

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

SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 87 (Township Building Services, Inc.)

and

Case 20-CB-13343

NAGI KAID, an Individual

Jason Wong and Christy J. Kwon, Attys.
San Francisco, California, for General Counsel.

Jane Brunner, Atty. (Siegel & Yee)
Oakland, California, for Respondent.

DECISION

Statement of the Case

WILLIAM L. SCHMIDT, Administrative Law Judge. I heard this case on February 10, 2010, at San Francisco, California, pursuant to a Complaint and Notice of Hearing issued by the Regional Director for Region 20 of the National Labor Relations Board (NLRB or Board). The Complaint alleges Respondent, Service Employees International Union, Local 87 (Respondent, Local 87, or Union) violated Section 8(b)(1)(A) and (2) of the National Labor Relations Act (Act) by attempting to cause an employer to discriminate against its employees in violation Section 8(a)(3) of the Act when it requested that Township Building Services, Inc. (Township) cease scheduling Nagi Kaid (Kaid or Charging Party) for work because of his delinquent union dues.

Respondent filed an answer in which it admitted the certain of the complaint's preliminary allegations but denied that it engaged in the unfair labor practice conduct alleged in the complaint.

After carefully reviewing the entire record, including my observation of the demeanor of the witnesses, and after considering the post-hearing briefs filed on behalf of the General Counsel and Respondent, I find Respondent violated the Act based on the following:

Findings of Fact

I. Jurisdiction

Township is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

Township, a corporation with an office and place of business in Novato, California, is engaged in providing services as a janitorial contractor. Township performed services in excess

of \$50,000 in states other than the State of California during the calendar year ending December 31, 2008. I find that it would effectuate the purposes of the Act for the Board to exercise its statutory jurisdiction to resolve the dispute in this matter.

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II. Alleged Unfair Labor Practices

A. Relevant Facts

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Respondent is a labor organization that represents the janitorial employees employed by employer-members of the San Francisco Maintenance Contractors Association (SFMCA) and others who have agreed to be bound by the agreement between Respondent and the SFMCA (SFMCA Agreement), including Township.

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The complaint alleges and the answer admits that Respondent is a labor organization within the meaning of Section 2(5) of the Act. At all relevant times, Respondent has been the exclusive bargaining representative under Section 9(a) of the Act of the following employees:

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All employees performing work covered under the terms of the collective-bargaining agreement between Respondent and the San Francisco Maintenance Contractors Association effective for the period August 1, 2008, to and including July 31, 2012.

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Although Township is not a member of the SFMCA, it agreed on December 17, 2008, to adopt the same collective bargaining agreement that Local 87 negotiated with that multi-employer association. (GC Exh 1(f), para. 6; GC Exh. 4)

The SFMCA Agreement contains a valid union security provision that makes membership in Local 87 a condition of employment under that agreement.

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Section 3.1 of the SFMCA Agreement provides:

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Membership in good standing in the Union not later than the thirty first (31st) day following the beginning of employment or not later than the thirty first (31st) day following the effective date of this Agreement, whichever is later, shall be a condition of employment covered by this Agreement. (GC Exh. 3, p. 4)

Section 3.1 is a lawful union security agreement under Section 8(a)(3) of the Act.¹

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At relevant times, SEIU Local 87 maintained a variable membership dues structure that depended on the status of the member’s employment and the number of hours or days worked by the member under the bargaining agreement.

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The monthly union dues LOCAL 87 charged its members in the period from 2005 through 2009 depended on the classification and the amount of work the employee-member

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¹ In a letter dated April 15, 2009, union agent Szeto stated that Section 3.1 also included the following language: “Upon notice from the Union that any employee is not in good standing, the Employer shall discharge said employee within ten (10) days after receiving such notice, unless the employee puts himself/herself in good standing with the Union before the expiration of the ten (10) day period herein mentioned, and before such discharge.” See GC Exh. 15. This language does not appear in Section 3.1 of the SFMCA agreement in evidence.

performed. Local 87 classified its members as regular employees, temporary employees, and out of work employees. It further subdivided the regular and temporary classifications. These sub-classifications determined the amount of dues charged to the member.

