

**Polymark Corporation and Robert J. Mohat.** Case 9–  
CA–28091

August 1, 2001

SUPPLEMENTAL DECISION AND ORDER  
BY CHAIRMAN HURTGEN AND MEMBERS  
LIEBMAN  
AND TRUESDALE

On September 1, 1999, the National Labor Relations Board issued its Decision and Order in the above-captioned case.<sup>1</sup> Subsequently, Charging Party Robert J. Mohat (Mohat) filed a petition for review with the United States Court of Appeals for the Sixth Circuit. On January 8, 2001, the court issued its decision.<sup>2</sup> The court affirmed in part, and reversed in part, the Board's decision.

In relevant part, the court disagreed with the Board and found that Polymark unlawfully refused to honor Mohat's revocation of his dues-checkoff authorization after he resigned from the Union. The court found that Mohat's dues-checkoff authorization constituted a contract with Polymark that provided for the payment of union membership dues only, and did not apply to any representational costs that Mohat may have been obligated to pay under the union-security clause after he resigned his union membership. Accordingly, the court concluded that Polymark violated Section 8(a)(3) and (1) of the Act when it refused to honor Mohat's dues-checkoff authorization revocation. The court remanded the case to the Board to enter an appropriate remedial order.

On May 4, 2001, the Board advised the parties that it had accepted the court's remand and invited statements of position. No party filed a statement of position.

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

The Board has considered the Sixth Circuit's remand, and has decided to accept the court's decision as the law of the case and to issue the appropriate remedial order against Polymark for the violations found by the court.

ORDER

The National Labor Relations Board orders that the Respondent, Polymark Corporation, Cincinnati, Ohio, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Deducting union dues from employees' wages pursuant to a validly revoked dues-checkoff authorization.

<sup>1</sup> 329 NLRB No. 7 (1999).

<sup>2</sup> *Mohat v. NLRB*, 248 F.3d 1150 (6th Cir. 2001) (unpublished decision).

(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) Make Robert J. Mohat whole for any money deducted from his wages pursuant to his dues-checkoff authorization after its November 9, 1990 revocation, with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

(b) Preserve and, within 14 days of a request, make available to the Board or its agents for examination and copying, 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 this Order.

(c) Within 14 days after service by the Region, post at its Cincinnati, Ohio facility copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 9, 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. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, 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 November 9, 1990.

(d) 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.

APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

<sup>3</sup> 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."

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

- To organize
- To form, join, or assist any union
- To bargain collectively through representatives of their own choice
- To act together for other mutual aid or protection
- To choose not to engage in any of these protected concerted activities.

WE WILL NOT deduct union dues from employees' wages pursuant to a validly revoked dues-checkoff authorization.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL make Robert J. Mohat whole for any money deducted from his wages pursuant to his dues-checkoff authorization after its November 9, 1990 revocation, with interest.

POLYMARK CORPORATION