as GC Exh. 6. In contrast, our finding of pretext relies on the fact that the Respondent's proffered reasons for discharging Galanter have shifted over the course of this litigation in what it describes as its "developing defense." In addition, we have explained why there is good reason to believe that GC Exh. 6 was not fabricated, and we have also addressed the judge's finding regarding the executive's name. See fns. 6 and 8, above. Finally, we note that the judge found that Trebilcock admitted telling Galanter that he had a "gut feeling" that Galanter did nothing wrong. The court concluded that this finding was erroneous, and we do not rely on it. See *MCPc*, above, 813 F.3d at 493.

defense burden. See, e.g., *Trader Horn of New Jersey, Inc.*, 316 NLRB 194, 199 (1995). Thus, the Section 8(a)(1) discharge violation here is established.

## REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

Specifically, having found that the Respondent violated Section 8(a)(1) by discharging Jason Galanter, we shall order the Respondent to offer him full reinstatement to his former job or, if that position no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed, and to make him whole for any loss of earnings and other benefits suffered as a result of the discrimination against him. Backpay shall be computed in accordance with *F.W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010). In addition, we shall order the Respondent to compensate Galanter for any adverse tax consequences of receiving a lump-sum backpay award and to file, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report with the Regional Director for Region 6 allocating the backpay award to the appropriate calendar years. *AdvoServ of New Jersey, Inc.*, 363 NLRB No. 143 (2016). In accordance with our decision in *King Soopers, Inc.*, 364 NLRB No. 93 (2016), enfd. in relevant part 859 F.3d 23 (D.C. Cir. 2017), we shall also order the Respondent to compensate Galanter for his search-for-work and interim employment expenses regardless of whether those expenses exceed interim earnings. Search-for-work and interim employment expenses shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, above, compounded daily as prescribed in *Kentucky River Medical Center*, above. The Respondent is also required to remove from its files any references to the unlawful discharge of Galanter and to notify him in writing that this has been done and that the discharge will not be used against him in any way.

## ORDER

The National Labor Relations Board orders that the Respondent, MCPc, Inc., Strongsville, Ohio, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Discharging or otherwise discriminating against employees for engaging in protected concerted activities.

(b) In any like or related manner interfering with, 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) Within 14 days from the date of this Order, offer Jason Galanter full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

(b) Make Jason Galanter whole for any loss of earnings and other benefits suffered as a result of the discrimination against him, in the manner set forth in the remedy section of the decision.

(c) Compensate Jason Galanter for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 6, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar year(s).

(d) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge, and within 3 days thereafter, notify Jason Galanter in writing that this has been done and that the discharge will not be used against him in any way.

(e) 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 payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(f) Within 14 days after service by the Region, post at its Pittsburgh, Pennsylvania facility copies of the attached notice marked "Appendix."[17] Copies of the notice, on forms provided by the Regional Director for Region 6, 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 are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet

[17] The notice has been modified to conform with *Durham School Services*, 360 NLRB 694 (2014). 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."

site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 4, 2011.

(g) Within 21 days after service by the Region, file with the Regional Director for Region 6 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. May 23, 2019

John F. Ring, Chairman

Lauren McFerran, Member

Marvin E. Kaplan, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

## 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 discharge or otherwise discriminate against any of you for engaging in protected concerted activities.

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

WE WILL, within 14 days from the date of the Board's Order, offer Jason Galanter full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

WE WILL make Jason Galanter whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings, plus interest, and WE WILL also make Jason Galanter whole for reasonable search-for-work and interim employment expenses, plus interest.

WE WILL compensate Jason Galanter for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file with the Regional Director for Region 6, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar year(s).

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharge of Jason Galanter, and WE WILL, within 3 days thereafter, notify him in writing that this has been done and that the discharge will not be used against him in any way.

MCPC, INC.

The Board's decision can be found at www.nlrb.gov/case/06-CA-063690 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Room 5011, Washington, DC 20570, or by calling (202) 273-1940.