5 The regular classification encompassed permanently placed employees who did not use the hiring hall to obtain work. Local 87 assessed monthly dues in the amount of \$48.15 for members in the so-called “A” tier, those who worked in excess of 4850 hours as a regular employee. It assessed dues of \$46.15 per month for members in the “B” tier, those who worked between 3901 to 4850 hours. Further, Local 87 assessed dues in the amount of \$44.15 per
10 month for the “C” tier employees, those who worked 1951 to 3900 hours, and \$42.15 per month for the “D” tier employees, those who worked from zero to 1950 hours.

Local 87 classed members as temporary employees if they utilized the hiring hall to obtain employment.² The dues policy contained three sub-classifications for members classed
15 as temporary employees with different dues rates depending on the number of days worked per month. The monthly dues for temporary employees who worked zero to five days in a month or zero to 44 hours a month is \$17 while those working six to 11 days per month or over 45 hours are charged \$31.15 per month. Temporary employees working 12 or more days per month are charged regular monthly dues of \$42.15 apparently because they become eligible for health
20 care at that point. (Resp. Exh. 4)

Out of work members are charged \$32.15 per month if classified as regular employees, and \$17 if classified as temporary employees. In addition, members on voluntary leave from the Union may obtain a withdrawal card for \$1 per year.

25 Local 87’s dues department calculates the dues owing by its members, notifies members of their dues obligations, and collects the dues owed. Local 87 relies on members to honestly report the amount of work they perform each month in order to calculate the dues.

30 **In January 2008 Nagi Kaid, a janitor and a member of Local 87 since 1990, returned to the labor market seeking employment after a three year absence due to an injury.**

Since 1990 Kaid worked for various janitorial companies in the Bay Area. In late 2004 while working as a regular employee for a maintenance contractor, Kaid apparently suffered an
35 on-the-job injury and spent the next three years (2005, 2006, and 2007) unable to work and supported by workers compensation. In mid-January 2008, Kaid’s physician released him for work without restriction and he began seeking janitorial work again.

40 **On April 21, 2008, Local 87 refused to permit Kaid to register on its out-of-work list until he entered into a dues payment agreement (April 2008 agreement) wherein he agreed to make periodic payments toward a dues delinquency of \$274 as calculated by Local 87.**

Kaid entered into the April agreement on April 21, 2008 in order to register on the Union’s out-of-work list. The agreement purportedly covered Kaid’s accumulated dues for the
45 calendar years 2003 through April 2008. (GC Exh. 11) Kaid dealt primarily with an individual named Amante,³ an employee in the Union’s dues department, about the April 2008 agreement. In preparing that agreement, Amante calculated that Kaid owed \$274 in delinquent dues. The

50 ² Typically, the temporary employee receives referrals through the hiring hall to work as a substitute for a regular employee absent on sick leave, vacation, or the like.

³ Amante’s last name was never disclosed on the record.

accounting set forth in the April 2008 agreement reflected that Kaid owed nothing for the 2003 and 2004 calendar years, \$2 total for calendar years 2005 and 2006, \$204 for 2007 (12 months at \$17 per month), and \$68 for 2008 (four months at \$17 per month). Local 87 required Kaid to pay \$85 toward the sum due at the time he entered into the April 2008 agreement (leaving a balance of \$189) and payments of \$50 per month thereafter until paid in full. The agreement contains an acceleration clause making the entire amount due and payable in case of a missed payment. Kaid and Local 87's secretary-treasurer, Hung Chi Szeto, signed the agreement.

At the hearing Kaid claimed that the amounts listed on the payment agreement were incorrect. He asserted that he did not work at all during 2005, 2006, or 2007 due to his injury. Further, Kaid claimed that he worked about 35 days in 2008. However, Kaid admittedly did not read the agreement or challenge the amounts the Union calculated before signing it.⁴ In effect, Kaid claimed that that Amante told him that he would not be put back on Local 87's hiring hall list unless he signed the agreement and made an initial payment of \$85.

By June 30, 2008, Kaid paid additional amounts totaling \$149 toward his dues obligation under the April 2008 agreement but claimed that he lacked the money to make further payments because he had obtained insufficient work through the hiring hall.

In May 2008, Kaid paid \$68 toward the balance due on the April 21 agreement. Kaid made another payment of \$81 on June 30. He explained that he did not have the money to pay the remaining amount because he received very little work. By June 30, 2008, he had paid \$234 out of the \$274 required by the April 21 agreement.

After entering into the April 21 agreement, Kaid registered on Local 87's out-of-work list and went regularly to the Union hall, at least through July, seeking work. Even though he received five or six dispatches through Local 87's hiring hall during this three-month period, he worked less than six days per month, mainly with Township. Kaid testified that he did not inform the Union as to how many hours or days he worked when he did work. After July 2008, Kaid stopped going to the Union's hiring hall for employment. However, from July through November Township called Kaid directly for work.

Altogether Kaid worked about 35 days for Township in 2008. However, Township's pay roll journal shows that Kaid never reached the level required under the Local 87's dues policy to warrant the \$42.15 dues rate with the possible exception of November 2008. Thus, he worked 15 hours in May 2008; 4 hours in June; 30 hours in July; 75 hours in August; no hours in September; 30 hours in October; and 112.5 hours in November. (GC Exh. 5) Hence other than November, Kaid always worked less than the number of hours Local 87's dues policy required (12 or more days in a month) to trigger the "full dues rate." (Resp. Exh. 4)

On October 10, 2008, Local 87 notified Township's operations vice president that it should not schedule Kaid because of his delinquent dues and the vice president, in turn, routinely passed the notice along to the company's scheduling supervisors.

Local 87 faxed a notice to Travis Gill (Gill), Township's Executive Vice President of Operations and a minority owner, on October 10, 2008, stating that Kaid was delinquent in his

⁴ Szeto, who claimed that he worked with Amante and Kaid on the agreement, asserted that he read the agreement aloud to Kaid and, when asked, Kaid said he had no questions about the agreement. Tr. 187. Kaid implicitly denied this assertion by Szeto's when he testified that Amante was the only person he talked to about the agreement on April 21.

monthly union dues payments and requesting that Township not schedule Kaid for work until he provided a letter from the Union showing that he was again in good standing with the Union. (GC Exh. 13) Gill passed the notice on to the Township supervisors who schedule employees for work without instructions concerning Local 87's request.

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On October 14, 2008, Local 87 mailed to Kaid a copy of the October 10 notice to Township along with a new dues statement showing that Kaid owed \$574.95. This statement employed, without explanation, higher dues rates than those applied in April.

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Local 87 mailed to Kaid the letter it earlier sent to Gill along with its computation of the dues Kaid purportedly owed as of October 14, 2008. This computation claimed that Kaid owed \$547.95 in back dues. The breakdown reflected on the delinquent dues statement showed that Kaid owed nothing for 2005 and 2006; \$126.45 for 2007 (calculated by multiplying three months by the rate of \$42.15 per month); and \$421.50 for 2008 (calculated by multiplying 10 months by the rate \$42.15 per month). This dues statement made no reference to the unpaid portion of the April 2008 agreement and provided no information accounting for the different dues rates applied at that time compared to April. In sum, apart from new calculation using different dues rates, the October 14 statement contained no other information.⁵

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Kaid made no attempt to challenge Local 87's delinquent dues calculations nor did he make any further payments. Gill did not speak to either the Union and, insofar as is known did anyone from Township speak to Kaid about the October 10 letter. Kaid received a few days of work from Township following the letter. His last day at Township was November 21, 2008. Gill speculated that this probably resulted from the fact that Kaid was "very far down on our seniority list" of temporary employees.⁶ (Tr. 167)

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On February 11, 2009, Local 87 again notified Township that Kaid should not be scheduled for work because of his dues delinquency.

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On February 11, 2009, Local 87 sent a two-page fax to Gill. (GC Exh. 8) The cover page stated that Kaid was "delinquent," and was not complying with the collective bargaining agreement. The second page was a letter from Szeto to Gill that called attention to Kaid's dues delinquency. Szeto's letter requested that Township not schedule Kaid for work until he

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⁵ At the hearing, Szeto attempted to attribute the dues rate variations between April and October to Kaid's admission to him in the presence of Amante that he had worked for seven months in 2008. Tr. 82–85. Kaid denied that this conversation occurred and stated that he never told the dues department about the amount of work that he had in this period. Tr. 116. I do not credit Szeto's self-serving assertions for several reasons. First, Szeto contradicted himself when he later testified that Kaid never told the dues department how many hours he had worked in those seven months. Tr. 84 – 85. Second, in his prehearing affidavit, Szeto could not explain the different dues rates that had been applied in April and October. Third, I have inferred from Local 87's failure to explain Amante's absence as a witness to corroborate Szeto's claim that Amante would not have supported Szeto's testimony. Finally, I have made a similar adverse inference from Respondent's failure to justify the higher rates applied in its October statement based on its own dispatch records.

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⁶ Township maintained its lists of workers that it called, purportedly in order of seniority, before seeking referrals from Local 87 when it needed extra workers to supplement its regular staff, or to work as a substitute. Its "A-list" consisted of former permanent employees on layoff. Gill claimed that Township supervisors exhausted its A-list before it called workers from its "B-list," temporary employees such as Kaid.

presented a letter to Gill from the Union stating that he was in good standing with Local 87. Although the letter reflects that Kaid was copied with the letter, he denied that he received it.

5 **On March 2, 2009, Local 89 sent Township a copy of a letter to Kaid notifying him that his membership had been terminated, and again requesting that Township refrain from scheduling him for work.**

10 On March 2, 2009, the Union sent another fax to Gill. (GC Exh. 9). The fax cover page reiterated Local 87's request that Township not schedule Kaid for work until he presented a letter to Gill from the Union. The second fax page was a letter Szeto addressed to Kaid. In the first paragraph, the letter advised Kaid that his Local 87 membership had been terminated for failing to pay his dues. The letter reminded Kaid of the April 2008 agreement, implied that he had only paid \$85 of the April amount, and asserted that he still owed \$416.35 for delinquent dues. It also stated that Kaid's employers would be notified of his terminated membership and if he still worked for any of them his employment would be automatically terminated pursuant to the collective bargaining agreement's union security clause. The next paragraph quotes a portion of the contractual union security clause. The third paragraph requested that Kaid call or come to the Union's dues department to settle his account within five days and concluded with the statement, "Failure to honor your payment agreement with the union will result in the termination of your membership from Local 87 and therefore, loss of certain benefits."

25 The third page of the March 2 fax purported to show how Local 87 calculated \$416.35 dues delinquency. The calculation there reflects that that Kaid still owed \$37 on the April 2008 agreement,⁷ and that he owed \$295.05 for the months of July through December 2008 (calculated by multiplying seven months by the rate of \$42.15 a month). The computation sheet reflects that Kaid owed \$84.30 for January and February 2009 (calculated by multiplying two months by the rate of \$42.15 a month).

30 The calculations contained in the March 2 computation of back dues statement again differed from the earlier calculations Local 87 provided to Kaid. Szeto again attempted to blame Kaid for these difference by asserting that he kept telling the Union's dues department different stories about how many days he had been working (Tr. 188–192), a claim I again decline to credit for reasons similar to those previously stated in connection with Szeto's earlier assertions of this sort.

35 Kaid received the March 2 back dues statement (along with a copy of the April 2008 agreement) faxed to Township but denies that he received the accompanying letter addressed to him that Local 87 faxed to Township. Kaid called the Local 87 dues department after receiving the March 2009 correspondence from the Union. Purportedly, the dues department employee with whom he spoke told him that he would have to contact Szeto, the union's or its vice-president to deal with his back dues problem. Admittedly, Kaid did not call any of these three union officials because he lacked confidence that they would help him since he believed they had not been helpful in locating employment for him. Kaid did not make any further payments. Although Kaid went to the Union office on various occasions to discuss other matters with Local 87 personnel, he made no attempt to obtain an explanation concerning the variety of dues calculations provided to him in the past. (Tr. 139–141).

50 ⁷ This appears to be an \$3 error in Kaid's favor as the evidence shows that he already paid \$234 of the \$274 due under the April 2008 agreement.

By a letter dated April 15, 2009, Local 89 notified Kaid that he owed \$758.70 in back dues and warned that his failure to respond to the letter within three weeks would result in a demand for the termination of his employment as well as his Union membership.

5 On April 15 Local 87 sent Kaid another letter regarding his delinquent dues (GC Exh. 15). The letter was titled "First Notice of Delinquency and Warning" and stated that Kaid owed a total of \$758.70 in dues for the period from October 2007 to March 2009. After asserting that he was in violation of SEIU's constitution and bylaws as well as the collective bargaining agreement, the letter stated that the Union would terminate his membership and would seek the
10 termination of his employment if he failed to respond within three weeks. The second page of the letter contained was an official request for remittance of dues written on a Local 87 letterhead. This page stated that Kaid, as of April 15, 2009, owed \$758.70 from a total of 18 months of work. Kaid did not contact anyone at Local 87 regarding its contents or the balance due, nor did he make any further payments to the Union.

15 B. Further Findings and Conclusions

Section 8(b)(1)(A) provides that it is an unfair labor practice for a labor organization to restrain or coerce employees in the exercise of the rights guaranteed in Section 7. Section
20 8(b)(2) makes it an unfair labor practice for a labor organization to "cause or attempt to cause" an employer to discriminate against an employee in violation of Section 8(a)(3) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than the failure to tender the periodic dues and fees uniformly required as a condition of acquiring or retaining membership.

25 A union seeking an employee's discharge under a lawful union-security clause has a fiduciary duty to deal fairly with that employee. *Western Publishing*, 263 NLRB 1110, 1111 (1982), and the cases cited at fn. 10; *Philadelphia Sheraton*, 136 NLRB 888 (1962), enfd. 320 F.2d 254 (3d Cir 1963). . This duty requires, at a minimum, that a union seeking the
30 termination of an employee under a union security agreement for failing to tender periodic dues and initiation fees to give the employee reasonable notice of the delinquency, including a statement of the precise amount and months for which the dues are owed as well as the method used to compute that amount; tell the employee when to make the required payments; and explain to the employee that the failure to pay by a specific date will result in discharge.
35 *California Saw & Knife Works*, 320 NLRB 224, 232. (1995); *Local 545, Int'l Union of Operating Eng'rs*, 161 NLRB 1114, 1121 (1966); See also *Food & Commercial Workers Local 368A (Professional Services)*, 317 NLRB 352, 354 (1995), and the cases cited at fn. 7.

40 Based on these requirements, I find that Respondent failed to satisfy the fiduciary duty it owed to Kaid before seeking to adversely affect his employment. When Local 87 precipitously sought to have Township cease scheduling Kaid for work in October 2008 before giving him notice and an opportunity to remedy his dues problem, it clearly breached the fiduciary duty it owed to him. In addition, Respondent's October 2008 back dues calculation failed to explain the specific months for which Kaid owed dues. Instead, it merely listed the number of months
45 Kaid allegedly worked each year. This cryptic listing of the number of months is made problematic by the fact that it is not compatible with the April 2008 agreement Local 87 entered into with Kaid and it contains no statement explaining the variation. This statement also failed to explain why the monthly rate for the years 2007 and 2008 increased to \$42.15 per month from \$17 rate used in the same April 2008 agreement. And finally, the October 2008 statement failed
50 to notify Kaid of a deadline for the payment of his delinquent dues.

5 Considered together, Respondent's October 2008, and the March and April 2009 notices cannot be reconciled with any evidence in this case. Respondent never provided Kaid with any clear explanation as to why the number of months that Kaid allegedly worked per year kept changing from one communication to the next, or why Kaid it charged him at a dues rate
10 contrary to Respondent's dues structure considering the amount of work Kaid had each month or a rate contrary to that agreed to by Szeto in April 2008. In addition, the March 2009 dues calculation differed from the earlier October notice in that the number of months that Kaid had reportedly worked in 2008 decreased from 10 months to 7 months without explanation. Clarification is also lacking in the March 2009 calculation as to how the \$37 charge for dues remaining from the April 2008 agreement was determined, and no explanation has been provided as to why that amount appeared on the March 2009 statement but not on the October 2008 statement. Like the October 2008 computation, the March 2009 computation fails to explain why it charged Kaid the \$42.15 per month dues rate.

15 The April 2009 notice listed yet another, higher delinquency but contained no explanatory statement at all. While the first page of the correspondence entitled "First Notice of Delinquency and Warning" did specify the precise months for which dues are assessed to Kaid as "October 2007 to March 2009," this letter did not explain how the Union determined that Kaid owed dues for those months. Likewise, neither the first page nor the second page explained
20 what dues rate Local 87 applied, how it determined the proper dues rate, or why it now charged Kaid for the entire 2008 calendar year after charging him for only seven months in the recent statement prepared in March 2009.

25 Respondent asserts, in effect, that Kaid was a free loader so its failure to comply with the proper notice requirements should be excused because Kaid willfully and deliberately sought to evade the union security agreement. *Western Publishing*, 263 NLRB 1110, 1113 (1982). I cannot agree with that contention. Kaid made three payments to Respondent after he signed the April 2008 agreement. All told, by the end of June 2008 he paid a total of \$234 out of the \$274 owed under that agreement or 85% of the amount specified. Because Kaid initially
30 discharged a most of his delinquent dues under the April 2008 agreement, I find that he demonstrated a good-faith effort to meet his dues obligations. I further conclude that he had no obligation to pay the various inflated amounts listed in the subsequent delinquency notices which demonstrate conclusively that Local 87 had reneged on the agreement it entered into with Kaid in April 2008.

35 In his brief, the counsel for the General Counsel requests that I find Respondent violated Section 8(b)(2) by causing Township to discriminate against Kaid. He argues the complaint inadvertently failed to contain an allegation that Local 87's conduct eventually lead to Township's failure to schedule Kaid for employment after November 2008. However, counsel for General Counsel contends that this issue is closely related to the 8(b)(2) allegation in the
40 complaint (attempting to cause Township to discriminate against Kaid) and that this question has been fully litigated so that an unfair labor practice finding that Local 87 caused unlawful discrimination against Kaid is justified. In support, counsel cites *Hi-Tech Cable Corp.*, 318 NLRB 280, (1985), enfd. in part 128 F.3d 271 (5th Cir. 1997) and other similar cases.

45 Although I agree with counsel for General Counsel's contention that this issue has been fully litigated, I find that General Counsel failed to show by a preponderance of the evidence that Local 87 caused Township to unlawfully discriminate against Kaid. Instead, the evidence shows that in November 2008, immediately following the October notice, Kaid worked a greater
50 number of hours at Township than ever before. As General Counsel failed to rebut Gill's credible explanation that Kaid probably was not called after November because of his low

standing on its seniority list, I find that the evidence does not warrant a conclusion that Local 87 caused Township to discriminate against Kaid.

Based on the foregoing analysis, I find Respondent restrained and coerced Kaid in violation of Section 8(b)(1)(A) when it copied Kaid with the premature October 2008 request made to Township that he should not be scheduled for work based on its defective delinquent dues calculations, and by its April 2009 threat to seek the termination of his employment if he failed to pay the dues calculated at that time. Because Kaid denied receiving the February 11 and March 2 letters, I am unable to conclude that he would have been restrained or coerced by them. I further find that Respondent attempted to cause Township to unlawfully discriminate against Kaid in violation of Section 8(b)(2) by sending the "do not schedule" notices to Gill.

Conclusions of Law

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

2. Local 87 is a labor organization within the meaning of Section 8(b)(1)(A) of the Act.

3. By sending Nagi Kaid copies of letters it sent to Township requesting that it not schedule Kaid for work, Local 87 restrained and coerced Kaid in the exercise of his rights under Section 7 of the Act and thereby engaged in unfair labor practices within the meaning of Section 8(b)(1)(A) of the Act.

4. By its requests to Township that it refrain from scheduling Kaid for work, Local 87 attempted to cause Township to discriminate against Kaid and thereby engaged in unfair labor practices within the meaning of Section 8(b)(2) of the Act.

5. The unfair labor practices found herein affect commerce within the meaning of Section 2(6) and (7) of the Act.

Remedy

Having found that Local 87 engaged in certain unfair labor practices I find that it should be ordered to cease and desist and take certain affirmative action designed to effectuate the policies of the Act.

Affirmatively, Local 87 will be ordered to notify Township in writing that it has no objection to scheduling Nagi Kaid for work and provide a copy of that written notification to Kaid. In addition, Local 87 will be required to investigate and determine the dues owed by Kaid in accordance with the nondiscriminatory dues policies in effect for all other members. To the extent necessary, Respondent will be required to seek written confirmation from Kaid's employers as to the amount of work he performed in those periods for which it seeks to assess dues against Kaid. In addition, Local 87 will be ordered to expunge from its files any notices about Kaid's delinquent dues obligations after April 21, 2008, and request that Township to do the same. Finally, Local 87 will be required to post the attached notice to its members informing them about the outcome of this matter.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended ⁸

ORDER

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The Respondent, Service Employees International Union, Local 87, San Francisco, California, its officers, agents, and representatives shall

1. Cease and desist from

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a. Notifying Township Building Services, Inc., or any other employer, that it should not schedule an employee for failing to meet the dues obligations under a union security agreement without first notifying the employee of that fact, providing the employee an accurate calculation of dues owed that conforms to law, and thereafter providing the employee with a reasonable period of time in which to satisfy the dues obligation.

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b. Providing an employee with a copy of a notice sent to an employer requesting it not to schedule the employee for work for failing to comply with a dues obligation under a union security agreement unless it has first advised the employee of the dues owing, provided the employee an accurate accounting of the dues owed that conforms to law, and provided the employee with a reasonable period of time in which to satisfy the dues obligation.

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c. In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act, or attempting to cause an employer to discriminate against an employee in violation of Section 8(a)(3) that Act.

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

a. Notify Township Building Services, Inc. in writing that it has no objection to scheduling Nagi Kaid for work and provide a copy of that written notification to Kaid.

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b. Investigate and determine the dues owed by Nagi Kaid in order to comply with any lawful union security agreement applicable to him on the basis of a nondiscriminatory dues policy in effect for all other members, obtaining, if necessary, written confirmation from Kaid's employers as to the amount of work he performed in the periods for which it seeks to assess dues against Kaid.

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c. Provide Nagi Kaid with a written notice of the total dues owed by him in order to satisfy his obligations for work performed under a union security agreement applicable to him that contains an accounting showing the specific months he was obliged to pay dues, the dues rate applicable to him for each month, the reasons for applying a particular dues rate for any particular month, and a reasonable time period for him to satisfy his dues obligation.

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d. Within 14 days from the date of the Board's Order, remove from its files, and request Township Building Services, Inc. to remove from its files, any reference to Nagi Kaid's dues

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⁸ 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. All pending motions inconsistent with this Order are denied.

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arrearages after April 21, 2008, and within 3 days thereafter notify Kaid in writing that this has been done and that the prior notices of his back dues will not be used against him in any way.

5 e. Within 14 days after service by the Region, post at its office and hiring hall in San Francisco, California, copies of the attached notice marked "Appendix."⁹ Copies of the notice, on forms provided by the Regional Director for Region 20, 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 members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the 10 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 October 10, 2008.

15 f. Sign and return to the Regional Director sufficient copies of the notice for posting by Township Building Services, Inc., if willing, at all places where it posts notices to employees.

20 g. 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.

25 Dated, Washington, D.C. , July 9, 2010.

William L. Schmidt
Administrative Law Judge

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50 ⁹ 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."

APPENDIX

NOTICE TO 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 notify Township Building Services, Inc., or any other employer, that it should not schedule an employee for failing to meet the dues obligations under a union security agreement without first notifying the employee of that fact, providing the employee an accurate accounting of dues owed, and providing the employee with a reasonable period of time to pay those dues.

WE WILL NOT provide an employee with a copy of a notice sent to an employer requesting it not schedule the employee for work for failing to pay a dues obligation under a union security agreement without first informing the employee of total amount of dues owing together with a written and accurate accounting of dues owed, and providing the employee with a reasonable period of time to pay the dues required to satisfy that financial obligation.

WE WILL NOT in any like or related manner restrain or coerce employees in the exercise of the rights guaranteed them by Section 7 of the National Labor Relations Act, or attempt to cause an employer to discriminate against an employee in violation of Section 8(a)(3) that Act.

WE WILL notify Township Building Services, Inc. in writing that we have no objection to scheduling Nagi Kaid for work and **WE WILL** provide a copy of that notification to Kaid.

WE WILL investigate and determine the dues payment required of Nagi Kaid to comply with any lawful union security agreement applicable to him on the basis of a nondiscriminatory dues policy in effect for all other members by obtaining, if necessary, written confirmation from Kaid's employers as to the amount of work he performed in those periods for which it seeks to assess dues against Kaid.

WE WILL provide Nagi Kaid with a written notice of his total dues obligation required to satisfy his obligations under a union security agreement applicable to him together with an accurate

accounting showing the specific months he was obliged to pay dues, the dues rate applicable to him for each month, and the reasons for applying any particular dues rate for any particular month along with a reasonable period of time for Kaid to satisfy his dues obligation.

WE WILL within 14 days from the date of the Board's Order, remove from its files any reference to Nagi Kaid's dues arrearages after April 21, 2008, and within 3 days thereafter notify Kaid in writing that this has been done and that the prior notices about his back dues will not be used against him in any way.

Service Employees International Union, Local 87

Respondent

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

901 Market Street, Suite 400

San Francisco, California 94103-1735

Hours: 8:30 a.m. to 5 p.m.

415-356-5130.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 415-356-5139.